



**OFFICIAL MEETING PACKET
OF THE ZONING STEERING COMMITTEE**

**AN AD HOC COMMITTEE OF THE VILLAGE PLAN COMMISSION AND JOINT TOWN &
VILLAGE EXTRATERRITORIAL ZONING COMMITTEE**

**CHAIRPERSON/TRUSTEE LOREN WHITE PRESIDING
PLANNING & DEVELOPMENT DIRECTOR, JENNIFER HIGGINS; STAFF ADVISOR**

This Meeting of the Zoning Committee, during the 21st legislative session of the elected Board of Trustees, composed of ten (10) appointed members, will convene at ***Weston Municipal Center, which is located at 5500 Schofield Avenue, Weston, on MONDAY, MARCH 20, 2018, at 3:00p.m.***



It's Right Here.

**Village of Weston, Wisconsin
ATTENTION – NOTICE OF PUBLIC MEETING**

- Meeting:** ZONING STEERING COMMITTEE MEETING, AN AD HOC MEETING OF THE PLAN COMMISSION/JOINT TOWN & VILLAGE OF WESTON EXTRATERRITORIAL ZONING COMMITTEE
- Members:** Loren White, Dennis Lawrence, Mark Hull, Fred Schuster, Joe Jordan, Brian Bushnell, Kevin Cline, Matt Yde, Jennifer Higgins, Mark Roffers
- Date/Time:** Tuesday, March 20, 2018, @ 3:00 P.M.
- Location:** Weston Municipal Center, 5500 Schofield Avenue, Weston, WI 54476
- Agenda:** The agenda packet will be sent out 3 days prior to the meeting.
- Attendance:** Zoning Steering Committee Members, and Department Directors, please indicate if you will, or will not, be attending so we may determine in advance if there will be a quorum.
- Questions:** Jennifer Higgins Valerie Parker
jhiggins@westonwi.gov vparker@westonwi.gov
(715) 359-6114 (715) 359-6114

PLEASE NOTE THE FOLLOWING INFORMATION:

This notice was posted at the Municipal Center, and on the Village's website at www.westonwi.gov, and was e-mailed to local media outlets (Print, TV, and Radio) on 03/15/2018 @ 1:00 p.m. Any posted agenda is subject to change up until 24 hours prior to the date and time of the meeting.

A quorum of members from other Village governmental bodies (boards, commissions, and committees) may attend the above-noticed meeting to gather information. Should a quorum of other government bodies be present, this would constitute a meeting pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis.2d 553, 494 N.W.2d 408 (1993). Wisconsin State Statutes require all agendas for Committee, Commission, or Board meetings be posted in final form, 24 hours prior to the meeting.

Any person who has a qualifying disability, as defined by the Americans with Disabilities Act, requiring that meeting or material to be in an accessible location or format, must contact the Weston Municipal Center, at 715-359-6114, by 12 noon, the Friday prior to the meeting, so any necessary arrangements can be made to accommodate each request.



VILLAGE OF WESTON, WISCONSIN
OFFICIAL MEETING AGENDA OF THE ZONING STEERING COMMITTEE
AN AD HOC COMMITTEE OF THE PLAN COMMISSION & JOINT TOWN & VILLAGE OF
WESTON EXTRATERRITORIAL ZONING COMMITTEE

Meeting of the: Zoning Steering Committee
Date/Time: Tuesday, March 20, 2018 at 3:00 p.m.
Location: Village of Weston, 5500 Schofield Avenue – Board Room
Members: Loren White, Dennis Lawrence, Mark Hull, Fred Schuster, Joe Jordan,
Brian Bushnell, Kevin Cline, Matt Yde, Jennifer Higgins, Mark Roffers.

A quorum of members from other Village governmental bodies (boards, commissions, and committees) may/might attend the above-noticed meeting to gather information. Should a quorum of other government bodies be present, this would constitute a meeting pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis.2d 553,494 N.W.2d 408 (1993). No official actions other than those of the Plan Commission and Joint Village & Town Extraterritorial Zoning Committee shall take place. Wisconsin State Statutes require all agendas for Committee, Commission, or Board meetings be posted in final form, 24 hours prior to the meeting. Any posted agenda is subject to change up until 24 hours prior to the date and time of the meeting.

AGENDA ITEMS

1. Meeting called to order by Plan Commission Chairman White.
2. Welcome, introductions and acknowledgement of guests.
3. [Overview of Task Force Purpose. \(Guild\)](#)
4. Public Comments.
5. [Overview of Act 67. \(Yde\)](#)
6. Options for addressing Act 67. (Roffers)
7. [Review of Sec. 94.3.04 Figure 3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts](#)
8. [Review of Sec. 94.3.05 Figure 3.05: Allowable Uses in Non-Residential and Mixed-Use Zoning Districts.](#)

FUTURE ITEMS

9. Topics for future meetings
 - a. [Discussion of Land Use Description Standards recommended by Plan Commission for review:](#)
 - i. Sec. 94.3.06 (3) Personal Storage Facility
 - ii. Sec. 94.3.06 (5) Solid Waste Disposal, Composting, and/or Recycling Facility
 - iii. Sec. 94.4.08 (4) Non-Metallic Mineral Extraction
 - b.
10. Additional remarks from public.
11. Remarks from members.
12. Adjournment.

**Village of Weston, Wisconsin
MEETING OF THE
ZONING STEERING COMMITTEE
AN AD HOC COMMITTEE OF THE PLAN COMMISSION AND
TOWN & VILLAGE EXTRATERRITORIAL ZONING COMMITTEE**

March 20, 2018

**MEETING PACKET COVER SHEET
AGENDA ITEM – 3.
Overview of Task Force Purpose. (Guild)**



**VILLAGE OF WESTON, WISCONSIN
RESOLUTION NO. 2018-PC-001**

- A RESOLUTION,** creating the Village of Weston Zoning Steering Committee.
- WHEREAS,** the Village Plan Commission is empowered by Chapter 62 Planning Commission to do and perform all of the functions set out in the Village of Weston Municipal Code Chapter 94 Zoning.
- WHEREAS,** in March 2015 a new zoning ordinance, Chapter 94, was adopted and now functions as the Zoning Ordinance for the Village of Weston.
- WHEREAS,** the State of Wisconsin enacted 2017 Wisconsin [Act 67](#), also know as the Homeowner Bill of Rights, on November 28, 2017.
- WHEREAS,** the Department of Planning and Development is also undergoing a Department Audit to look at how the 2015 zoning ordinance and the new procedures that were established are working.
- WHEREAS,** the adoption of Act 67 and the Department Audit has prompted the Village to review Chapter 94 for conformance with the new regulations set forth in Act 67.

BE IT RESOLVED by the Plan Commission for the Village of Weston hereby creates a Zoning Steering Committee that will be tasked to review Chapter 94 and bring any proposed amendments back to the Plan Commission for their discussion and ultimate review and recommendation to the Village Board.

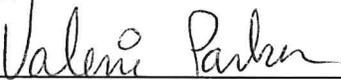
BE IT FURTHER RESOLVED that the Plan Commission tasks the Director of Planning and Development to assemble a Zoning Steering Committee made up of elected, appointed and citizen members to review the current Zoning Ordinance and report back to the Plan Commission with any amendments they deem to be necessary.

PASSED BY THE PLAN COMMISSION OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 12th day of the month of February 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: 
LOREN WHITE, Chairman

ATTEST:

By: 
VALERIE PARKER, Secretary

**VILLAGE OF WESTON, WISCONSIN
RESOLUTION NO. 2018-ETZ-001**

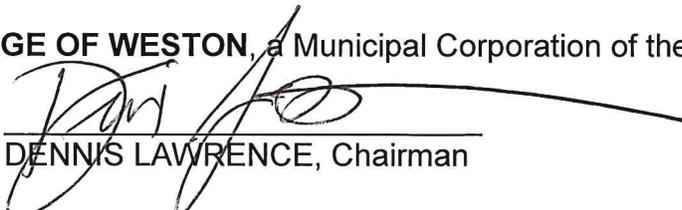
- A RESOLUTION,** creating the Village of Weston Zoning Steering Committee.
- WHEREAS,** the Extraterritorial Zoning Committee is empowered by State Statutes to do and perform all of the functions set out in the Village of Weston Municipal Code Chapter 94 Zoning for areas within the ETZ area of the Town of Weston.
- WHEREAS,** in March 2015 a new zoning ordinance, Chapter 94, was adopted and now functions as the Zoning Ordinance for the portion of the Town of Weston within the Village of Weston Extraterritorial Zoning jurisdiction.
- WHEREAS,** the State of Wisconsin enacted 2017 Wisconsin [Act 67](#), also know as the Homeowner Bill of Rights, on November 28, 2017.
- WHEREAS,** the Department of Planning and Development is also undergoing a Department Audit to look at how the 2015 zoning ordinance and the new procedures that were established are working.
- WHEREAS,** the adoption of Act 67 and the Department Audit has prompted the Village to review Chapter 94 for conformance with the new regulations set forth in Act 67.

BE IT RESOLVED by the ETZ for the Town and Village of Weston hereby creates a Zoning Steering Committee that will be tasked to review Chapter 94 and bring any proposed amendments back to the Plan Commission/ETZ for their discussion and ultimate review and recommendation to the Village Board.

BE IT FURTHER RESOLVED that the ETZ Committee tasks the Director of Planning and Development to assemble a Zoning Steering Committee made up of elected, appointed and citizen members to review the current Zoning Ordinance and report back to the Plan Commission and ETZ Committee with any amendments they deem to be necessary.

PASSED BY THE EXTRATERRITORIAL ZONING COMMITTEE OF THE TOWN AND VILLAGE OF WESTON, at a regular meeting thereof, this 12th day of the month of February 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: 
DENNIS LAWRENCE, Chairman

ATTEST:

By: 
VALERIE PARKER, Secretary

VILLAGE OF WESTON, WISCONSIN

AGENDA ITEM BRIEFER

1. Policy Question:

Should the Plan Commission create a Zoning Steering Committee to review Chapter 94?

2. Purpose:

The purpose of asking this question is to receive guidance and feedback from Village policymakers regarding the "policy question" written out above.

3. Background:

New legislation was signed by Governor Walker, [Act 67](#), in November that limits the ability of local governments to control certain zoning regulations and requires greater flexibility in the approval of conditional use permits. The Planning and Development Department also recently began an audit of the Department and its services.

4. Issue Analysis:

In order to comply with the new Act 67 Chapter 94 needs to be reviewed to ensure that it is compliant with changes that were set forth in Act 67. The Department has also been experiencing some pushback from the business community, mainly in the industrial areas, with some of the regulations and processes that were put established with the 2015 Zoning Ordinance rewrite. The Department is currently undergoing a Department Audit with the help of Mark Roffers, MDRoffers who also helped develop the original 2015 Zoning Ordinance. Attorney Yde presented on Act 27 at a previous meeting. The Plan Commission directed Administrator Guild to set up a Steering Committee to look at changes needed to the Zoning Ordinance instead of taking time during the regular meetings with the full PC/ETZ.

Staff has already reached out to a number of individuals that we feel would be good steering committee members. The following have agreed to be on the Steering Committee to date:

- Trustee/PC Chairman Loren White
- PC/ETZ member Dennis Lawrence
- Fred Schuster, former Trustee and PC member
- ETZ Committee member Mark Hull
- Local Businessman and member of the 2013 Zoning Steering Committee Joe Jordan
- Attorney Matt Yde
- Mark Roffers, MDRoffers
- Jennifer Higgins, Director of Planning and Development (staff)

I will also will be placing a notice out on social media to see if we can find another citizen member who would be interested in serving.

5. Fiscal Impact:

Costs for public hearing and ordinance publications.

6. Legal Impact:

It is legal and consistent with past policy practice. A Steering Committee was formed back in 2013 to assist with the 2015 Zoning Code rewrite.

7. Prior Review:

Plan Commission/ETZ Committee discussion 12/11/17 & 1/8/18

8. Policy Choices:

1. Approve Resolution 2018-PC-001 as drafted.
2. Approve Resolution 2018-PC-001 with amendments made by the Plan Commission.
3. Deny Resolution 2018-PC-001 and handle the review at the Plan Commission level.

9. Recommendation:

I recommend that the Plan Commission approve Resolution 2018-PC-001 as drafted.

10. Attachments:

- Resolution 2018-PC-001

**VILLAGE OF WESTON, WISCONSIN
AGENDA ITEM COVER SHEET**

MTG/DATE: Plan Commission – 02/12/18

FROM: Jennifer Higgins, Director of Planning & Development

DESCRIPTION: Res. No. 2018-PC-001: A Resolution Creating the Village of Weston Zoning Steering Committee

ACTION:	<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Proclamation
	<input type="checkbox"/> Deny	<input type="checkbox"/> Policy	<input type="checkbox"/> Report
	<input type="checkbox"/> Expenditure	<input type="checkbox"/> Procedure	<input checked="" type="checkbox"/> Resolution

QUESTION:

Should the Plan Commission approve a Resolution creating a Steering Committee to review and recommend potential changes to Chapter 94 Zoning in response to the new [Act 67](#) (Homeowners Bill of Rights)?

BRIEF:

New legislation has been signed by Governor Walker, [Act 67](#), that limits the ability of local governments to control certain zoning regulations and requires greater flexibility in the approval of conditional use permits. Attorney Yde gave a presentation to the Plan Commission & ETZ on the new law and how it will affect how we administer the zoning ordinance in the future at our December 11th meeting. A workshop was held at the January meeting to discuss further and the members suggested to Administrator Guild that they would like to create a Steering Committee to look at the needed changes further. The Department is also undergoing an audit so the Steering Committee will also be tasked to discuss potential zoning amendments and process changes that need to be made from the audit findings.

RECOMMEND: Director recommends approval.

COMMITTEE: Plan Commission/ETZ Committee discussion 12/11/17 & 1/8/18

REQUEST: Approve Resolution #2018-PC-001 under Resolutions/Ordinances

Is there an additional briefer with this agenda item?

Are there additional reference documents which have been attached to this report?

**Village of Weston, Wisconsin
MEETING OF THE
ZONING STEERING COMMITTEE
AN AD HOC COMMITTEE OF THE PLAN COMMISSION AND
TOWN & VILLAGE EXTRATERRITORIAL ZONING COMMITTEE**

March 20, 2018

**MEETING PACKET COVER SHEET
AGENDA ITEM – 5.
Overview of Act 67 (Yde)**





WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 67
[2017 Assembly Bill 479]

**Various Changes Relating to
Zoning and Land Use**

2017 Wisconsin Act 67 makes various changes, described below, relating to zoning, local government authority with respect to property, and the display of the United States flag.

ZONING

Conditional Use Permits

Under **prior law**, retained by the Act, conditional use permits are typically required to be approved by the relevant zoning authority in a city, village, town, or county before a person may use property in a manner that is designated as a conditional use within a given zoning district.¹

The Act requires a city, village, town, or county to grant a conditional use permit if an applicant meets, or agrees to meet, all of the requirements and conditions specified in the relevant ordinance or imposed by the relevant zoning board. Any such conditions must be related to the purpose of the ordinance and based on substantial evidence.² In addition, the Act requires those requirements and conditions to be reasonable and, to the extent practicable, measurable.

¹ In *AllEnergy Corporation v. Trempealeau County Environment and Land Use Committee*, 2017 WI 52, a majority of Wisconsin Supreme Court justices rejected an argument that, in that particular case, a land use committee acted outside the scope of its authority because it denied a conditional use permit application based in part on general concerns raised by the public.

² The Act defines “substantial evidence” to mean facts and information, other than merely personal preference or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

The Act requires an applicant for a conditional use permit to demonstrate, with substantial evidence, that an application and all requirements and conditions relating to the conditional use are, or will be, satisfied. The Act then requires a city, village, town, or county to demonstrate that its decision to approve or deny the permit application is supported by substantial evidence.

The Act specifies that a conditional use permit may remain in effect as long as the conditions upon which the permit was issued are followed, except that a city, village, town, or county may impose conditions relating to the permit's duration, and the ability of the applicant to transfer or renew the permit, as well as any other additional, reasonable conditions specified in the relevant zoning ordinance or by the relevant zoning board.

The Act requires a public hearing to be held on a conditional use permit application and authorizes a person whose conditional use permit application is denied to appeal the decision in circuit court.

Nonconforming Structures

Prior law, generally retained by the Act, prohibits local zoning ordinances from prohibiting, or limiting based on cost, repair, maintenance, renovation, or remodeling of a nonconforming structure.³ [ss. 59.69 (10e) (b) and 62.23 (7) (1k) (a) 2., Stats.]

The Act removes references that limit the application of that prohibition to ordinances enacted under general municipal zoning authority.

With respect to county zoning ordinances, the Act also expands the prohibition regarding the regulation of nonconforming structures by specifying that, in addition to the actions described above, a county may not prohibit the rebuilding of a nonconforming structure, or limit such rebuilding based on cost. In addition, the Act specifies that the prohibition for county ordinances applies to **any part of a nonconforming structure**.

Finally, also only with respect to county zoning ordinances, the Act specifies that a county ordinance may not require a **variance** for the repair, maintenance, renovation, rebuilding, or remodeling of a nonconforming structure or any part of a nonconforming structure.

Variations

Under **prior law**, generally unchanged by the Act, a zoning board of appeals has the discretion to grant a variance from a requirement under a zoning ordinance for a specific property if the variance will not be contrary to the public interest and, owing to special conditions, a literal enforcement of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. [ss. 59.694 (7) (c) and 62.23 (7) (hb) 2., Stats.]

³ For this purpose, "nonconforming structure" means a dwelling or other building that existed lawfully before the prior zoning ordinance was enacted or amended, but that does not conform with one or more provisions in the prior zoning ordinance applicable to elements including setback, height, lot coverage, and side yard. [ss. 59.69 (10e) (a) and 62.23 (7) (hb) 1., Stats.]

The Act specifies that a property owner bears the burden of proving “unnecessary hardship” for such variances by demonstrating the following, based on conditions unique to the property that were not caused by the property owner:

- For an area variance,⁴ that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose, or that strict compliance would render conformity with the zoning ordinance unnecessarily burdensome.
- For a use variance,⁵ that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in absence of a variance.

USE AND CONVEYANCE OF SUBSTANDARD LOTS

Prior law did not specifically prohibit restrictions relating to building on lots that are smaller than a prior minimum lot size requirement.⁶

Notwithstanding any other law or rule, or any action or common law proceeding, **the Act** prohibits a city, village, town, or county from prohibiting a property owner from taking either of the following actions:

- Conveying an ownership interest in a substandard lot.⁷
- Using a substandard lot as a building site, if both of the following criteria apply:
 - The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - The substandard lot or parcel is developed to comply with all other ordinances of the city, village, town, or county.

PREEMPTION OF LOT MERGER PROVISIONS

Prior law did not specifically limit local authority regarding the merger of commonly owned lots.

The Act prohibits a city, village, town, or county from enacting an ordinance or taking any other action that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.

⁴ The Act defines “area variance” to mean a variance granted for a modification to a dimensional, physical, or locational requirement, such as a setback, frontage, height, bulk, or density restriction for a structure.

⁵ The Act defines “use variance” to mean a variance granted for the use of land for a purpose that is prohibited or not otherwise allowed.

⁶ An example of such a restriction is the St. Croix County ordinance at issue in *Murr v. Wisconsin*, 582 U.S. ___ (2017). That ordinance, which was required under administrative rules promulgated by the DNR to implement the National Wild and Scenic Rivers Act, restricts the density of lots within the Lower St. Croix National Scenic Riverway, subject to a grandfather clause exception.

⁷ The Act defines “substandard lot” to mean a legally created lot or parcel that met any applicable lot size requirements when it was created but does not meet current lot size requirements.

DISPLAY OF THE UNITED STATES FLAG IN A HOUSING COOPERATIVE OR HOMEOWNERS' ASSOCIATION

Prior law, unaffected by the Act, prohibits condominium bylaws and rules from prohibiting a condominium unit owner from respectfully displaying the United States flag. Condominium bylaws and rules may regulate the size and location of flags and flagpoles. [s. 703.105, Stats.] Prior law did not impose a similar restriction on housing cooperatives or homeowners' associations.

The Act prohibits homeowners' associations and housing cooperatives from adopting or enforcing covenants, conditions, or restrictions, or entering into agreements, that restrict or prevent a member of a homeowners' association or housing cooperative from displaying the United States flag on property in which the member has a property interest (for homeowners' associations) or a right to exclusive use (for housing cooperatives). However, the Act authorizes a homeowners' association or housing cooperative to do either of the following:

- Require that the display conform with a rule or custom set forth under specified provisions of federal law.
- Provide a reasonable restriction on the time, place, or manner of displaying the flag that is necessary to protect a substantial interest of the homeowners' association or housing cooperative.

Effective date: November 29, 2017

Prepared by: Anna Henning, Senior Staff Attorney
Scott Grosz, Principal Attorney

December 1, 2017

AH:SG:mcm;ty

State of Wisconsin



2017 Assembly Bill 479

Date of enactment: **November 27, 2017**

Date of publication*: **November 28, 2017**

2017 WISCONSIN ACT 67

AN ACT *to renumber and amend* 59.694 (7) (c) and 62.23 (7) (e) 7.; *to amend* 59.69 (10e) (title), 59.69 (10e) (a) 1., 59.69 (10e) (b), 60.61 (5e) (title), 60.61 (5e) (a) 1., 60.61 (5e) (b), 62.23 (7) (hb) (title), 62.23 (7) (hb) 1. a. and 62.23 (7) (hb) 2.; and *to create* 59.69 (5e), 59.694 (7) (c) 1., 59.694 (7) (c) 3., 60.61 (4e), 60.62 (4e), 62.23 (7) (de), 62.23 (7) (e) 7. a., 62.23 (7) (e) 7. d., 66.10015 (1) (e), 66.10015 (2) (e), 66.10015 (4), 227.10 (2p) and 710.17 of the statutes; **relating to**: limiting the authority of local governments to regulate development on substandard lots and require the merging of lots; requiring a political subdivision to issue a conditional use permit under certain circumstances; standards for granting certain zoning variances; local ordinances related to repair, rebuilding, and maintenance of certain nonconforming structures; and the right to display the flag of the United States.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 2. 59.69 (5e) of the statutes is created to read:

59.69 (5e) CONDITIONAL USE PERMITS. (a) In this subsection:

1. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a county, but does not include a variance.

2. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

(b) 1. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the county ordinance or those imposed by the county zoning board, the county shall grant the conditional use permit. Any condition imposed must be

related to the purpose of the ordinance and be based on substantial evidence.

2. The requirements and conditions described under subd. 1. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the county relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The county's decision to approve or deny the permit must be supported by substantial evidence.

(c) Upon receipt of a conditional use permit application, and following publication in the county of a class 2 notice under ch. 985, the county shall hold a public hearing on the application.

(d) Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the county may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the county zoning board.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(e) If a county denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in s. 59.694 (10).

SECTION 3. 59.69 (10e) (title) of the statutes is amended to read:

59.69 (10e) (title) REPAIR, REBUILDING, AND MAINTENANCE OF CERTAIN NONCONFORMING STRUCTURES.

SECTION 4. 59.69 (10e) (a) 1. of the statutes is amended to read:

59.69 (10e) (a) 1. "Development regulations" means the part of a zoning ordinance enacted under this section that applies to elements including setback, height, lot coverage, and side yard.

SECTION 5. 59.69 (10e) (b) of the statutes is amended to read:

59.69 (10e) (b) An ordinance enacted under this section may not prohibit, or limit based on cost, or require a variance for the repair, maintenance, renovation, rebuilding, or remodeling of a nonconforming structure or any part of a nonconforming structure.

SECTION 8. 59.694 (7) (c) of the statutes is renumbered 59.694 (7) (c) 2. and amended to read:

59.694 (7) (c) 2. To authorize upon appeal in specific cases variances from the terms of the ordinance that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

4. A county board may enact an ordinance specifying an expiration date for a variance granted under this paragraph if that date relates to a specific date by which the action authorized by the variance must be commenced or completed. If no such ordinance is in effect at the time a variance is granted, or if the board of adjustment does not specify an expiration date for the variance, a variance granted under this paragraph does not expire unless, at the time it is granted, the board of adjustment specifies in the variance a specific date by which the action authorized by the variance must be commenced or completed. An ordinance enacted after April 5, 2012, may not specify an expiration date for a variance that was granted before April 5, 2012.

5. A variance granted under this paragraph runs with the land.

SECTION 9. 59.694 (7) (c) 1. of the statutes is created to read:

59.694 (7) (c) 1. In this paragraph:

a. "Area variance" means a modification to a dimensional, physical, or locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of adjustment under this subsection.

b. "Use variance" means an authorization by the board of adjustment under this subsection for the use of

land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

SECTION 10. 59.694 (7) (c) 3. of the statutes is created to read:

59.694 (7) (c) 3. A property owner bears the burden of proving "unnecessary hardship," as that term is used in this paragraph, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

SECTION 11. 60.61 (4e) of the statutes is created to read:

60.61 (4e) CONDITIONAL USE PERMITS. (a) In this subsection:

1. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a town, but does not include a variance.

2. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

(b) 1. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the town ordinance or those imposed by the town zoning board, the town shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

2. The requirements and conditions described under subd. 1. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the town relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The town's decision to approve or deny the permit must be supported by substantial evidence.

(c) Upon receipt of a conditional use permit application, and following publication in the town of a class 2 notice under ch. 985, the town shall hold a public hearing on the application.

(d) Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the town may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the town zoning board.

(e) If a town denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures described in s. 59.694 (10).

SECTION 12. 60.61 (5e) (title) of the statutes is amended to read:

60.61 (5e) (title) REPAIR, REBUILDING, AND MAINTENANCE OF CERTAIN NONCONFORMING STRUCTURES.

SECTION 13. 60.61 (5e) (a) 1. of the statutes is amended to read:

60.61 (5e) (a) 1. "Development regulations" means the part of a zoning ordinance ~~enacted under this section~~ that applies to elements including setback, height, lot coverage, and side yard.

SECTION 14. 60.61 (5e) (b) of the statutes is amended to read:

60.61 (5e) (b) An ordinance ~~enacted under this section~~ may not prohibit, or limit based on cost, or require a variance for the repair, maintenance, renovation, rebuilding, or remodeling of a nonconforming structure or any part of a nonconforming structure.

SECTION 15. 60.62 (4e) of the statutes is created to read:

60.62 (4e) (a) In this subsection:

1. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a town, but does not include a variance.

2. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

(b) 1. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the town ordinance or those imposed by the town zoning board, the town shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

2. The requirements and conditions described under subd. 1. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the town relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The town's decision

to approve or deny the permit must be supported by substantial evidence.

(c) Upon receipt of a conditional use permit application, and following publication in the town of a class 2 notice under ch. 985, the town shall hold a public hearing on the application.

(d) Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the town may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the town zoning board.

(e) If a town denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures described in s. 61.35.

SECTION 16. 62.23 (7) (de) of the statutes is created to read:

62.23 (7) (de) *Conditional use permits.* 1. In this paragraph:

a. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.

b. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

2. a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

3. Upon receipt of a conditional use permit application, and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.

4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or

renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10.

SECTION 17. 62.23 (7) (e) 7. of the statutes is renumbered 62.23 (7) (e) 7. b. and amended to read:

62.23 (7) (e) 7. b. The board of appeals shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section or of any ordinance adopted pursuant thereto; to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance; to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

e. The council of a city may enact an ordinance specifying an expiration date for a variance granted under this subdivision if that date relates to a specific date by which the action authorized by the variance must be commenced or completed. If no such ordinance is in effect at the time a variance is granted, or if the board of appeals does not specify an expiration date for the variance, a variance granted under this subdivision does not expire unless, at the time it is granted, the board of appeals specifies in the variance a specific date by which the action authorized by the variance must be commenced or completed. An ordinance enacted after April 5, 2012, may not specify an expiration date for a variance that was granted before April 5, 2012.

f. A variance granted under this subdivision runs with the land.

g. The board may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.

SECTION 18. 62.23 (7) (e) 7. a. of the statutes is created to read:

62.23 (7) (e) 7. a. In this subdivision, "area variance" means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of appeals under this paragraph. In this subdivision, "use variance" means an authorization by the board of appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

SECTION 19. 62.23 (7) (e) 7. d. of the statutes is created to read:

62.23 (7) (e) 7. d. A property owner bears the burden of proving "unnecessary hardship," as that term is used in this subdivision, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome or, for a use variance, by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

SECTION 20. 62.23 (7) (hb) (title) of the statutes is amended to read:

62.23 (7) (hb) (title) *Repair, rebuilding, and maintenance of certain nonconforming structures.*

SECTION 21. 62.23 (7) (hb) 1. a. of the statutes is amended to read:

62.23 (7) (hb) 1. a. "Development regulations" means the part of a zoning ordinance ~~enacted under this subsection~~ that applies to elements including setback, height, lot coverage, and side yard.

SECTION 22. 62.23 (7) (hb) 2. of the statutes is amended to read:

62.23 (7) (hb) 2. An ordinance ~~enacted under this subsection~~ may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

SECTION 23. 66.10015 (1) (e) of the statutes is created to read:

66.10015 (1) (e) "Substandard lot" means a legally created lot or parcel that met any applicable lot size requirements when it was created, but does not meet current lot size requirements.

SECTION 24. 66.10015 (2) (e) of the statutes is created to read:

66.10015 (2) (e) Notwithstanding any other law or rule, or any action or proceeding under the common law, no political subdivision may enact or enforce an ordinance or take any other action that prohibits a property owner from doing any of the following:

1. Conveying an ownership interest in a substandard lot.
2. Using a substandard lot as a building site if all of the following apply:
 - a. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - b. The substandard lot or parcel is developed to comply with all other ordinances of the political subdivision.

SECTION 25. 66.10015 (4) of the statutes is created to read:

66.10015 (4) Notwithstanding the authority granted under ss. 59.69, 60.61, 60.62, 61.35, and 62.23, no political subdivision may enact or enforce an ordinance or take any other action that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.

SECTION 26. 227.10 (2p) of the statutes is created to read:

227.10 (2p) No agency may promulgate a rule or take any other action that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.

SECTION 27. 710.17 of the statutes is created to read:

710.17 Right to display the flag of the United States. (1) DEFINITIONS. In this section:

(a) "Housing cooperative" means a cooperative incorporated under ch. 185 or organized under ch. 193 that owns residential property that is used or intended to be used, in whole or in part, by the members of the housing cooperative as their homes or residences.

(b) "Member of a homeowners' association" means a person that owns residential property within a subdivision, development, or other similar area that is subject to any policy or restriction adopted by a homeowners' association.

(c) "Member of a housing cooperative" means a member, as defined in s. 185.01 (5) or 193.005 (15), of a housing cooperative if the member uses or intends to use part of the property of the housing cooperative as the member's home or residence.

(2) **RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES.** (a) Except as provided in sub. (3), a homeowners' association may not adopt or enforce a covenant, condition, or restriction, or enter into an agreement, that

restricts or prevents a member of the homeowners' association from displaying the flag of the United States on property in which the member has an ownership interest and that is subject to any policy or restriction adopted by the homeowners' association.

(b) Except as provided in sub. (3), a housing cooperative may not adopt or enforce a covenant, condition, or restriction, or enter into an agreement, that restricts or prevents a member of the housing cooperative from displaying the flag of the United States on property of the housing cooperative to which the member has a right to exclusive possession or use.

(3) **EXCEPTIONS.** A homeowners' association or housing cooperative may adopt and enforce a covenant, condition, or restriction, or enter into an agreement, that does any of the following:

(a) Requires that any display of the flag of the United States must conform with a rule or custom for proper display and use of the flag set forth in **4 USC 5 to 10**.

(b) Provides a reasonable restriction on the time, place, or manner of displaying the flag of the United States that is necessary to protect a substantial interest of the homeowners' association or housing cooperative.

SECTION 28. Initial applicability.

(1) **RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES.** The treatment of section 710.17 of the statutes first applies to a covenant, condition, or restriction that is adopted, renewed, or modified, or to an agreement that is entered into, renewed, or modified, on the effective date of this subsection.

(2) **CONDITIONAL USE PERMITS.** The treatment of sections 59.69 (5e), 60.61 (4e), 60.62 (4e), and 62.23 (7) (de) of the statutes first applies to an application for a conditional use permit that is filed on the effective date of this subsection.

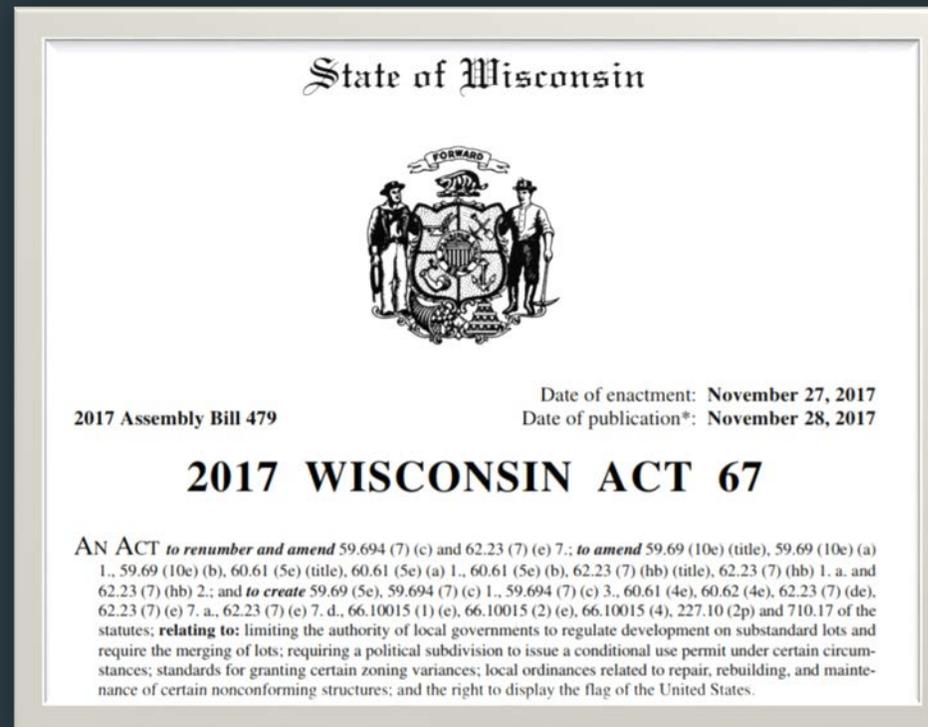
The Homeowners Bill of Rights

Presented to the Plan Commission on December 11, 2017

Presented by: Matthew E. Yde

2017 Wisconsin Act 67

- ▶ Enacted on November 27, 2017
- ▶ Date of publication: November 28, 2017



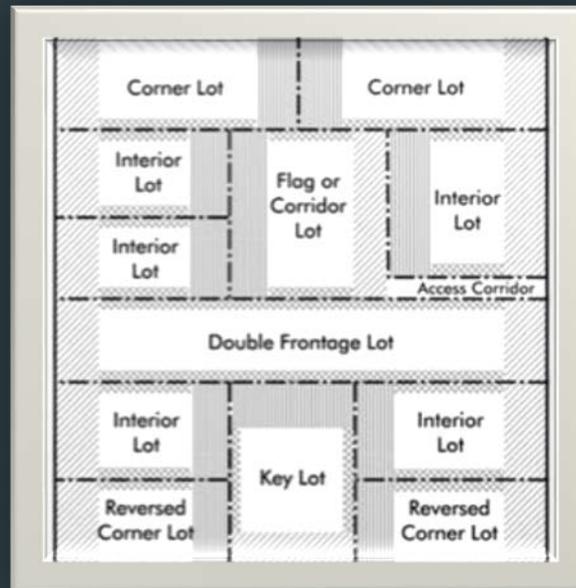
Substandard Lots/Merging Lots

- ▶ This legislation was included to address the recent Supreme Court Decision of *Murr v. Wisconsin*. Specifically, the legislation was intended to protect the ability of property owners to develop and sell all substandard lots that were legal when they were created, but do not currently meet lot size requirements. It also prohibits local governments from requiring substandard lots in common ownership to be merged.

Substandard Lots

- ▶ The Village may not prohibit a property owner from conveying an ownership interest in a substandard lot.

Wis. Stat. §66.10015(2)(e)1.



Substandard Lots

- ▶ The Village may not prohibit a property owner from using a substandard lot as a building site if the following two conditions are met:
 1. The substandard lot has not been developed with one or more of its structures placed partly on an adjacent lot; and
 2. The substandard lot is developed to comply with all other Village Ordinances.

Wis. Stat. §66.10015(2)(e)2.

Substandard Lots

- ▶ “Substandard lot” means a legally created lot or parcel that met any applicable lot size requirements when it was created, but does not meet current lot size requirements.

Wis. Stat. §66.10015(1)(e)

Merging Lots

- ▶ No political subdivision may enact or enforce an ordinance or take any other action that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots to be merged.

Wis. Stat. §66.10015(4)

Conditional Use Permits

- ▶ Wis. Stat. §62.23(7)(de) was created to provide a statutory framework for conditional use permits to protect property owners from being subjected to subjective decision making and uncertainty during the CUP process.
- ▶ The legislation does not prevent the Village from using its zoning powers to prohibit a specific use.

Conditional Use Permits

- ▶ If an applicant for a CUP meets or agrees to meet all of the requirements and conditions specified in the ordinance or those imposed by the Zoning Board, the Village shall grant the CUP.
- ▶ Any condition imposed must be related to the purpose of the ordinance and be based on “substantial evidence”.

Wis. Stat. §62.23(7)(de)2.a.

Conditional Use Permits

- ▶ The requirements and conditions must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer or renewal.
- ▶ The applicant must demonstrate with "substantial evidence" that the application and all requirements and conditions established by the Village relating to the CUP are or shall be satisfied.
- ▶ Likewise, the Village's decision to approve or deny the CUP must be supported by "substantial evidence".

Wis. Stat. §62.23(7)(de)2.b.

Conditional Use Permits

- ▶ “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a CUP and that reasonable persons would accept in support of a conclusion.

Wis. Stat. §62.23(7)(de)1.b.

Conditional Use Permits

- ▶ Upon receipt of a CUP application and following publication of a Class II Notice, the Village shall hold a public hearing on the application.

Wis. Stat. §62.23(7)(de)3.

Conditional Use Permits

- ▶ Once granted, a CUP shall remain in effect as long as the conditions upon which the permit was issued are followed.
- ▶ The Village may impose conditions such as:
 - ❖ Permit duration
 - ❖ Transfer
 - ❖ Renewal
 - ❖ Any other conditions specified in the Zoning Ordinance or by the Zoning Board.

Wis. Stat. §62.23(7)(de)4.

Conditional Use Permits

- ▶ If the Village denies a person's CUP application, the person may appeal the decision to the Circuit Court.

Wis. Stat. §62.23(7)(de)5.

Variations

- ▶ Codifies current law by defining “area variance” and “use variance” and “unnecessary hardship” .

Area Variance

- ▶ “Area variance” means a modification to a dimensional, physical, or locational requirement such as:
 - ❖ Set back restrictions
 - ❖ Frontage restrictions
 - ❖ Height restrictions
 - ❖ Bulk restrictions
 - ❖ Density restrictions
- ▶ Granted by the Board of Appeals.

Wis. Stat. §62.23(7)(e)7.a.

Use Variance

- ▶ “Use variance” means an authorization by the Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

Wis. Stat. §62.23(7)(e)7.a.

Variations

- ▶ To grant a variance, the Board of Appeals must find as follows:
 1. The variance will not be contrary to the public interest;
 2. Due to special conditions, a literal enforcement of the provisions of the Zoning Ordinance will result in practical difficulty or unnecessary hardship;
 3. The variance is needed so that the spirit of the ordinance is observed; and
 4. Substantial justice will be done by granting the variance.

Wis. Stat. §62.23(7)(e)7.b.

Area Variance

- ▶ A property owner bears the burden of proving “unnecessary hardship” for an area variance by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

Wis. Stat. §62.23(7)(e)7.d.

Use Variance

- ▶ A property owner bears the burden of proving “unnecessary hardship” for a use variance by demonstrating that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance.

Wis. Stat. §62.23(7)(e)7.d.

Variations

- ▶ With both an area and a use variance, the property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

Wis. Stat. §62.23(7)(e)7.d.

Variations

- ▶ A variance granted under this subdivision runs with the land.
Wis. Stat. §62.23(7)(e)7.f.
- ▶ However, the Village may enact an ordinance specifying an expiration date for a variance granted if that date relates to a specific date by which the action authorized by the variance must be commenced or completed.
- ▶ If no such ordinance is in effect or if the Board of Appeals does not specify an expiration date for the variance, the variance does not expire unless, at the time it is granted, the Board of Appeals specifies in the variance a specific date by which the action authorized by the variance must be commenced or completed.
- ▶ An ordinance enacted after April 5, 2012, may not specify an expiration date for a variance that was granted before April 5, 2012.

Wis. Stat. §62.23(7)(e)7.e.

Non-Conforming Structures

- ▶ “An ordinance may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a non-conforming structure.”

Wis. Stat. §62.23(7)(hb)2.

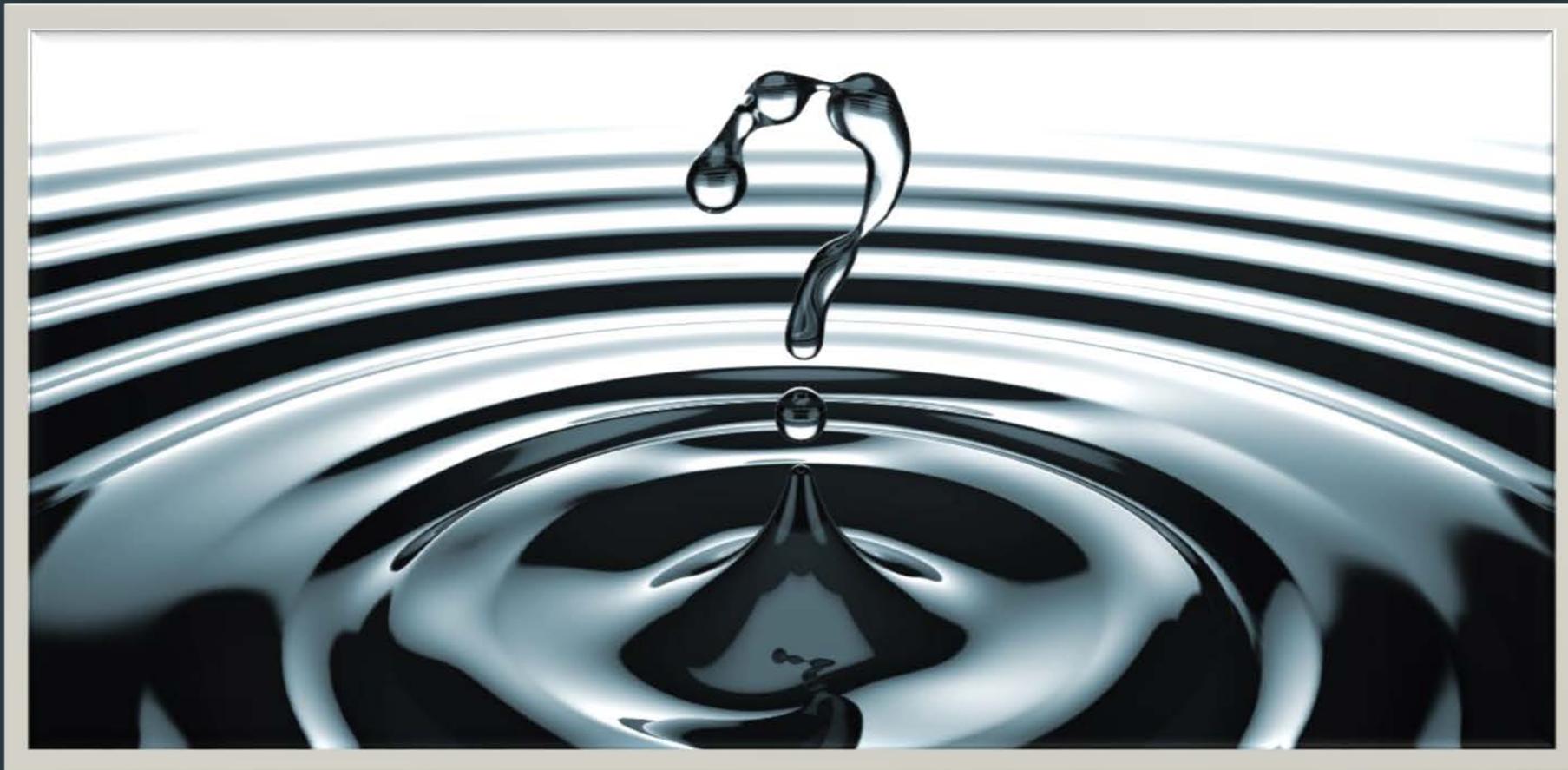
Right to Display the Flag



- ▶ The Federal Freedom to Display the Flag Act of 2005 prohibits a condominium association, housing cooperative, or home owners' association from adopting or enforcing a policy, or entering into an agreement, that would restrict or prevent a member of the organization from displaying the flag of the United States on residential property that the member owns or to which the member has the right to exclusive possession and use.
- ▶ Wisconsin law previously prohibited condominium associations from preventing a condominium unit owner from displaying the flag.
- ▶ This legislation creates a similar provision in Wisconsin law for housing cooperatives and home owners' associations.

Wis. Stat. §710.17(7)

Questions



**Village of Weston, Wisconsin
MEETING OF THE
ZONING STEERING COMMITTEE
AN AD HOC COMMITTEE OF THE PLAN COMMISSION AND
TOWN & VILLAGE EXTRATERRITORIAL ZONING COMMITTEE**

March 20, 2018

**MEETING PACKET COVER SHEET
AGENDA ITEM – 7.
Review of Sec. 94.3.04 Figure 3.04: Allowable Uses
in Rural, Open Space and Residential Zoning
Districts**



Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts *through*

Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

Figure 3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

P = Permitted Use		C = Conditional Use		T = Temporary Use		Empty Cell = Prohibited Use				
Land Use Category (#) Land Use Type		Zoning District (see key at end of figure)								
		FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
Residential Land Uses (see Section 94.4.02 for descriptions and standards for each land use)										
(1)	Single-Family Detached Residence	C	P	P		P	P	P	P	P
(2)	Two-Family Residence							P	P	
(3)	Multi-Family Residence (3-8 unit building)							C	P	
(4)	Multi-Family Residence (9+ unit building)								C	
(5)	Manufactured Home Community									P
(6)	Mixed Use Dwelling Unit								C	
Agricultural Land Uses (see Section 94.4.03 for descriptions and standards for each land use)										
(1)	Agricultural Use	P	P	P/C	C					
(2)	Agricultural-Related Use	P	C	C						
(3)	Community Garden	P	P	P	P	P	P	P	P	P
(4)	On-site Agricultural Retail	P	P	C						
Institutional and Recreational Land Uses (see Section 94.4.04 for descriptions/standards for each use)										
(1)	Passive Outdoor Public Recreation	C	P	P	P	P	P	P	P	P
(2)	Active Outdoor Public Recreation	C	C	C	P	C	C	C	C	C
(3)	Indoor Institutional—General		C	C	P	C	C	C	P	
(4)	Indoor Institutional—Intensive				C				C	
(5)	Outdoor Institutional	C	C	C	C	C	C	C	C	
(6)	Public Service or Utility	C	P	P	P	P	P	P	P	P
(7)	Institutional Residential					C	C	C	C	
(8)	Community Living Arrangement (1-8 residents)		P	P		P	P	P	P	
(9)	Community Living Arrangement (9-15 residents)		C	C		C	C	P	P	
(10)	Community Living Arrangement (16+ residents)							C	P	
Commercial Land Uses (see Section 94.4.05 for descriptions and standards for each land use)										
(1)	Office									
(2)	Personal or Professional Service								C	
(3)	Artisan Studio								C	
(4)	Group Day Care Center					C	C	C	C	
(5)	Indoor Sales or Service									

Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

through Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

P = Permitted Use		C = Conditional Use		T = Temporary Use		Empty Cell = Prohibited Use				
Land Use Category		Zoning District (see key at end of figure)								
(#)	Land Use Type	FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
(6)	Outdoor Display									
(7)	Indoor Repair and Maintenance									
(8)	Outdoor and Vehicle Repair and Maintenance									
(9)	Drive-In or Drive-Through Sales or Service									
(10)	Indoor Commercial Entertainment									
(11)	Outdoor Commercial Entertainment		C							
(12)	Commercial Animal Establishment	C	C	C						
(13)	Bed and Breakfast	C	C	C		C	C	C	P	
(14)	Boarding House								C	
(15)	Campground		C		P					
(16)	Commercial Indoor Lodging									
(17)	Tourist Rooming House		C	C				C	C	
(18)	Adult Entertainment or Adult-Oriented Establishment									
(19)	Large Retail and Commercial Service Development									
(20)	Microbeverage Production Facility									
Storage or Disposal Land Uses (see Section 94.4.06 for descriptions and standards for each land use)										
(1)	Indoor Storage or Wholesaling									
(2)	Outdoor Storage or Wholesaling									
(3)	Personal Storage Facility								C	C
(4)	Junkyard or Salvage Yard		C							
(5)	Solid Waste Disposal, Composting, and/or Recycling Facility		C							
(6)	Auction Yard									
Transportation Land Uses (see Section 94.4.07 for descriptions and standards for each land use)										
(1)	Off-Site Parking				C				C	C
(2)	Airport or Heliport		C							
(3)	Freight Terminal and Mass Transportation Depot									
(4)	Distribution Center									
(5)	Livestock or Farm Commodity Trucking	C	C							

Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

through Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

P = Permitted Use		C = Conditional Use		T = Temporary Use		Empty Cell = Prohibited Use				
Land Use Category (#) Land Use Type		Zoning District (see key at end of figure)								
		FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
Industrial Land Uses (see Section 94.4.08 for descriptions and standards for each land use)										
(1)	Light Industrial		C							
(2)	Heavy Industrial									
(3)	Communications Tower	C	P	C	C	C	C	C	C	C
(4)	Non-Metallic Mineral Extraction	C	C							
Accessory and Miscellaneous Land Uses (see Section 94.4.09 for descriptions/standards for each use)										
(1)	Detached Accessory Structure (For Non-Residential Use)	P	P	P	P	P	P	P	P	
(2)	Detached Accessory Structure (For Residential Use)	P	P	P		P	P	P	P	P
(3)	Family Day Care Home (4-8 children)	P	P	P		P	P	P	P	P
(4)	Intermediate Day Care Home (9-15 children)	C	C	C		C	C	C	C	C
(5)	Home Occupation	P	P	P		P	P	P	C	C
(6)	Residential Business	C	C	C		C	C	C		
(7)	In-Home Suite		P	P		C	C	P	P	
(8)	Accessory Dwelling Unit		C	C		C	C	C	C	
(9)	Animal Fancier	P	P	P		C	C			
(10)	Keeping of Farm Animals on Residential Lots and School Sites	P	P	P						
(11)	Company Cafeteria									
(12)	Company Provided On-site Recreation or Child Care									
(13)	Indoor Sales Incidental to Storage or Light Industrial Land Use		C							
(14)	Light Industrial Activities Incidental to Indoor Sales or Services									
(15)	Outdoor Display Incidental to Indoor Sales or Service									
(16)	Outdoor Alcohol Area		C							
(17)	Small Exterior Communication Device	P	P	P	P	P	P	P	P	P
(18)	Large Exterior Communication Device	C	C	C	C	C	C	C	C	C
(19)	Geothermal Energy System (GES)	P	P	P	P	P	P	P	P	P
(20)	Small Wind Energy System	P	P	P	P	P	P	P	P	P

Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

through Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

P = Permitted Use		C = Conditional Use		T = Temporary Use			Empty Cell = Prohibited Use			
Land Use Category (#) Land Use Type		Zoning District (see key at end of figure)								
		FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
(21)	Small Solar Energy System	P	P	P	P	P	P	P	P	P
(22)	Outdoor Solid Fuel Furnace	P	P	C						
(23)	Private Lake (Pond)	P	P	P	C	C	C	C	C	C
(24)	Vehicle Course or Track	P	P	C	C					
(25)	Donation Drop-Off Box or Vending Machine				P				C	C
Temporary Land Uses (see Section 94.4.10 for descriptions and standards for each land use)										
(1)	Temporary Outdoor Sales				T					
(2)	Garage, Yard, Estate, and In-Home Sales	T	T	T		T	T	T	T	T
(3)	Outdoor Assembly or Special Event	T	T	T	T	T	T	T	T	T
(4)	Contractor's Project Office	T	T	T	T	T	T	T	T	T
(5)	Contractor's On-Site Equipment Storage Facility	T	T	T	T	T	T	T	T	T
(6)	Relocatable Building	T	T	T	T	T	T	T	T	T
(7)	On-Site Real Estate Sales Office		T	T	T	T	T	T	T	T
(8)	Seasonal Outdoor Sales of Farm Products	T	T		T					
(9)	Temporary Portable Storage Container	T	T	T	T	T	T	T	T	T
(10)	Temporary Shelter	T	T	T	T	T	T	T	T	T
(11)	Temporary Agricultural Structure	T	T							
(12)	Temporary Unscreened Storage									
(13)	Temporary Sales by Mobile Food Vendors				T					
(14)	Temporary Asphalt, Batch or Concrete, Stone Crushing and/or Processing Operations	T/C	T/C	T/C	T/C	T/C	T/C	T/C	T/C	T/C
Key to Zoning Districts:										
FP = Farmland Preservation					SF-L = Single Family Residential-Large Lot					
AR = Agriculture and Residential					SF-S = Single Family Residential-Small Lot					
RR-2 = Rural Residential (2 acre minimum)					2F = Two Family Residential					
RR-5 = Rural Residential (5 acre minimum)					MF = Multiple Family Residential					
PR = Parks and Recreation					MH = Manufactured Home					

[Amended via Ord. 16-021, 4/20/2016; Ord. 16-025, 5/18/2016; Ord. 16-032, 8/18/2016; Ord. 16-044, 10/20/2016; Ord. 17-014, 7/26/2017; Ord. 17-034, 11/24/2017]

**Village of Weston, Wisconsin
MEETING OF THE
ZONING STEERING COMMITTEE
AN AD HOC COMMITTEE OF THE PLAN COMMISSION AND
TOWN & VILLAGE EXTRATERRITORIAL ZONING COMMITTEE**

March 20, 2018

**MEETING PACKET COVER SHEET
AGENDA ITEM – 8.
Review of Sec. 94.3.05 Figure 3.05: Allowable Uses in
Non-Residential and Mixed-Use Zoning Districts**



Section 94.3.05: Allowable Uses in Non-Residential and
Mixed Use Zoning Districts

through

Section 94.3.05: Allowable Uses in Non-Residential and
Mixed Use Zoning Districts

Section 94.3.05: Allowable Uses in Non-Residential and Mixed Use Zoning Districts

Figure 3.05: Allowable Uses in Non-Residential and Mixed Use Zoning Districts

P = Permitted Use		C = Conditional Use		T = Temporary Use		Empty Cell = Prohibited Use			
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
Residential Land Uses (see Section 94.4.02 for descriptions and standards for each land use)									
(1)	Single-Family Detached Residence								P
(2)	Two-Family Residence		C						
(3)	Multi-Family Residence (3-8 unit building)		C			C	C	C	
(4)	Multi-Family Residence (9+ unit building)		C			C	C	C	
(5)	Manufactured Home Community								
(6)	Mixed Use Dwelling Unit		P	P	C				
Agricultural Land Uses (see Section 94.4.03 for descriptions and standards for each land use)									
(1)	Agricultural Use								P/C
(2)	Agricultural-Related Use			C	P	C	P	P	P/C
(3)	Community Garden	P	P	P	P	C	C	C	P
(4)	On-site Agricultural Retail								P
Institutional and Recreational Land Uses (see Section 94.4.04 for descriptions/standards for each use)									
(1)	Passive Outdoor Public Recreation	P	P	P	P	P	P	P	P
(2)	Active Outdoor Public Recreation	P	C	P	P	P	P	P	P
(3)	Indoor Institutional—General	P	P	P	P		C	C	C
(4)	Indoor Institutional—Intensive	P	C	C	P				
(5)	Outdoor Institutional	P	C	C	C	C	C	C	C
(6)	Public Service or Utility	P	P	P	P	P	P	P	P
(7)	Institutional Residential	P	C	C	C	C	C	C	
(8)	Community Living Arrangement (1-8)		C						P
(9)	Community Living Arrangement (9-15)	C	C	C		C			C

Section 94.3.05: Allowable Uses in Non-Residential and
Mixed Use Zoning Districts

through

Section 94.3.05: Allowable Uses in Non-Residential and
Mixed Use Zoning Districts

P = Permitted Use		C = Conditional Use		T = Temporary Use		Empty Cell = Prohibited Use			
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
(10)	Community Living Arrangement (16+)	P	C	C		C			
Commercial Land Uses (see Section 94.4.05 for descriptions and standards for each land use)									
(1)	Office	C	P	P	P	P	P	P	C
(2)	Personal or Professional Service		P	P	P	P	P	P	
(3)	Artisan Studio		P	P	P	C	C		C
(4)	Group Day Care Center	P	P	P	P	C	C		C
(5)	Indoor Sales or Service		P	P	P	C	C		
(6)	Outdoor Display		C	P	P		C	C	
(7)	Indoor Repair and Maintenance			P	P		P	P	C
(8)	Outdoor and Vehicle Repair and Maintenance			C	P		P	P	C
(9)	Drive-In or Drive-Through Sales or Service		C	P	P	C	C	C	
(10)	Indoor Commercial Entertainment		C	P	P	P	C	C	
(11)	Outdoor Commercial Entertainment		C	C	C				C
(12)	Commercial Animal Establishment		C	P	P		C		C
(13)	Bed and Breakfast		C	C					C
(14)	Boarding House			C					C
(15)	Campground	C							C
(16)	Commercial Indoor Lodging		C	P	P	P			
(17)	Tourist Rooming House		C						C
(18)	Adult Entertainment or Adult-Oriented Establishment							C	
(19)	Large Retail and Commercial Service Development			C	C				
(20)	Microbeverage Production Facility		C	P	P	C	P	P	C

Section 94.3.05: Allowable Uses in Non-Residential and
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through

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P = Permitted Use		C = Conditional Use		T = Temporary Use			Empty Cell = Prohibited Use		
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
Storage or Disposal Land Uses (see Section 94.4.06 for descriptions and standards for each land use)									
(1)	Indoor Storage or Wholesaling				P	C	P	P	C
(2)	Outdoor Storage or Wholesaling	C			C		C	P	C
(3)	Personal Storage Facility				C		C	C	
(4)	Junkyard or Salvage Yard							C	
(5)	Solid Waste Disposal, Composting, and/or Recycling Facility	C					C	C	
(6)	Auction Yard				C		C	C	C
Transportation Land Uses (see Section 94.4.07 for descriptions and standards for each land use)									
(1)	Off-Site Parking	C	C	C	C	C	C	C	C
(2)	Airport or Heliport	C					C	C	C
(3)	Freight Terminal and Mass Transportation Depot						C	P	
(4)	Distribution Center						P/C	P	
(5)	Livestock or Farm Commodity Trucking						C	P	C
Industrial Land Uses (see Section 94.4.08 for descriptions and standards for each land use)									
(1)	Light Industrial				C	C	P	P	C
(2)	Heavy Industrial						C	P	
(3)	Communications Tower	C	C	C	P	C	P	P	P
(4)	Non-Metallic Mineral Extraction							C	C
Accessory and Miscellaneous Land Uses (see Section 94.4.09 for descriptions/standards for each use)									
(1)	Detached Accessory Structure (For Non-Residential Use)	P	P	P	P	P	P	P	P
(2)	Detached Accessory Structure (For Residential Use)		P						P
(3)	Family Day Care Home (4-8 children)		P	P					P
(4)	Intermediate Day Care Home (9-15 children)								C

Section 94.3.05: Allowable Uses in Non-Residential and
Mixed Use Zoning Districts

through

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P = Permitted Use		C = Conditional Use		T = Temporary Use		Empty Cell = Prohibited Use			
Land Use Category		Zoning District (see key at end of figure)							
(#)	Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	RM
(5)	Home Occupation		C						P
(6)	Residential Business		C						C
(7)	In-Home Suite								P
(8)	Accessory Dwelling Unit		C	C	C				C
(9)	Animal Fancier		C	C					P
(10)	Keeping of Farm Animals on Residential Lots and School Sites	C							P
(11)	Company Cafeteria	P	P	P	P	P	P	P	
(12)	Company Provided On-site Recreation or Child Care	P	P	P	P	P	P	P	
(13)	Indoor Sales Incidental to Storage or Light Industrial Land Use				P	P	P	P	C
(14)	Light Industrial Activities Incidental to Indoor Sales or Services				P	C	C		
(15)	Outdoor Display Incidental to Indoor Sales or Services			P	P	C	C		
(16)	Outdoor Alcohol Area	C	C	C	C	C			C
(17)	Small Exterior Communication Device	P	P	P	P	P	P	P	P
(18)	Large Exterior Communication Device	C	C	P	P	P	P	P	C
(19)	Geothermal Energy System (GES)	P	P	P	P	P	P	P	P
(20)	Small Wind Energy System	P	P	P	P	P	P	P	P
(21)	Small Solar Energy System	P	P	P	P	P	P	P	P
(22)	Outdoor Solid Fuel Furnace				C		P	P	P
(23)	Private Lake (Pond)	P	P	P	P	P	P	P	P
(24)	Vehicle Course or Track	C	C	C	C				P
(25)	Donation Drop-Off Box or Vending Machine	P	P	P	P	C	P	P	

Section 94.3.05: Allowable Uses in Non-Residential and
Mixed Use Zoning Districts

through

Section 94.3.05: Allowable Uses in Non-Residential and
Mixed Use Zoning Districts

P = Permitted Use		C = Conditional Use			T = Temporary Use			Empty Cell = Prohibited Use		
Land Use Category (#) Land Use Type		Zoning District (see key at end of figure)								
		INT	B-1	B-2	B-3	BP	LI	GI	RM	
Temporary Land Uses (see Section 94.4.10 for descriptions and standards for each land use)										
(1)	Temporary Outdoor Sales	T	T	T	T	T	T	T	T	T
(2)	Garage, Yard, Estate, and In-Home Sales									T
(3)	Outdoor Assembly or Special Event	T	T	T	T	T	T	T	T	T
(4)	Contractor's Project Office	T	T	T	T	T	T	T	T	T
(5)	Contractor's On-Site Equipment Storage Facility	T	T	T	T	T	T	T	T	T
(6)	Relocatable Building	T	T	T	T	T	T	T	T	T
(7)	On-Site Real Estate Sales Office		T	T	T	T	T	T	T	
(8)	Seasonal Outdoor Sales of Farm Products	T		T	T					T
(9)	Temporary Portable Storage Container	T	T	T	T	T	T	T	T	T
(10)	Temporary Shelter	T	T	T	T	T	T	T	T	T
(11)	Temporary Agricultural Structure									T
(12)	Temporary Unscreened Outdoor Storage Accessory to Industrial Use				T		T	T		
(13)	Temporary Sales by Mobile Food Vendors	T	T	T	T	T	T	T	T	T
(14)	Temporary Asphalt, Batch or Concrete, Stone Crushing and/or Processing Operations	T/C	T/C	T/C	T/C	T/C	T/C	T/C	T/C	T/C
Key to Zoning Districts:					B-3 = General Business					
INT = Institutional					BP = Business Park					
B-1 = Neighborhood Business					LI = Limited Industrial					
B-2 = Highway Business					GI = General Industrial					

[Amended via Ord. 16-021, 4/20/2016; Ord. 16-025, 5/18/2016; Ord. 16-032 and 16-036, 8/18/2016; Ord. 16-044, 10/20/2016; Ord. 16-046, 12/21/16; Ord. 17-010, 4/19/17; Ord. 17-020, 6/21/2017; Ord. 17-032, 9/21/2017; Ord. 17-034, 11/24/17]

**Village of Weston, Wisconsin
MEETING OF THE
ZONING STEERING COMMITTEE
AN AD HOC COMMITTEE OF THE PLAN COMMISSION AND
TOWN & VILLAGE EXTRATERRITORIAL ZONING COMMITTEE**

March 20, 2018

**MEETING PACKET COVER SHEET AGENDA ITEM – 9a.
Discussion of Land Use Description Standards
recommended by Plan Commission for review**



1. All outdoor storage areas shall be located no closer to a residentially zoned property than the required minimum setback for buildings on the subject property.
2. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property.
3. All outdoor storage areas shall be completely enclosed by any permitted combination of buildings, structures, walls, and/or fencing. Such walls or fencing shall be designed to completely screen all stored materials from view from non-industrially zoned areas and public rights-of-way, up to the maximum fence heights allowed under Section 94.9.03.
4. The storage of items shall not be permitted in the minimum required front yard.
5. Minimum Required Off-Street Parking: one space for every 10,000 square feet of Gross Storage Area, plus one space per each employee on the largest work shift.

(3) Personal Storage Facility.

Includes indoor storage of items entirely within partitioned buildings with individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Also known as mini-warehouses.

Performance Standards:

1. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property and public rights-of-way.
2. Minimum Required Off-Street Parking: one space for each employee on the largest work shift.

(4) Junkyard or Salvage Yard.

Any land or structures used for a salvaging operation including but not limited to the above-ground, outdoor storage and/or sale of waste paper, rags, scrap metal, and any other discarded materials intended for sale or recycling; and/or the collection, dismantlement, storage, or salvage of two or more unlicensed and/or inoperative vehicles. Recycling facilities involving on-site outdoor storage of salvage materials are included in this land use.

Performance Standards:

1. All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines.
2. All outdoor storage areas shall be completely enclosed by any permitted combination of buildings, structures, walls, and/or fencing. Such walls or fencing shall be designed to completely screen all stored materials from view from off site, up to the maximum fence heights allowed under Section 94.12.03.
3. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property.
4. Activity and storage areas shall not be permitted in the minimum required front yard.
5. Shall not involve the storage, handling, or collection of hazardous materials, including any of the materials listed in Section 94.9.20.
6. A license must be also obtained pursuant to Chapter 18, Article V of the Code for the proposed use.
7. Minimum Required Off-Street Parking: one space for every 20,000 square feet of Gross Storage Area, plus one space for each employee on the largest work shift.

(5) Solid Waste Disposal, Composting, and/or Recycling Facility.

Any use dedicated to the collection, storage, processing, and/or disposal of solid wastes as defined by Wis. Stat. § 289.01(33), organic materials for composting or for off-site energy production, and/or materials for recycling.

Performance Standards:

1. In addition to the information normally required for conditional use permit applications, the application shall include the following information:
 - a. A written description of the proposed operation, including the types and quantities of the materials that would be kept, stored, or processed; the proposed date to begin operations; existing natural features on and adjacent to the site; where materials would be hauled from and to and over what roads; types, quantities, and frequency of use of equipment to move, process, and haul materials within and to and from the site; whether and how frequently crushing, screening, washing, refueling, fuel storage, asphalt batching, or concrete mixing would be performed on site; description and elevations of all temporary and permanent structures; proposed hours and days of operation; any special measures that will be used for spill prevention and control, dust control, and environmental protection; methods to keep all public roads free of all mud, debris, and dust; assurances that the site will be developed and operated in accordance with all approved plans and all village, county, state, and federal regulations; and a listing of all applicable regulations, licenses, and permits required.
 - b. A site or operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing contour lines; existing roads, driveways, entrances, and utilities; existing natural features including lakes, streams, floodplains, wetlands, and shoreland areas; all dwellings and private and municipal wells within 1,000 feet; location of the proposed staging areas, fueling, fuel storage, and material and equipment storage areas; proposed location and surfacing of roads, driveways, and site access points; proposed phasing plan, if any; proposed and fencing of property and gating of access points; proposed locations of stockpiles; proposed location and types of bufferyards, screening berms, and landscaping; and proposed temporary and permanent structures, including scales and offices.
2. The use shall comply with all county, State and Federal regulations at all times.
3. All buildings, structures, storage, and activity areas shall be located a minimum of 50 feet from all lot lines.
4. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders.
5. Operations shall not involve the on-site holding, storage, processing or disposal of hazardous materials, food scraps, or other vermin-attracting materials.
6. Outdoor material stockpiles shall be limited to no more than 30 feet in height.
7. All performance standards in Article 12 shall be met.
8. The use shall be established and maintained so as to not create a fire hazard as determined by the Fire Inspector.
9. Trucking activity shall be limited to a maximum number of trips per day as agreed upon in the Plan Commission approved written operational plan submitted by the applicant. In cases of exceptional circumstances, a written request to exceed the maximum number of trips for a specific limited period of time not to exceed 30 days may be approved in advance by the Zoning Administrator. Exceptions exceeding 30 days must be approved by the Plan Commission.
10. Access to the site shall only be through points designated as entrances on the site or operations plan. Such access points shall be secured when the site is not in operation.

11. Hours or days of operation may be limited by the Village.
12. Approval shall be subject to amendment or revocation if non-compliance with approved plans, this subsection, or approval conditions is identified.
13. Approval shall be subject to periodic review of the operation to ensure compliance with the conditional use permit, and to specific limitations over the portion of the lot or parcel where extraction may occur.
14. Minimum Required Off-Street Parking: one space for each employee on the largest work shift.

(6) **Auction Yard.**

A use or parcel dedicated to the regular auctioning of products, generally produced at another location and transported to the site for the auction.

Performance Standards:

1. In addition to the information normally required for conditional use permit applications, the application shall include the following information:
 - a. A written description of the proposed operation, including the types and quantities of the materials that would be auctioned; the proposed date to begin operations; existing natural features on and adjacent to the site; where materials would be kept; description and elevations of all temporary and permanent structures and parking; proposed hours and days of operation; any special measures that will be used for spill prevention and control, dust control, or environmental protection; methods to keep all public roads free of all mud, debris, and dust; assurances that the site will be developed and operated in accordance with all approved plans and all village, county, state, and federal regulations; and a listing of all applicable regulations, licenses, and permits required.
 - b. A site or operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing contour lines; existing roads, driveways, entrances, and utilities; existing natural features including lakes, streams, floodplains, wetlands, and shoreland areas; location of the proposed auction, storage, staging, and parking areas; proposed location and surfacing of roads, driveways, and site access points; and proposed temporary and permanent structures.
2. The use shall comply with all county, State and Federal regulations at all times.
3. All buildings, structures, storage, and activity areas shall be located a minimum of 50 feet from all lot lines.
4. Operations shall not involve the on-site holding, storage, auctioning, processing, or disposal of hazardous materials, food scraps, or other vermin-attracting materials.
5. Outdoor material stockpiles shall be limited to no more than 30 feet in height.
6. No odor shall be created that exceeds the standard in Section 94.12.13.
7. The level of noise generated by the facility or equipment meet the noise standards in Section 94.12.13.
8. Access to the site shall only be through points designated as entrances on the site or operations plan. Such access points shall be secured when the site is not in operation.
9. Hours or days of operation may be limited by the Village.
10. Minimum Required Off-Street Parking: one space for each employee on the largest work shift, plus additional on-site parking in suitable quantity and location to accommodate projected and actual traffic.

- information, and expiration dates of user agreements or leases associated all current users of the Tower.
12. In its evaluation of any permit or plan approval for a Communications Tower, the limitations under Wis. Stat. §§ 66.0404(4) and 66.0406(2) shall apply.
 13. In the FP zoning district, the following additional standards shall also be met:
 - a. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - b. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
 14. Minimum Required Off-Street Parking: one space per each employee vehicle needed for ongoing maintenance.

(4) Non-Metallic Mineral Extraction.

Any land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities. Wisconsin Statutes may limit Village regulation of non-metallic mineral extraction operations associated with projects completed by the Wisconsin Department of Transportation.

Performance Standards:

1. In addition to the information normally required for conditional use permit applications, each application for approval of a new or expanded Non-Metallic Mineral Extraction Operation shall include the following information:
 - a. A written description of the proposed operation, including the types and quantities of the materials that would be extracted; proposed dates to begin extraction, end extraction, and complete reclamation; geologic composition and depth and thickness of the mineral deposit; existing use of the land and proposed use after reclamation; existing natural and archaeological features on and adjacent to the site; where extracted materials would be hauled and over what roads; types, quantities, and frequency of use of equipment to extract, process, and haul; types of materials and equipment used or stored on site; whether and how frequently blasting, drilling, mining, crushing, screening, washing, refueling, fuel storage, asphalt batching, or concrete mixing would be performed on site; if washing is to be performed, estimated daily quantity of water required, its source and its disposition; whether excavation will occur below the water table and, if so, how ground water quality will be protected; description and elevations of all temporary or permanent structures; proposed hours and days of operation; any special measures that will be used for spill prevention and control, dust control, or environmental protection; if within the FP district, justification that the use meets all standards associated with such district; and assurances that the site will be developed, operated, and reclaimed in accordance with all approved plans and all county, state, and federal regulations, including a listing of all applicable regulations.
 - b. A site or operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing contour lines; existing roads, driveways, and utilities; existing natural

features including lakes, streams, floodplains, wetlands, and shoreland areas; all dwellings and private and municipal wells within 1,000 feet; location of the proposed extraction, staging areas, fueling, fuel storage, and equipment storage areas; proposed location and surfacing of roads, driveways, and site access points; proposed phasing plan, if any; proposed fencing of property and gating of access points; proposed locations of stockpiles; proposed location and types of screening berms, fencing, and/or landscaping; and proposed temporary and permanent structures, including scales and offices.

- c. An erosion control plan, drawn to scale by a professional engineer, meeting all applicable Village, state, and county requirements.
 - d. A reclamation plan prepared in accordance with the Wisconsin Administrative Code and the Marathon County non-metallic mining reclamation ordinance, and clearly depicting proposed stages of restoration, proposed contours following restoration, depth of topsoil and vegetative cover, and proposed land use.
2. Each Non-Metallic Mineral Extraction Operation, regardless of when established, shall have on file with the Zoning Administrator current operational, erosion control, and reclamation plans covering the subject matter in subsection 1. above, in no case later than 180 days from March 18, 2015. Operations established before March 18, 2015 shall operate and restore the site in compliance with previous approved plans and conditions; with the provisions of this chapter; and to assure public safety, minimization of nuisances, and proper restoration of the site provided that such requirements shall not be economically and technically unreasonable with respect to existing conditions.
 3. For new and expanded operations, a bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property.
 4. The conditional use permit may include limits on the amount of time the non-metallic mineral extraction use shall remain in operation and/or hours and days of operation.
 5. The conditional use permit may include restrictions and/or hours for blasting, drilling, screening, asphalt batching, washing, and other processing.
 6. All mineral extraction activities and washing, crushing and similar processing shall be at least 200 feet from any right-of-way or property line. All ancillary operations, such as offices, parking areas, and stockpiles, shall be at least 100 feet from any right-of-way or property line. This provision shall apply to all Non-Metallic Mineral Extraction operations, including pre-existing ones, except to the extent that buildings, structures, and surface activity areas were closer than specified as of March 18, 2015.
 7. To prevent tracking of mud onto public roads, access driveways for all new and expanded Non-Metallic Operations shall be hard surfaced within one 100 feet of public roads, unless the adjacent road is not hard surfaced.
 8. All public roads to all Non-Metallic Mineral Extraction operations, including operations established prior to March 18, 2015, shall be kept free of all mud, debris, and dust by sweeping or other means.
 9. Access to all Non-Metallic Mineral Extraction sites shall only be through points designated as entrances on the site or operations plan map or as otherwise legally established. The operator shall secure such access points when the site is not in operation.
 10. For all Non-Metallic Mineral Extraction operations, the site and driveway shall be sprayed to control dust, except when the temperature is below freezing. Spraying may also be required in and around the excavation pit to further reduce dust. All operations and sites, regardless of when established, shall also meet the air pollution standards in Section 94.12.14.

11. The conditional use permit may include provisions for the upgrade, repair, and maintenance of public roads serving the use, which shall depend on the intensity of the operation and the existing condition and capacity of such roads. A bond or other performance guarantee for such work may be required as part of the conditional use permit provided that a clear relationship is established between the operation and the need for road upgrades, repair, and maintenance.
12. If any public road is damaged or destroyed as a result of any Non-Metallic Mineral Extraction operation, including operations established prior to March 18, 2015, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operation.
13. On-site bulk fuel storage areas and areas for fueling of equipment shall be located in accordance with the Wisconsin Administrative Code and State Statutes. A conditional use permit granted for a new or expanded operation may also require that such areas, facilities, and equipment be located above the water table to minimize the potential for groundwater contamination.
14. If blasting, drilling, or other processing is requested, additional standards or conditions may be applied to the conditional use permit with relation to frequency, dust, noise and vibration levels, notice to neighbors, pre-inspection of neighboring basements and wells, and claims procedures in accordance with the Wisconsin Administrative Code.
15. For all Non-Metallic Mineral Extraction operations, including operations established prior to March 18, 2015, noise levels shall kept at or below allowable limits under Section 94.12.13.
16. For Non-Metallic Mineral Extraction operations established or expanded after March 18, 2015, the area of extraction shall be completely enclosed by a security fence meeting applicable requirements of Section 94.12.03, or maintained at a slope not to exceed 3:1.
17. The owner of each Non-Metallic Mineral Extraction operation, regardless of when established, shall maintain insurance against liability for personal injury, death, or property damage caused by the maintenance and/or operation of the Non-Metallic Mineral Extraction operation and accessory structures. Such insurance policy shall have with a single combined limit of not less than \$1,000,000.00 per occurrence and contain a provision that it may not be canceled or materially modified without the approval of the Village. The owner shall provide the Zoning Administrator with a certificate of such insurance before issuance of a building permit, upon each policy renewal thereafter, and otherwise upon written request.
18. Upon written inquiry from the Village, each Non-Metallic Mineral Extraction Operation, regardless of when established, shall have the burden of presenting credible evidence establishing the continued compliance with applicable provisions of this subsection (4), and approved plans and conditions placed upon the conditional use permit or any other prior or subsequent Village approval. Failure to establish compliance with applicable provision, the approved plans, and all conditions placed upon the conditional use permit or other Village approval shall be grounds for revocation of the permit. If the Village determines that it is necessary to consult with a third party to ascertain compliance, all costs and expenses associated with such consultation shall be borne by the owner of the Non-Metallic Mineral Extraction Operation. Failure to pay such costs and expenses or provide information requested by the Village shall be grounds for revocation of the conditional use permit or other Village approval, and/or enforcement under the provisions of this chapter.
19. Within the FP district, such use shall also be subject to the following additional limitations:
 - a. The operation complies with subch. I of Wis. Stat. § 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under §§ 295.13 or 295.14, and with any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.

- b. The operation and its location in the FP district are consistent with the purposes of that district.
 - c. The operation and its location in the FP district are reasonable and appropriate, considering alternative locations outside the FP district, or are specifically approved under state or federal law.
 - d. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 - e. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
20. Minimum Required Off-Street Parking: one space per each employee on the largest work shift.

[Amended via Ord. 16-025, 5/18/2016]

Section 94.4.09: Accessory & Miscellaneous Land Use Types

(1) **Detached Accessory Structure (for Non-residential Use).**

An accessory structure serving a non-residential principal land use and building (e.g., an industry or commercial service use), but not attached to the principal building.

Performance Standards:

1. Any such structure exceeding 2,000 square feet or the maximum height for an accessory structure established in Figures 5.04(2) and 5.05(2) shall be regulated as a principal structure.
2. No Detached Accessory Structure (for Non-residential Use) shall be constructed on any lot prior to establishment of a principal use on that same lot, unless otherwise stated in this Chapter.
3. Each Detached Accessory Structure (for Non-residential Use), shall be designed to withstand a minimum of a 40-pounds per square foot of snow load.
4. See Figures 5.02(1) and 5.02(2) for setback, floor area, and coverage standards associated with Detached Accessory Structures in non-residential zoning districts.
5. Except within an agricultural zoning district, no hoop building or structure of similar design shall be permitted as a Detached Accessory Structure (for Non-residential Use), except on a temporary basis for a maximum of five consecutive days within a 30-day period for a special event such as a sale or on the property following issuance of a temporary use permit.
6. No Detached Accessory Structure (for Non-residential Use) shall be occupied as a dwelling unit or otherwise used for human habitation, unless it has first been approved for such use by the Building Inspector and meet all applicable code requirements for a dwelling of the State for a dwelling and under Section 94.4.09(8).
7. Each Detached Accessory Structure (for Non-residential Use) shall meet associated building and site design standards in Section 94.10.03.

(2) **Detached Accessory Structure (for Residential Use).**

An accessory structure serving a residential principal land use and building (e.g., a house or apartment building), but not attached to the principal building. Includes detached residential garages and carports (where permitted) designed primarily to shelter parked passenger vehicles, utility sheds as defined in Section 94.17.04, private recreation structures such as gazebos, and detached elevated decks or walkways associated with residential uses. All structures that are utilized for Agricultural Land Use Types (as listed in Section 94.4.03), that exceed 2,000 square feet in floor area, are within a rural and open space or RM zoning district, or are on parcels over 10 acres in area shall instead be regulated as a principal structure, and not as a “Detached Accessory Structure.”