



**VILLAGE OF JACKSON  
JOINT SESSION - SPECIAL VILLAGE BOARD  
AND PLAN COMMISSION MEETING AGENDA**

**Thursday, August 21, 2025 at 7:15 PM**

(Or immediately following the Plan Commission meeting.)

Jackson Municipal Complex

Village Board Room

N168W19851 Main Street

Jackson, WI 53037

1. Call to Order and Roll Call
2. Joint Scoping Session - Village Code Update
  - a. Presentation - Zoning Code Update - Civi Tek Consulting and Graef, with possible discussion
  - b. Review of 2024 Zoning Code Audit and Discussion of Project Goals - Zoning Code Update, with possible Direction by Board
3. Adjourn

Persons with disabilities requiring special accommodations for attendance at the meeting should contact the Administration Department at the Jackson Municipal Complex at least one (1) business day prior to the meeting.

It is possible that members of the Village Board may attend the above meeting. No action will be taken by any governmental body at this meeting other than the governmental body specifically referred to in this meeting notice. This notice is given so that members of the Village Board may attend the meeting without violating the open meeting law.

Date: August 14, 2025

To: Village of Jackson Village Board  
Village of Jackson Plan Commission  
Jen Heidtke, Village Administrator  
Collin Johnson, Director of Inspections and Zoning

From: Tim Schwecke, Civi Tek Consulting  
Craig Huebner, Graef

Subject: Joint Scoping Session - Village Code Update

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Following the Plan Commission meeting on August 21, 2025, the Plan Commission and Village Board will meet in joint session. We'll start the meeting with a presentation. Most importantly, this will be a hands-on work session to review the Village's current zoning code together. It's a chance to share ideas, highlight what's working well, and identify areas that may need to be added or revised.

Attached is our presentation along with the 2024 zoning code audit, which includes specific recommendations. Near the end of the presentation, you'll also find a list of ideas to help start the conversation.

Your perspectives will be essential in shaping any future revisions. Please take a few minutes to review the materials before the meeting.

We look forward to working with you on this important project.

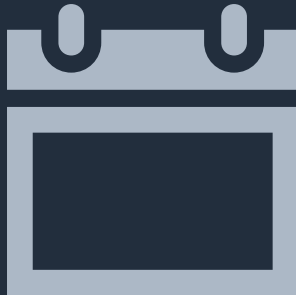
# ZONING CODE UPDATE

VILLAGE OF JACKSON

SCOPING SESSION WITH PLAN COMMISSION AND VILLAGE BOARD

AUGUST 21, 2025

# PROJECT OVERVIEW



Key Tasks	Month														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15-26
1. Public Participation Plan	■														
2. Project Orientation and Kick-off Meeting	■														
3. Continuing Coordination	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
4. Issue Identification (Project Scoping)	■	■													
5. Background Analysis/Evaluation	■	■	■												
6. Preliminary Discussion Draft (Draft 1)	■	■	■	■	■	■	■	■							
7. Stress Testing								■	■						
8. Final Discussion Draft (Draft 2)									■	■					
9. Online Survey											■				
10. Open House												■			
11. Public Hearing Draft (Draft 3)													■		
12. Public Hearing														■	
13. Code Adoption														■	
14. Ongoing Consultation (12 Months)															■
15. Project Website (Village Hosted or Dedicated Site)	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
16. Project Kickoff Video (optional)	■	■													
17. Interactive Code with ZoningHub (optional)														■	

# ZONING CODE UPDATE PROJECT GOALS



## The 13 Goals for the Zoning Code Update Project as identified by The Village of Jackson RFP

1. The new zoning ordinance will be simpler and more user friendly than the current ordinance. It will include charts, diagrams, tables, and other graphics where appropriate.
2. The new ordinance will maintain consistency across all districts. Where applicable, lists of allowed uses will be broad based and adaptable to changing economic environments.
3. The new ordinance will legalize traditional development patterns that are present in the Village's older neighborhoods and provide flexibility to allow those neighborhoods to maintain their character and to redevelop.
4. The new ordinance should have a hybrid format, including some elements of a traditional Euclidean framework, particularly in existing neighborhoods which developed under that framework, along with some elements of Form Based or other innovative systems such as middle housing, affordable rental and homeowner units, adaptive reuse, and accessory dwelling units.

5. The new ordinance will provide for means to require Traffic Impact Analysis from a developer and set qualifying standards for such analysis.
6. The new ordinance will give consideration towards regulation of special land uses including items such as antenna and other telecommunication facilities, publicly accessible electric vehicle charging stations, Payday lenders, Adult Family Homes, Community Living Arrangements, Foster Homes, home occupations, solar and wind energy systems, and adult uses.
7. The new ordinance will provide for updates to the existing sign code and incorporate "content neutral" regulations.
8. The new ordinance will establish parameters for review and issuance of Conditional Uses.
9. The new ordinance will update and codify the Plan Commission's building and site design policies and ensure that the design review process is as simple and predictable as possible. This includes landscaping, outdoor lighting, building design/material, and site improvement requirements.

10. The new ordinance will shift the focus away from density maximums to permitted housing types in the residential and any mixed-use zoning districts.
11. The new ordinance should also create a framework to reduce the need to use Planned Unit Development ordinances for mixed use, commercial/industrial, and residential housing developments.
12. The new ordinance will improve the review procedures to shorten review times while achieving the overall intent of the zoning code.
13. The new ordinance will incorporate the Village's Comprehensive Plan and will account for changes to the Land Use Plan. It will also incorporate recommendations from other planning documents, such as the Village of Jackson Zoning Code Audit Report, the Washington County Next Generation Housing Initiative, and the Village of Jackson Wastewater Treatment Facility Facilities Planning Document.

# CURRENT TRENDS IN ZONING REFORM



Across the nation, the following items are gaining traction as practices that have been working well for community goals.

Practice 1

**Reduction or Elimination of Conditional Uses**

Practice 2

**Expansion of Staff Approvals**

Practice 3

**Removal of Exclusionary Zoning**

Practice 4

**Reduction and Elimination of Lot and Structure Size Minimums**

Practice 5

**Elimination of Minimum Parking Requirements**

Practice 6

**Creation of Parking Maximums**

Practice 7

**Accessory Dwelling Units**

Practice 8

**Mixed-Use Zoning**

Practice 9

**Allowing Ground-Floor Residential in Commercial Zones**

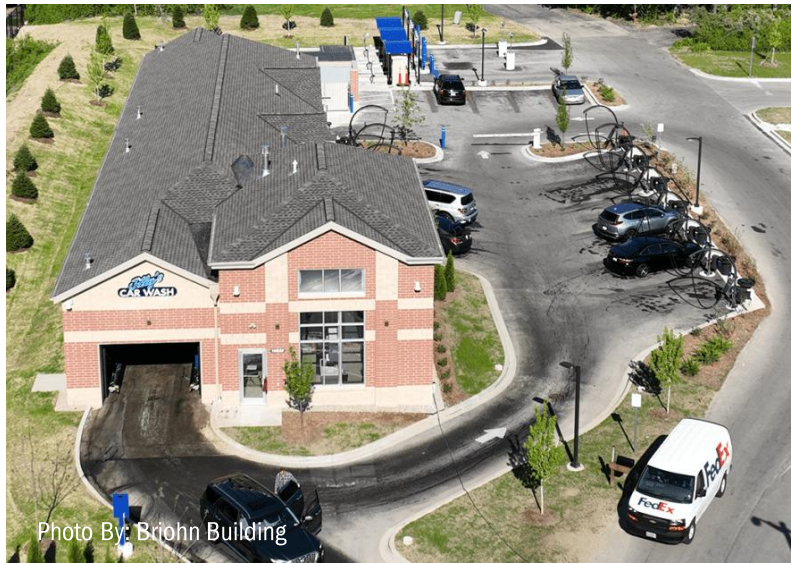
Practice 10

**Home Occupations**

# REDUCTION & ELIMINATION OF CONDITIONAL USES

Municipal discretion over conditional uses has been severely limited by recent policy. While conditional uses allow communities to control certain aspects of sensitive site uses, this comes with a more complicated and often lengthy approval process.

Instead, by creating these sensitive uses as permitted uses with standards, the same effect can be achieved with a simpler process, removing the need for a conditional use permit, and allowing sensitive uses to only operate legally under the outlined standards.



## ALTERNATIVES OF IMPLEMENTATION

- Turn previous conditional uses into permitted uses with standards.
- Keep conditional uses, but develop standards for each of them rather than developing standards on a case-by-case basis.



## BENEFITS

- Developer friendly, reducing approval process by removing the need for a public hearing.
- Fairness across multiple administrations/commissions in the otherwise potentially arbitrary application of conditions.



## CONSIDERATIONS

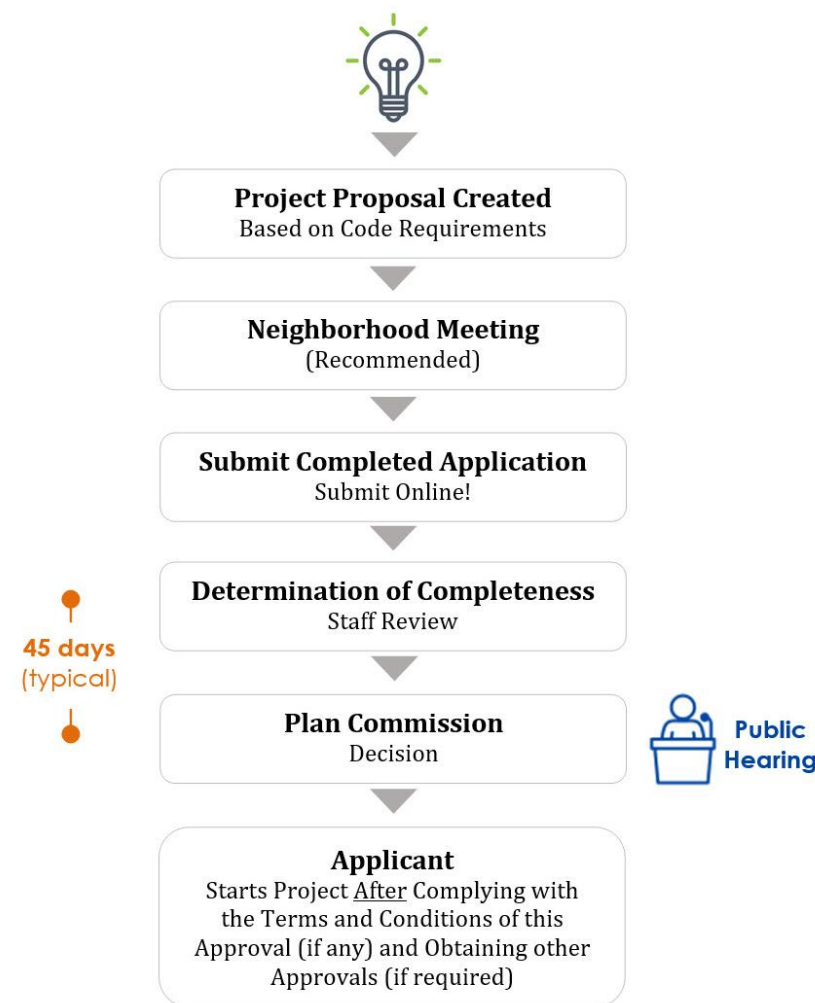
- Without a public hearing, there is potential for less community understanding of new uses being developed.

# APPROVAL STRUCTURE REFORM/MINISTERIAL APPROVALS

The public hearing and public meeting approval process can be a massive barrier preventing would-be developments from occurring.

Often the number of requirements, poor communication of requirements, and the large time it takes for items to be approved is too large of a financial risk for developers, dramatically increasing costs over time.

Local residents hold excessive power to burden and delay new developments through opposition not grounded in evidence.



## ALTERNATIVES OF IMPLEMENTATION

- Guarantee quick permit approval, around 45-90 days or faster.
- Make permits with no response be approved by default after a certain length of time.
- Expand staff's ability to approve projects as much as possible by;
  - Creating standards for certain items
  - Instructing staff on using these standards to approve or deny items
  - Eliminate the need for Plan Commission approval on desirable development types.
- Create model development designs that are automatically approved if proposed.
- Include the public in high-level planning processes that generate support overall for the types of Staff approvals that are intended, rather than each individual review.



## BENEFITS

- Greatly reduces financial risk for developers by decreasing approval wait time.
- Easy, predictable approval processes attract developers to create projects.



## CONSIDERATIONS

- Close care should be given to the standards applied to items for staff approval.
- Every approval and denial should be given with written findings. Denials may be appealed to the Plan Commission as though they are new applications.



# REMOVE EXCLUSIONARY ZONING

Exclusionary Zoning describes the practices of zoning which create contiguous, uniform neighborhoods that only allow a single use.

These neighborhoods often have very little diversity in housing, or in demographic makeup. They are typically very expensive and make for an unaffordable housing stock.

Taking different steps to break up this uniformity, and encouraging diversity in neighborhoods can greatly increase the quality of a community's housing stock.

## PRECEDENTS

Minneapolis/St Paul, MN

Alexandria, VA

Arlington County, VA

Gainesville, FL

Toronto, CAN



## ALTERNATIVES OF IMPLEMENTATION

- Permitting duplex to four-plex in all single-family districts by right
- Permitting any number of dwelling units based on a minimum unit size
- Permitting townhomes and attached dwellings
- Permitting small-lot, small unit single-family homes



## BENEFITS

- Brings diversity of housing to neighborhoods.
- Provides more affordable housing options.
- Promotes intergenerational neighborhoods as family sizes change over time.
- Promotes socioeconomic integration and economic resilience



## CONSIDERATIONS

- Regulate design, not use. Preserve neighborhood character without restricting uses by units per structure.

Photo By: Luke Jones



Photo By: Chris & Karen Highland



# RETHINK LOT MINIMUMS & STRUCTURE SIZE MINIMUMS/MAXIMUMS

Minimum structure and lot sizes set the baseline for physical housing space, and therefore a baseline for price. These requirements often indirectly write the minimum housing cost of a community.

In reality, successful and desirable projects can be built that are smaller than most minimum lot sizes. Many homes are built precisely on the minimum required area, because smaller lot sizes are desirable.

Removing or reducing these restrictions can afford opportunity for new forms of housing which are affordable, and in high demand.

## PRECEDENTS

Houston, TX: Allows as little as 1,400 SF per lot.

Many cities have nonconforming lots with less than 1,000 SF per lot, such as Los Angeles



## ALTERNATIVES OF IMPLEMENTATION

- Lot size minimums can be reduced or eliminated based on;
  - Zoning
  - Use
- Structure size minimums/maximums can be changed or eliminated based on;
  - Zoning
  - Use
- May also increase maximum number of structures per lot by right.



## BENEFITS

- Lowers land cost of development, enables in-fill development.
- Provides options for “missing middle” affordable housing gap.
- Eliminates existing non-conforming lots.
- Reduced driving speeds and feelings of exposure along street.
- Allows owners of large homes to downsize, subdivide, and stay in their neighborhoods.
- Reduces initial infrastructure and costs for provision of ongoing public services and long term maintenance.



## CONSIDERATIONS

- Other regulations may need to be adjusted to ensure these reforms permit feasible development, such as;
  - Setbacks
  - Lot coverage maximums
  - Story maximums
  - Building/unit sq ft minimums
- Potential impacts on stormwater management should be assessed.

Photo By: Sightline Institute



Photo By: Sightline Institute



# ELIMINATE / REDUCE MINIMUM PARKING REQUIREMENTS

[Parking Reform Link](#)

Minimum parking requirements have long been a primary shaper of communities. These requirements have been behind sparse development and raise investment cost for projects greatly.

Reducing or eliminating these requirements allows developers to build the amount of parking stalls they believe is truly needed for a site and removes the legal requirement for them to create more than they might need.

The evolving nature of commercial development, especially retail does not warrant the need for minimum parking standards, at least not in the traditional zoning sense. Communities, and their development partners, need the tools to right-size parking based on local market conditions.

## PRECEDENTS

City of West Allis: No minimums citywide

City of South Milwaukee: No minimums downtown

City of Sheboygan: No minimums downtown

City of Superior: No minimums citywide

City of Manitowoc: No minimums downtown for non-residential



## ALTERNATIVES

- Minimum parking requirements can be eliminated;
  - Citywide
  - In a certain zone or zones such as Downtown, workforce housing, or TOD
  - From certain uses
- Allowing reduced parking requirements based on parking study or other standard.
- Restrict or prohibit the use of exclusive parking lots or covenants where shared parking makes sense.
- Allow for the substitution of parking requirements for site improvements that support other modes.



## BENEFITS

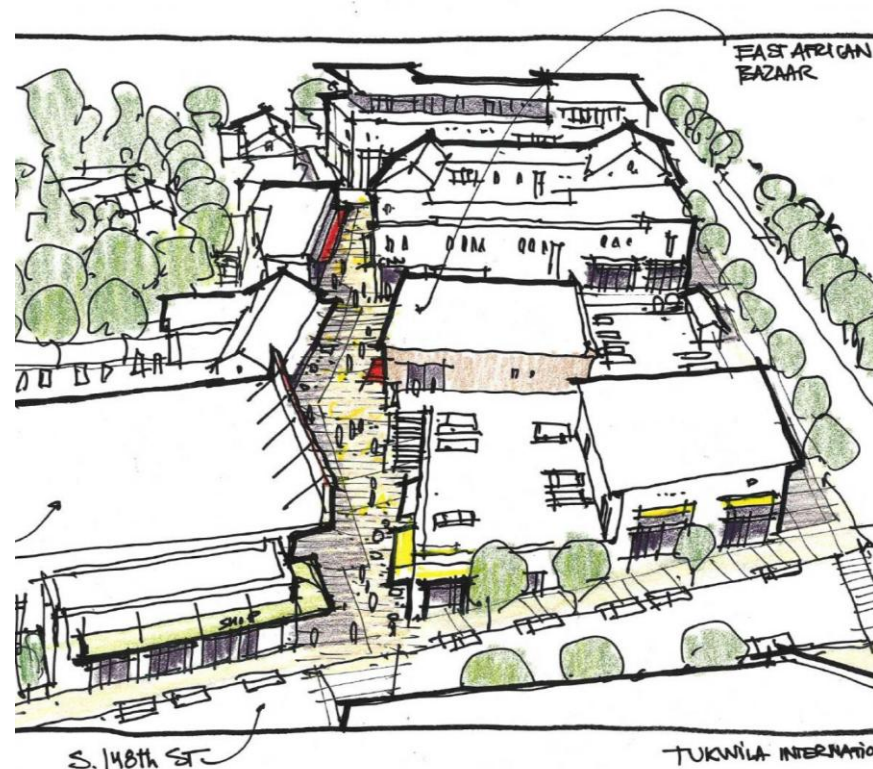
- Reduced development costs, and therefore housing costs.
- More efficient land use and reduced sprawl.
- Reduced impervious surface from lots, driveways/garages.



## CONSIDERATIONS

- Safe and desirable walking infrastructure should be required to support walking trips and longer walks to destinations from parking spots.
- Can be paired with public parking management/metered parking in high-demand parking areas.

Photo By: The Congress for New Urbanism



# CREATE PARKING MAXIMUMS

Similar to the elimination of parking minimums, removing the need for lots of parking stalls, parking maximums prevents this by law.

While it is cheaper to build as few parking stalls as possible, there may be an occasion where a project includes a very large number of stalls, and a maximum limit may prevent the creation of a mass parking lot taking up lots of space. Many developers exceed minimums to avoid negative feedback during reviews. Maximums communicate a different intention from the local government and encourage creative transportation solutions.

## PRECEDENTS

City of West Allis

Kalkaska, MI

DeForest, WI



## ALTERNATIVES OF IMPLEMENTATION

- Parking maximums could be based on the old minimum requirements.
- Maximums could be implemented;
  - Citywide
  - In a certain zone or zones such as Downtown, workforce housing, or TOD
  - In certain uses
  - Based on lot coverage – though may encourage sprawl and larger lots.



## BENEFITS

- Prevents sparse development.
- Prevents the creation of massive parking lots and limit “big box” type development.
- Limits amount of impervious surface on a site.
- Encourages context sensitive design and site design flexibility, providing opportunities for productive outdoor spaces and social spaces.



## CONSIDERATIONS

- A parking study and review of regional vehicle ownership rates may best reveal where maximums would be beneficial.
- Safe and desirable walking infrastructure should be present for individuals to be willing to walk further to their destination.
- Support for alternate modes such as bike parking should be required.
- May discourage development if too restrictive and inflexible to market conditions.

Photo By: Brad K



Photo By: Daily Tribune



# ACCESSORY DWELLING UNITS

Also referred to as a “Granny-Flat”, “In-Law Suite”, “Carriage House”, or “Backyard Cottage”. ADUs are a dwelling unit located on the same property as a principal residential structure, oftentimes detached.

This rentable or purchasable dwelling unit, separate from the primary residence, is typically smaller in size. The unit could be detached, or be attached to the principal residential structure (above garage, basement, interior).

## PRECEDENTS

- City of Madison
- Columbia, MO
- Minneapolis, MN
- Chicago, IL
- Most of the State of California



## ALTERNATIVES OF IMPLEMENTATION

- ADUs could be allowed;
- As an accessory structure
- As part of the primary structure
- As both of either an accessory structure or part of the primary structure
- On all single-family properties
- In certain defined regions



## BENEFITS

- Facilitates down-sizing for empty-nesters, provides needed senior housing, freeing up larger units for young families.
- Increases the density of existing single-family neighborhoods.
- Provides much needed affordable housing option.



## CONSIDERATIONS

- Not restricting ADUs to owner-occupied benefits the housing stock of the community and provides homeowners with an option for passive income.
- Adding parking requirements may reduce feasibility.
- ADUs could be extended to include short-term rentals.
- Need to consider number of occupants, minimum square footage, required approvals, inspections, etc.

Photo By: Sightline Institute



Photo By: American Planning Association



# MIXED-USE ZONING

Having diverse and harmonious uses in proximity has long been a formula for success. Despite recognition of mixed-use's value, the practice is often blocked by local zoning.

By identifying potential barriers to this development, communities can create opportunity for this type of development to occur more easily.

## PRECEDENTS

Cities across the US already include mixed use zoning



## ALTERNATIVES OF IMPLEMENTATION

- Different types of residential can be permitted in commercial zones;
  - Condominiums
  - Apartments
  - Townhomes
- Certain commercial uses can be permitted in certain residential zones, especially on corner lots and collector streets.
- Mixed districts with single-use buildings or mixed-use structures, or both may be permitted.
- Mixed institutional/residential/office/commercial can all be compatible.
- Mixed commercial/industrial may be compatible.



## BENEFITS

- Provides opportunity to fulfill "live-work-play" lifestyle, increasing walkability and decreasing vehicle miles traveled (VMT).
- Creates harmonious areas with more desirable housing and neighborhood choices.
- Provides local businesses and downtown districts with a large local consumer base and workforce.



## CONSIDERATIONS

- Downtown mixed-use developments can create incredibly high value housing, be sure to encourage mixed-use in lower-income regions as well.
- Ensure design/dimensional requirements of existing districts do not conflict with good design of mixed-use districts.

Photo By: Brent VA



# GROUND FLOOR RESIDENTIAL IN COMMERCIAL DISTRICTS

Due to economic forces, many communities have an excess of commercially-zoned property with high vacancy rates.

Many communities do not allow ground floor residential in commercial districts, instead having it lifted above (or sometimes located below) the ground floor or not allowed at all.

Permitting this option does not guarantee its implementation, but opens up yet another alternative for mixed-use development in commercial districts, reducing vacancy.

## PRECEDENTS

Denver, CO

Chicago, IL

Philadelphia, PA

Detroit, MI



## ALTERNATIVES OF IMPLEMENTATION

- Allow ground floor residential units in commercial districts.
  - Require a minimum term of prior vacancy to ensure potential high-value commercial space is not lost on main streets.
  - Allow ground floor use for leasing offices, community spaces and fitness centers



## BENEFITS

- Reduced vacancy
- Increased adaptability and economic resilience
- Street-level activation, especially for community amenities.



## CONSIDERATIONS

- Consider a limit on the frequency for this practice, to ensure a dense commercial environment, based on commercial vacancy issues.
- Aim for a commercial vacancy rate no lower than 5-7%
- Ensure building design that allows for ground floor residential/commercial is designed to accommodate both.
- Consider potential impacts to renters in ground-level units if retail markets strengthen and lead to evictions.

Photo By: Warren LeMay

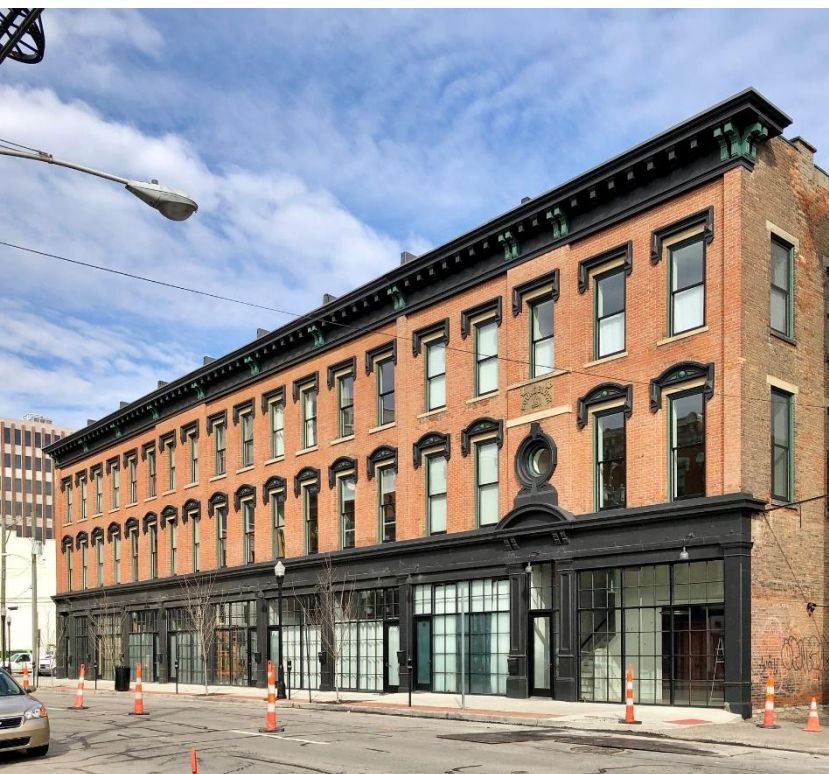


Photo By: Warren LeMay



# HOME OCCUPATIONS

Working from home has become increasingly common in the past few years, but in many communities, there are legal barriers to operating one's own business in their own home.

Making no-impact businesses legal provides opportunities for local entrepreneurs and brings local businesses into neighborhoods.



## ALTERNATIVES OF IMPLEMENTATION

- Define no-impact home-based businesses and allow them, while requiring permit for home-based businesses which will impact the surroundings.



## BENEFITS

- Brings local businesses to neighborhoods.
- Provides small businesses a chance to grow without the need of massive overhead or operating cost.
- Opens a variety of new businesses which can only operate out of a home.
- Home based businesses can function as an entry point to expanding small business elsewhere in the community.
- Creates walkable commercial activities and decreases VMT



## CONSIDERATIONS

- Asses the impact of the home occupation on the surroundings;
  - Street parking
  - Hours of operation
  - Customer interactions
  - Public access
  - Signage
- Should not accommodate businesses that are a regional draw.

Photo By: Michael Steeber



Photo By: Michael Steeber



# Preliminary Questions and Discussion

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# General Discussion Questions

1. The updated code should look at reducing side-yard setbacks for residential lots.
2. Housing options should be expanded and allowed in more places. For example, duplexes in single-family zones.
3. More commercial uses should be allowed in industrial districts.
4. Low-impact commercial uses should be allowed in residential districts with appropriate safeguards.
5. Accessory dwelling units (ADUs) should be allowed in single-family zoning districts. (SF + ADU on a single lot)

# General Discussion Questions

6. The updated code should provide better guidance for outdoor lighting.
7. The updated code should provide better guidance for architectural designs for multifamily, commercial, institutional and industrial.
8. The updated code should provide better guidance for landscaping and screening between incompatible land uses (industrial next to residential).
9. Most land uses should be allowed by right. Conditional uses should only be used when necessary.
10. Reviewing new projects as a planned unit development should be the exception rather than the rule.

# Village of Jackson

## Zoning Code Audit – 2024

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## 1. Introduction

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The Village of Jackson retained Civi Tek Consulting to conduct an audit of the Village's existing zoning code as an initial first step in developing a workplan to update the code, which was first adopted in 1994.

The overall intent of the audit is to generally identify potential changes that are intended to:

- align the code to court rulings;
- align the code to new/revised state law;
- align the code with the comprehensive plan and other local plans;
- improve overall transparency;
- right-size dimensional standards;
- include new land uses;
- address affordable housing;
- clearly articulate requirements;
- make the code more user-friendly (easier navigation, use of plain English); and
- improve review procedures to shorten review times, while achieving the overall intent of the zoning code.

Findings and recommendations in this report are not prioritized; staff will evaluate potential changes consistent with time and budget constraints.

## 2. Code Organization

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A well-designed table of contents provides the highest level of organization. As with most things, there are a number of ways zoning code content can be organized. The author prefers a "flatter" structure rather than a "pyramidal" scheme. With a flatter structure, the reader can visually see all of the major parts of the code in a single page. In contrast, a pyramid requires the reader to open up the highest levels to see what is within.

A sample table of contents for the zoning code is included as Appendix A. It pulls in land-use regulations found in other parts of the municipal code including floodplain regulations (Chapter 16, Article II) and adult-use standards (Chapter 10).

Some communities are pulling all of the land development regulations into a single chapter of the municipal code under the umbrella of a "unified land development code". If that is desired, land division procedures and requirements would be incorporated into the overall table of contents.

The parts in the table of contents that are less obvious are explained in varying level of detail in the following pages of this report.

## 3. Land Uses

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A comprehensive list of permissible land uses is one of the key building blocks of a good zoning code. The list should be crafted to meet unique needs of the Village and include existing uses and new land use types that area reasonably anticipated to occur in the future. Land uses should be defined so there are no overlapping terms.

Because this master list can be lengthy, land uses should be grouped to help the reader more easily find the land uses they are trying to find. Below are typical groups.

**Typical Land Use Groups**

- Residential
- Special Care Facilities
- Food and Beverage Sales
- Vehicle Rental, Sales, and Service
- General Commercial
- Recreation and Entertainment
- Government & Community Services
- Transportation
- Telecommunications and Utilities
- Industrial & Manufacturing
- General Storage
- Agriculture & Resource-Based Uses
- Accessory Uses for all Principal Use
- Accessory Uses for Residential Uses
- Accessory Uses for other Principal Uses
- Temporary Uses

As a starting point, a typical list of land uses is included in Appendix B. It should be noted, the current code has a rather limited listing of land uses due in large part how conditional uses are handled; more about that later.

**4. Land Use Table**

A land use table (aka use table) is a great organizational tool because it lists of all land uses allowed within the jurisdiction and identifies where the uses are allowed by right or as a special exception (aka conditional use). Below is a snippet of what a typical table looks like. Depending on the number of zoning districts, a land use table may in fact consist of two; one for residential districts and one for all other districts.

Not only does a table like this identify where the uses are allowed, it can also indicate if there is secondary review, such as architectural review, site plan review, or zoning permit review.

A land use table efficiently helps answer two fundamental questions.

- What can I do with this property? (columns)
- Where can I put my business? (rows)

**Sample Code from Another Jurisdiction**

	Secondary Review	Base Zoning District													
		P-1	Q-1	C-1	UC	AP	RR	R-1	B-1	B-2	B-4	M-1	M-2	T-1	
<b>9 General Sales</b>															
9.01 Convenience retail sales	BP, SP, ZP	-	-	-	-	-	-	-	P	P	P	C	-	-	
9.02 General retail sales	BP, SP, ZP	-	-	-	-	-	-	-	P	P	P	C	-	-	
9.03 General retail sales, large format	BP, SP, ZP	-	-	-	-	-	-	-	-	-	C	C	-	-	
9.04 Outdoor sales	BP, SP, ZP	-	-	-	-	-	-	-	-	-	P	C	-	-	
<b>10 General Services</b>															
10.01 Administrative services	BP, SP, ZP	-	-	-	-	-	-	-	C	P	P	P	-	-	
10.02 Adult-oriented establishment	BP, SP, ZP	-	P	-	-	-	-	-	-	-	-	P	P	-	
10.03 Body-piercing establishment	BP, SP, ZP	-	-	-	-	-	-	-	-	C	C	C	-	-	
10.04 Commercial kennel	BP, SP, ZP	-	-	-	-	C	-	-	-	-	-	-	-	-	
10.05 Commercial stable	SP, ZP	-	-	-	-	C	C	-	-	-	-	-	-	-	
10.06 Equipment rental	BP, SP, ZP	-	-	-	-	-	-	-	-	C	P	P	-	-	
10.07 Financial services	BP, SP, ZP	-	-	-	-	-	-	-	P	P	P	P	-	-	
10.08 Funeral home	BP, SP, ZP	-	-	-	-	-	-	-	C	C	P	C	-	-	
10.09 General repair	BP, SP, ZP	-	-	-	-	-	-	-	P	P	P	P	-	-	
10.10 General services	BP, SP, ZP	-	-	-	-	-	-	-	C	P	P	P	-	-	
10.11 Health care center	BP, SP, ZP	P	-	-	-	-	-	-	-	-	P	C	-	-	
10.12 Health care clinic	BP, SP, ZP	-	-	-	-	-	-	-	C	P	P	C	-	-	
10.13 Instructional services	BP, SP, ZP	-	-	-	-	-	-	-	C	P	P	P	-	-	
10.14 Landscape business	SP, ZP	-	-	-	-	-	-	-	-	C	P	P	-	-	
10.15 Professional services	BP, SP, ZP	-	-	-	-	-	-	-	P	P	P	P	-	-	
10.16 Tattoo establishment	BP, SP, ZP	-	-	-	-	-	-	-	-	C	-	-	-	-	

P – Permitted by right  
C – Conditional use

Where can I put it?

What can I do?

## 5. Land Use Descriptions and Standards

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Building off of the organization created with a land use table (i.e., groupings), all of the related information should be found in one part of the code. For each land use, there should be a description of the use and any parking and supplemental standards as appropriate.

By way of example, each land use should include the following parts:

- Description
- Vehicle parking requirements
- Bicycle parking requirements (required or recommended)
- Loading requirements
- Supplemental standards (such as additional landscaping, trash enclosures and the like)

Below is snippet for an artisan shop. What is important here is the organization, not necessarily the specific content in each of the parts.

In term of organization, all of the land use descriptions and standards could be located in an appendix. In the proposed table of contents, this is Appendix B.

### Sample Code

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#### Artisan shop

**Description:** A place where handmade craft items or works of art are made on a small-scale and offered for retail sale. Examples of such items include paintings, textiles, weaving, photography, sculptures, pottery, leather products, handmade paper, jewelry, hand-blown glass, small furniture and other similar wooden items, candles, soaps, and lotions.

**Vehicle Parking:** 1 space for each 350 square feet of display area; plus 1 space for each employee on the largest work shift

**Bicycle Parking:** Recommended - 5 percent of required vehicle parking spaces, but not less than 4

**Supplemental Standards:**

**(A) Generally.** All materials and activities, except loading and unloading, must be conducted entirely within an enclosed building.

**(B) Demonstrations and workshops.** The operator may conduct demonstrations and workshops within the confines of the building.

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## 6. Zoning Districts

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There are more than 20 zoning districts in the current code as listed below. The number of zoning districts for single-family residential is unusually large. As part of a code rewrite, the Village should consider merging some of the residential districts to reduce the overall number.

It also appears the floodplain districts serve as base zoning districts. A better approach is to use overlay districts for the floodplain regulations.

- A-1 Agricultural District
- R-1 Single-Family Residential District
- R-2 Single-Family Residential District
- R-3 Single-Family Residential District
- R-4 Single-Family Residential District
- R-5 Single-Family Residential District

- R-6 Two-Family Residential District
- R-8 Multiple-Family Residential District
- R-9 Mobile Home Park District
- RT-10 Single-Family Residential District
- RT-11 Single-Family Residential District
- B-1 Community Business District
- B-2 Downtown Business District
- M-1 Limited Manufacturing District
- M-2 General Manufacturing District
- P-1 Park and Recreation District
- I-1 Institutional and Public Service District
- FW Floodway district (Chapter 16, article II)
- FC Floodplain conservancy district (Chapter 16, article II)
- FF Flood fringe district. (Chapter 16, article II)
- GFP General floodplain district. (Chapter 16, article II)
- PUD-01 Miller Mixed-Use Planned Unit Development District
- PUD-02 Sysco Planned Unit Development District
- PUD-03 KARM Planned Unit Development District

## 7. Definitions

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Section 48-1 of the zoning code includes more than 90 definitions, many of which relate to floodplain regulations. Additional sign definitions are found in s. 48-299. For the sake of completeness, all definitions should be gathered and put in one part of the code.

While it is legally sufficient to include both general definitions and land use definitions in one section, its easier for the reader if land uses were part of a separate section. Recommendations for handling land use definitions are included in the previous section (Land Use Descriptions and Standards).

### Recommendations:

1. Definitions should be compiled into a master list and placed in a single section of the code. In the sample table of contents, general definitions would be placed in an appendix.
2. Remove land use definitions.
3. Definitions should simply describe the word/term, not go beyond that to include development standards or how various elements are measured.
4. Include illustrations when the meaning of a definition is not readily apparent after a first reading. By way of example, an illustration should be added to building height.
5. Ensure that all defined words/phrases are actually used in the code and if so, in the way intended.

## 8. Comprehensive Plan and Zoning Consistency

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While a comprehensive plan is not a regulatory tool, rezoning petitions need to be generally consistent with the future land use map. To help facilitate that consistency and take some of the guesswork out of the equation, some zoning codes and/or comprehensive plans show the zoning districts that may fit with the various land use categories.

Sample Compatibility Matrix from Another Jurisdiction

General Plan Land Use Designations	Coastal and Non-Coastal Zones																																					
	AE	C1	CA	CC	CM	COS	CPD	CPD/CBD	CR	CR1	CR2	CRE	CRPD	CPD	IND	M1	M2	M3	OS	R/MU	R1	R2	RA	RB	RBH	RE	RES	RHD	RO	RPD	TC	TP	REC	OS-REC				
Rural																																						
ECU-Rural																																						
Agricultural																																						
ECU-Agricultural																																						
Open Space <sup>1,2</sup>																																						
ECU-Open Space <sup>1,2</sup>																																						
Very Low Density Residential																																						
Low-Density Residential																																						
Medium-Density Residential																																						
Residential High-Density																																						
Residential Planned Development																																						

Source: Ventura County Land Use Plan

**Recommendation:** The zoning code should incorporate or reference a standalone document that shows all of future land use categories and what zoning districts would be appropriate.

## 9. Site Restrictions

While addressing environmental constraints is a major part of a typical zoning code, it is not possible to definitively identify all of the potential issues. In such cases, it is quite common to see a provision in a zoning code that allows staff to flag specific properties that may be unbuildable or severely constrained due to development constraints that are generally not widely seen elsewhere. While staff can identify these types of situations, the property owner should be given the right to challenge the determination or provide additional information showing the constraint is no longer present or is less than what was flagged. Below is a sample provision.

### Sample Code from Another Jurisdiction

#### Site Restrictions

No land shall be used, or structure erected, where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the Village and its citizens. The Village Engineer, in applying the provisions of this section shall, in writing, recite the particular fact upon which he or she bases their conclusion that the land is not suitable for a certain use.

Once such a determination has been made, the Zoning Administrator, Building Inspector, or other governmental official or body shall not issue a development order or other approval authorizing the development in the area subject to the development constraint.

The property owner shall have the right to appeal such administrative decision consistent with the procedures and requirements in Article 5. The Zoning Administrator may reconsider his or her determination at any time and render a new determination if new or additional facts become known or if the facts upon which the determination was made are not accurate.

## 10. Bicycle Parking Standards

It is becoming more common for communities to include standards for bicycle parking in their zoning codes as more people bike for pleasure and as one of their modes of transportation.

**Recommendation:** The Village should consider how the zoning code could be modified to address this small, but growing, part of the transportation mix. In particular, the following provisions should be evaluated:

- Establish site design standards for both short-term parking (2 hours or less) and long-term parking (more than 2 hours).
- Allow reductions in on-site vehicle parking when bicycle parking is provided and maintained.
- Establish standards for businesses and institutional uses, or recommended levels of bicycle parking as an initial starting point.
- Identify whether the required or recommended parking is more geared to short-term or long-term parking. For example, a library would be geared to short-term parking while a government office may be more geared to long-term (employee) parking.

## 11. Electric Vehicles

While electric vehicles (EVs) currently account for a fraction of motor vehicles on the road today, the number of EVs in Wisconsin is only expected to grow, slowly at first but then more aggressively when there is more infrastructure and ownership costs come down.



### Projected Electric Vehicle Registrations in Wisconsin

Year	EV Registrations	Percent of Total Fleet
2022	9,039	0.1
2027	217,048	4.1
2030	334,097	6.1
2035	553,686	9.9
2040	843,623	14.7
2050	1,863,585	31.0

Source: Wisconsin Electric Vehicle Infrastructure Plan; Wisconsin Department of Transportation (2022)

To proactively address the growing demand, the Village should evaluate two related points.

- **Charging Stations as Infrastructure** Some communities have established requirements in their codes that require the installation of charging stations in commercial and multifamily developments. Other communities have opted to require a certain percentage of them be EV-ready, which means underground conduit is in place so that a charging station can be more easily installed at future date.

**Recommendation:** The Village should evaluate whether it is appropriate to require EV infrastructure or simply incorporate recommendations into the code. If EV infrastructure is required, the code should indicate if that means EV-ready or EV-installed.

- **Charging Stations as a Distinct Land Use** When a bank of charging stations is installed in a parking lot, there is a potential that these charging stations become a unique land use (i.e., a gas station in the parking lot for

EVs). This is especially true when they are located in a place that is highly visible to the travelling public. EV drivers who otherwise wouldn't patronize the commercial establishment will turn in to plug in. While its great to have more plug-in options for the travelling public, a bank of stations can have the effect of using parking spaces that are needed for the principal use on the property. As with most land uses, the location on the parcel and the number of stations matters a lot.

**Recommendation:** The Village should add a land use type in the zoning code to account for EV stations as a land use. This may be established based on the number stations provided (e.g., 10 or more) and/or the proximity to a major roadway (e.g., 8 or more charging stations within 200 feet of a major collector).

**More reading:** Brian Ross, Jessica Hyink and Rebecca Heisel. "Zoning Practice - Preparing for the Electric Vehicle Surge" October 2022, Vol. 39, No. 10, American Planning Association.

## 12. Cottage Housing

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Cottage housing is a unique development type characterized by smaller single-family homes arranged in a cluster with shared common areas. Housing units are generally single-family units, although a few duplex units could be incorporated as well. This housing type generally appeals to singles, couples, and small families. A cottage housing project could occur in a greenfield setting or as an infill/redevelopment project.



Given the need for affordable housing and to expand housing choice, the Village may want to add this development option to the zoning code. This development option is included in the sample table of contents in Appendix A.

A typical ordinance will address the following matters.

- Review procedure
- General design principles
- Housing density
- Parking requirements (number and placement)
- Yard setbacks
- Building heights
- Common area requirements (amount and use)
- Maximum and minimum floor area
- Number of units in a project
- Perimeter landscaping
- Unified architectural style

### Sample Code from Another Jurisdiction

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The Common Council makes the following legislative findings:

- (1) Cottage housing is a new type of housing in Wisconsin Rapids that can fill an unmet housing need.
- (2) Cottage housing can provide opportunities for homeownership that may not otherwise exist.
- (3) Cottage housing responds to demographic trends occurring locally, in the region, and nationally. These include a declining household size and more people living alone and longer.
- (4) It is not possible to define specific areas in the City where cottage housing should be developed. Rather, cottage housing is a development option that developers can explore.
- (5) Cottage housing will likely have the same or fewer people than the single-family homes that could be built on the site.
- (6) Given the size restrictions on the housing unit, the bulk of a cottage housing project is similar to the single-family homes that could be built on the site.
- (7) Cottage housing is consistent with the City's comprehensive plan and supports the findings in the Housing Study completed in 2016.
- (8) Rather than codifying all parameters of cottage development, the standards in this article are intended to provide sufficient guidance without becoming overly prescriptive, with the understanding that the City and the developer will work together to craft a detailed development plan that meets community needs and works well with the site and the target market.

Source: City of Wisconsin Rapids

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## 13. Adaptive Reuse

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The Village's code could potentially allow institutional uses (e.g., nursing homes, child day care centers, schools) in residential districts as a conditional use. While allowing institutional uses in residential districts makes a great deal of common sense (i.e., supportive services are located where people live) the code should anticipate that sooner or later these uses may no longer be needed because of market and demographic shifts. Rather than allowing these buildings to sit vacant and a potential drag on the surrounding properties, the Village should consider allowing adaptive reuse. This development option is included in the sample table of contents in Appendix A.

### Sample Code from Another Jurisdiction

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#### Section 510-250 Generally

An adaptive reuse project allows the use of an existing building in a residential zoning district that has been used for an institutional use (e.g., school, day care, nursing home, library, worship facility) that for practical purposes is no longer usable for the most recent use or any other institutional use allowed in the zoning district where it is located. Such institutional use must have been legally established and operated and the building must not be dilapidated or in a state of disrepair, or partly or wholly destroyed by fire, flood, wind, or other disaster.

Source: Village of East Troy

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## 14. Architectural Review Standards

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The Village's code does not directly address the architecture of multi-family and non-residential buildings (e.g., massing, continuous blank walls) or exterior building materials. The Village will need to determine what if any guidance should be added to the zoning code. These standards can range from simple to wide-ranging. They can be offered as guidelines or stated as a requirement.

As an initial starting point, the Village should evaluate standards used by cities and villages in the area and mirror those elements deemed appropriate. If the Village determines requirements are not needed, in whole or in part, guidelines could be developed.

## 15. Effect of a Land Transfer on Zoning Designation

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Under state law, adjoining property owners are able to transfer land from one lot to another provided the resulting parcels comply with local zoning requirements. In those situations where the affected lots are in different zoning districts, a provision should be added to the Village code stipulating that the transfer does not alter the location of the zoning district boundary until such time as the zoning map has been amended. Alternatively, a provision could be drafted stipulating that a parcel may only have one base zoning designation, which would disallow such land transfers until the zoning has been adjusted to reflect the proposed lot line.

## 16. Traffic Impact Analysis

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Historically, development in the village has been relatively small scale. However, the Village should consider adopting requirements for a traffic impact analysis (TIA). Such provision would state when a TIA is mandatory and what content should be part of a TIA. Below is an example set of requirements.

### Sample Code from Another Jurisdiction

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#### Traffic impact analysis

**A. When required.** A traffic impact analysis is required when the anticipated number of trips per day of the proposed development at build-out is 500 or more. When the number of trips is 300 or more but less than 500, the Village may, in its sole discretion, require a traffic impact analysis when circumstances warrant such review.

**B. Purpose.** A traffic impact analysis evaluates the adequacy of the existing transportation system to serve the proposed development and determine the expected effects of the proposed development on the transportation system. The traffic impact analysis must provide adequate information for Village staff to evaluate the development proposal and to provide recommended conditions of approval in the event approval is recommended.

**C. Preparation.** When a traffic impact analysis is required, the applicant must hire an engineer as approved by the Zoning Administrator to prepare the report. The approved engineer shall have expertise in transportation planning.

**D. Trip generation rates.** Trip generation rates for various land uses shall be based on the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if it can be shown that the alternative source better reflects local conditions.

**E. Form and content.** A traffic impact analysis must be completed consistent with the most current revision of the Traffic Impact Analysis Guidelines published by the Wisconsin Department of Transportation.

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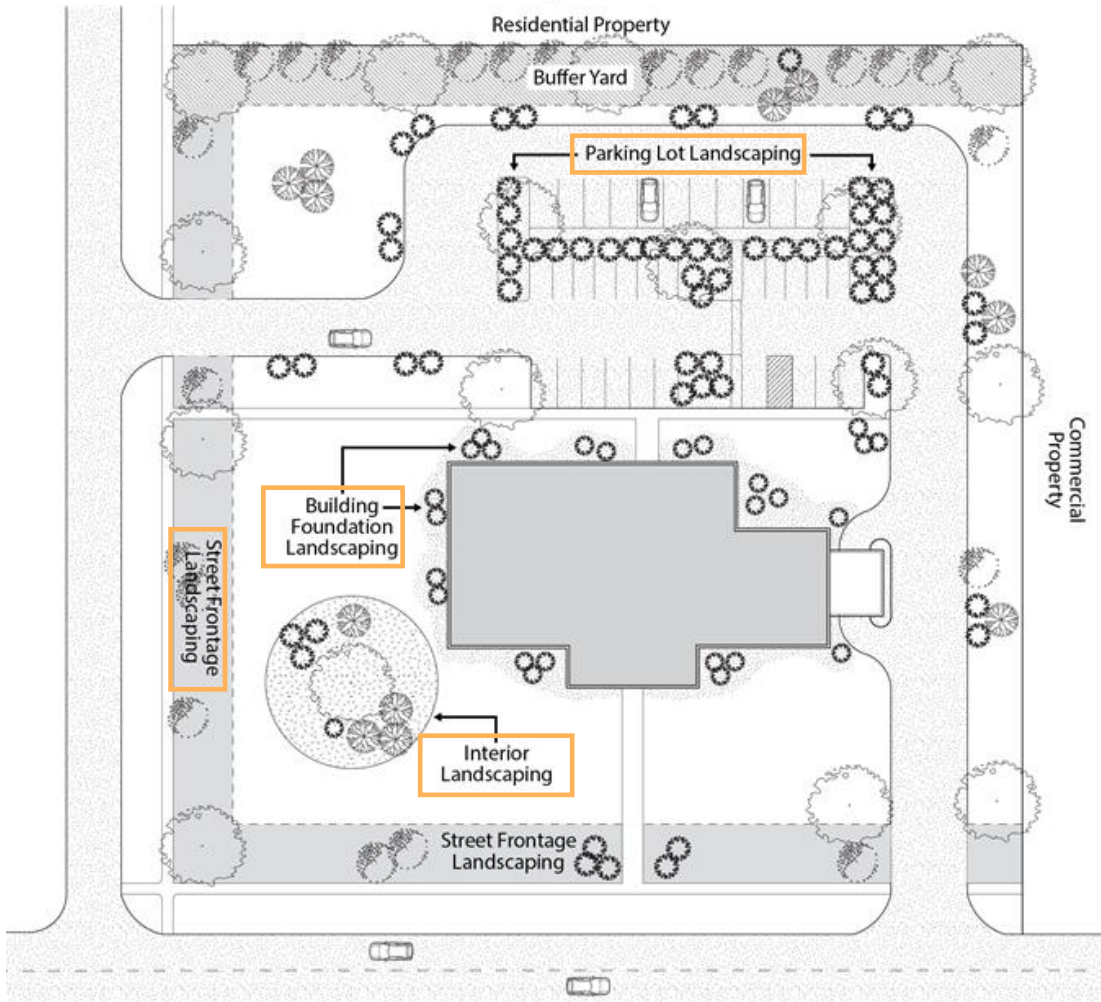
## 17. Landscaping

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The current zoning code does not provide adequate guidance to applicants or those who must review development projects. While there is merit in allowing for flexibility, standards are needed from a practical and legal perspective so everyone knows what is required.

Landscaping standards can be adopted for different parts of a lot and stated as a defined level of landscaping per a defined unit of measure. Often landscaping is required along the street frontage, in parking areas, around buildings, and sometimes within the interior of a lot.

**Types of Landscaping in Different Parts of a Development Project**



The required level of landscaping can be adjusted based on where the project is located (commercial or industrial). Below is a generic way to think about minimum landscaping requirements.

<b>Location</b>	<b>Plants per Unit of Measure</b>
Street side landscaping	# plants per 50 feet of street frontage
Building foundation	# plants per 100 feet of building perimeter
Parking lots	# plants per 500 square feet of pavement
Interior lot	# plants per 1,000 square feet of building floor area

By way of example, it's quite common to require one shade tree for every 50 feet of street frontage. In that way, a more or less continuous canopy of shade can be provided over time.

Screening (e.g., landscaping, fencing) between incompatible land uses is a common technique in many zoning codes. The Village's zoning code doesn't mention screening except for around mobile home parks. The Village should consider adopting more standards.

## 18. Outdoor Lighting

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Outdoor lighting is an important design component, that is really not addressed in the current code except for a brief mention with regard to conditional uses. The Village should consider establishing standards for multifamily, commercial, institutional and industrial developments. Lighting standards usually focus on a few key points that should be part of a site plan review. From a developer's perspective, submitting the required information is a rather routine process.

## 19. Signs

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Division 7 of the zoning code addresses signage. As drafted, the regulations are not content neutral because they regulate content in varying degrees. This part of the code should be revised to comply with court rulings including *Reed v. Town of Gilbert* (U.S. Supreme Court, 2015) and *Austin v. Reagan*.

### Recommendations:

1. The Village should expand the scope of the sign regulations to address things typically included in sign codes.
2. Existing and new provisions must be drafted to be content neutral.
3. Sign regulations should also address electronic message displays with regard to size, lighting levels, number, and placement.

## 20. Design Principles

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The Village's zoning code, as is common, requires a site plan review to evaluate proposed development projects. In its simplest form, this evaluation looks at the basics such as building placement and ensuring the number of required parking spaces are provided. Beyond that, there are many factors that play into a site's design. The Village's code does not include design principles in a meaningful way. From a practical and legal perspective, the code should include basic design principles that are considered during a site plan review process. This would include the design of on-site parking, pedestrian movements, building placement, landscape design, and outdoor lighting to name a few.

**Recommendation:** The code should include meaningful design principles that can be used in the site review process.

### Sample Code from Another Jurisdiction

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#### Minimum Design Standards for Parking

Parking areas must be designed based on the following principles:

1. Provide continuous flow of traffic through the parking area.
  2. Allow safe movement of pedestrians from parking to buildings.
  3. Allow for appropriate landscaping of parking areas without conflicting with outdoor lighting.
  4. Ensure that emergency service vehicles are able to travel through parking areas, including fire trucks (having a curb-to-curb turning radius of 40 feet) and tow trucks (having a curb-to-curb turning radius of 47 feet with a car in tow).
  5. Minimize impervious surfaces.
  6. Allow for the logical expansion of parking areas to accommodate different land uses or an expansion of an existing use.
  7. Ensure that the stormwater generated on the site is accommodated consistent with adopted requirements.
-

## 21. Review Procedures

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**Overview** As shown in the potential table of contents (Appendix A), all of the procedures are grouped together from an organizational standpoint. To help understand the basics of each, a chart is included in Appendix C. Existing procedures are shown along with potential revisions and new procedures that are not in the zoning code. Potential changes are intended to simplify the process and reduce the overall length of the process.

**Typical content** While there are differences between the different review procedures, each should generally include the following elements.

- Applicability and exemptions
- Initiation
- Review procedures
- Decision criteria
- Imposition of conditions in approval
- Content of decision notice (letter)
- Effect of approval
- Effect of denial
- Expiration of approval
- Appeal

**Decision criteria** From a practical and legal perspective, everyone should know the criteria decision-makers will be using to evaluate whether an application should be approved or denied. Sometimes, the criteria can be stated in terms of things decision-making process should consider. In some instances, though, it is appropriate to more definitively state the criteria that must be satisfied in order to grant approval.

### Sample Code for Factors as Decision Criteria from Another Jurisdiction

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The review authority must consider the following factors in making their decision:

- (1) effects of the project on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
  - (2) effects of the project on the natural environment;
  - (3) effects of the project on surrounding properties;
  - (4) compliance with the general site design principles and requirements in Article \_\_\_;
  - (5) compliance with the design principles for parking lots in Article \_\_\_;
  - (6) compliance with other applicable requirements in this chapter; and
  - (7) any other factor that relates to the purposes of this chapter set forth in § \_\_\_ or as allowed by state law.
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### Sample Code for Mandatory Determinations from Another Jurisdiction

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The Plan Commission and Village Board must compare the known and anticipated impacts of the existing nonconforming use on properties in the area and those of the proposed nonconforming use. The Plan Commission may not recommend and the Village Board may not approve a conversion when the new nonconforming use would be more of a nonconformity than the existing nonconforming use.

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**Burden of proof.** To avoid any confusion, it's always helpful to describe who has the burden of proof for each of the different types of reviews and during an enforcement proceeding.

**Sample Code from Another Jurisdiction**

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- A. **Application review process.** During the application review process, the applicant has the burden of proof to show that the application should be approved based on the decision criteria relating to that application.
  - B. **Appeal of an administrative decision.** During an administrative appeal proceeding, the petitioner has the burden of proof to show that such decision is not consistent with this chapter.
  - C. **Enforcement proceedings.** During an enforcement proceeding, the zoning administrator or administrative unit taking enforcement action has the burden of proof to show that the action or development is in violation of this chapter.
- 

**Step-by-step descriptions** The section describing the steps in the review process can be a running list of who does what and when. Alternatively, the process can be graphically depicted as a flowchart. An example is shown below.

**New procedures**

- **Reasonable accommodations** Under federal law, a person with a disability can request a local government to make a reasonable accommodation in their zoning regulations. While a zoning code can be silent on this matter, the best approach is to incorporate provisions in the zoning code rather than crafting a process on the fly when a request has been made. The code should include legislative findings, a clear process how such requests are to be handled, and confidentiality provisions.
- **Registration of nonconforming uses.** While nonconforming land uses are allowed to continue and exist, there are instances where the nonconforming use expands overtime and/or morphs into something quite different. When that happens, the municipality faces challenge in terms of enforcement. In addition, a person who owns a nonconforming use may also face challenges when they attempt to sell their business because the buyer or the lender may not know with certainty if what is being sold qualifies as a nonconforming use.

For these reasons, the Village should consider adding a way in the zoning code to formally register a nonconforming use. At the conclusion of the process there would be an evidence-based determination that establishes when the use became nonconforming and the nature of the use at that time. The process can be initiated by the municipality or by the property owner. This procedure is included in the sample table of contents in Article 5 (Appendix A).

## 22. Outstanding Violations and Payments

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Approvals granted under a zoning code are considered a privilege and not a per se right. Therefore, the Village can refuse to consider any application so long as the subject property is currently violating the zoning code or when taxes and other required payments are delinquent. Below is a sample provision.

**Sample Code from Another Jurisdiction**

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- If the zoning administrator determines that a parcel is in violation of this chapter, no permit or approval of any kind can be granted under this chapter that would benefit such parcel, except to correct the violation or as may be required by state law.
  - No permit or approval of any kind can be granted under this chapter that would benefit a parcel for which taxes, assessments, special assessments, or other required payments are delinquent and unpaid.
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## 23. Specific Land Uses

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**Antenna facilities** State law preemptively allows certain antennas. The zoning code should be revised to regulate this use consistent with those requirements.

**Amateur radio antennas** State law preemptively regulates amateur radio antennas. The zoning code should be revised to regulate this use consistent with any standards.

**Payday lenders** Section 59.69 (4f), Wis. Stats., preemptively regulates payday lenders. The Village should determine if this use should be regulated as allowed in that section.

**Foster homes** The Village should amend the zoning code to regulate this use consistent with state law.

**Adult family homes** State law preemptively regulates adult family homes. The Village should amend the zoning code to regulate this use consistent with that section.

**Community living arrangements** Section 59.69 (15), Wis. Stats., preemptively regulates community living arrangements (CLAs). The zoning code includes CLAs, but does not explicitly address the number of residents and where they are specifically allowed. Under state statutes, CLAs with 8 or fewer residents are allowed in any residential zoning district. CLAs with 9 to 15 residents may locate in any multi-family zoning district by right and with approval as a special exception in a single-family or two-family zoning district. CLAs with more than 15 residents may locate in any residential district with approval as a special exception. The code should be amended to reflect the different permissions based on the number of residents.

**Accessory dwellings and in-law suites** Accessory dwellings are currently not allowed. The Village may want to consider allowing them as a means to promote workforce housing.

In-law suites are another housing option that can work to expand choices. With this type of housing the additional unit is an integral part of a single-family, but provides separate areas for related family members. An in-law suite has separate bedrooms, bath rooms, and kitchenette but does not have a front separate entrance.

### Sample Description for In-Law Dwelling Unit from Another Jurisdiction

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An arrangement and use of rooms within a single-family dwelling that allows for one or two family members to reside separate from the single housekeeping entity while remaining part of and having nonlockable direct interior access to the entire single-family dwelling. The arrangement of rooms may contain a kitchenette with associated living areas, bedrooms, and a bathroom.

Note: Also known as secondary suite.

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**Home occupations** The current zoning code allows two distinct types of home businesses: home occupations and professional home offices. However, there are few limitations on those uses, which may be fine if that is the intent.

**Telecommunication facilities** Section 66.0404, Wis. Stats., preemptively regulates telecommunication facilities. While the review process for a new tower of Class 1 collocation, is similar to a conditional use, it is recommended to create a new review process that is tailored to this specific use.

**Solar and wind energy systems** Section 66.0401, Wis. Stats., preemptively regulates solar and wind energy systems. The Village should amend the zoning code to regulate these uses consistent with that section. Rather than use the conditional use process as the means of review, a new review process should be created. That way, there won't be any confusion on the part of the applicant, neighbors, and the reviewing body.

As with most land uses, the scale of the operation, the size of the subject property, the location of the use on the property, and operating characteristics matter a lot. It would be appropriate to specify the minimum lot area for many of these and to exclude them from a platted subdivision. While some of these uses can be allowed by right, most would be reviewed as a conditional use.

**Adult Uses** The zoning code does not include any regulations for adult uses. Rather, licensing requirements are found in Chapter 10 of the municipal code. While the licensing requirements can remain outside of the zoning code, provisions should be added to the zoning code to identify where the use may be allowed.

Chapter 10 suggests that the use can occur in any zoning district so long as the Village issues a conditional use permit. Again, with the changes to state law in 2017, there is not enough control with the conditional use process to deny a permit application.

- **Definition.** The definition for adult establishments should also include "adult health/sport clinic". A corresponding definition should be added to the section with all of the general definitions.
- **Secondary negative effects.** Local communities can regulate adult uses as they relate to potential secondary negative effects they can create. The part of the code addressing adult uses should therefore be revised to include legislative findings specifically related to this matter. Below is a sample set of findings.

If the Village wants to include such legislative findings, it is important to not only enumerate them in the code, but to be fully aware of what is being addressed beyond a casual understanding. A reading packet of related materials should be prepared and made available to those recommending adoption of the code and Village board members.

### Sample Code from Another Jurisdiction

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**(A) Legislative findings.** The town board makes the following legislative findings regarding adult-oriented establishments:

- (1) Negative secondary effects associated with adult, sexually-oriented establishments have been confirmed by the United States Supreme Court in its decisions in, for example, *City of Renton v. Playtime Theatres, Inc.* (475 U.S. 41 (1986)) and by the United States Court of Appeals in its decisions in, for example, *Hang On, Inc. v. City of Arlington* (65 F.3d 1248 (5th Cir., 1995)), *Fantasy Ranch v. City of Arlington Texas* (459 F.3d 546 (5th Circuit, 2006)), and *Andy's Restaurant & Lounge, Inc. v. City of Gary* (466 F.3d 550 (7th Cir., 2006)) and such negative secondary effects include, for example, personal and property crimes, prostitution, lewd behavior, assault, public indecency, obscenity, illicit drug use and drug trafficking, potential spread of disease, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- (2) The decisions issued by the appellate courts constitute reliable sources of information that may be reasonably relied upon by the Town Board.
- (3) Each of the foregoing negative secondary effects constitutes a harm that the Town has a substantial governmental interest in preventing and/or abating.
- (4) Continued regulation of adult-oriented establishments is necessary to limit the aforementioned negative secondary effects associated with adult-oriented establishments and thereby promote the health, safety, and welfare of the Town of Mukwonago.
- (5) The Town Board intends, via this chapter, to establish reasonable regulations on adult-oriented establishments, while preserving free speech pursuant to the First Amendment to the United States Constitution and Article I, Section 3 of the Wisconsin Constitution.

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- **Proximity to other land uses.** Section 54-235 (c)(1) prohibits adult uses within 2,000 feet of any land used or zoned for residential purposes or within 2,000 feet of any church or school. Other similar uses should be considered including public libraries, play grounds and parks, family day care homes, group day care homes, taverns, or any youth-oriented establishment. The separation distances do not need to be the same. One word of caution is in order. It's not possible to use these separation standards to in effect not allow adult uses in the Village's jurisdiction.

- **Prohibition on sale of alcohol.** If the Village determines that on-premise consumption of alcohol creates a negative effect deemed unacceptable, a prohibition can be part of the development standards for an adult use. Again, this restriction must be related to the secondary negative effects.

**Shared-use kitchen** The Village may want to consider allowing shared-use kitchens, described below, in certain zoning districts and with appropriate development standards.

### Sample Description for Shared-use Kitchen

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A commercial-grade kitchen that is open to community groups and local food entrepreneurs who produce food products for sale to restaurants, food stores, and other outlets that will sell the product to the ultimate consumer. A shared-use can be operated by a university or other secondary school, governmental agency, non-profit organization, or private company.

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**Business incubator** The Village may want to consider allowing business incubators, described below, in certain zoning districts and with appropriate development standards.

### Sample Description for Business Incubator

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A place where multiple start-up companies can operate within a single building for a defined period of time not exceeding two years. While each of the participating companies may have their own defined space, a business incubator will often have office space for the operator and common areas for the start-up companies including conference rooms, co-work areas, an employee lounge, copying and computer services, 3D printers, light machinery, and the like. In addition to a physical space, a business incubator provides access to business resources such as mentors, networking opportunities, training and educational programs, and other forms of material support. A business incubator can be operated by a university or other secondary school, governmental agency, non-profit organization, or private company.

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**Wind test towers** Section 66.0401 (3), Wis. Stats., allows wind test towers throughout the municipality. While not a common occurrence, this use should be added to the Village code.

**Community gardens** The Village may want to add a use type for community gardens and allow them in areas where they fit.

### Sample Description for Community Garden

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A place where a group of unrelated individuals grow vegetables, fruits, and flowers for their personal use. A community garden can be divided into individual plots of land for the exclusive use of the person assigned each plot, or the entire garden may be a cooperative effort of any number of people, or a combination thereof.

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**Twin homes** For the casual observer, a twin home looks like a typical duplex. The only difference is the common wall is located on a property line separating the two dwelling units. The Village should consider adding this type of housing to the land use table and establishing supplemental standards.

## 24. Conditional Uses

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**A new paradigm** The state legislature in 2017 changed how conditional uses are reviewed across the state. Prior to the new law, conditional uses were reviewed on a case-by-case basis. If the proposed use was appropriate for the given location, it was approved potentially subject to unique conditions intended to help make the project fit its surroundings.

Now, the conditional use review process turns on the petitioner being able to comply with the municipality's code requirements. As long as the standards can be met, then the conditional use is generally approved. For that reason, some communities have rethought how they use the conditional use review process. Most noticeably, conditional uses now include various requirements that are tailored to each of the conditional uses. Some address operational characteristics including noise, hours of operation, outdoor storage, and the like. Other standards address special landscaping and screening requirements unique to the use.

The current zoning code is ill-equipped to handle conditional uses under the new law, which is a prominent center piece of the Village's land use strategy.

By way of example, there is no list of permissible conditional uses. In fact, a number of the zoning districts state that "all uses and accessory uses are conditional in this district." In practical terms, that means that a property owner can propose any land use and as long as they meet the standards in the code, most likely none, the

Village will have little chance to deny the project or impose conditions, with rare exception. Of all the potential revisions to the code, this is the most critical.

**Intermediary review** In determining where the various conditional uses should be allowed, a typical lot in the zoning district is generally envisioned. However, there are lots that do not comply with the minimum lot size applied throughout the district. In addition, there may be existing nonconforming uses on a lot and there may already be a conditional use on a lot. Those are unique situations that affect whether a conditional use on a given lot would be appropriate or not. These are atypical situations that need to be handled differently.

The Village may want to consider an intermediate review to determine whether a conditional use would be appropriate or not given the atypical nature of the lot. Below is a sample provision creating an intermediate review before a special use application can be considered.

### Sample Code from Another Jurisdiction

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**Nonconforming lots** In the event a lot is classified as a nonconforming lot (e.g., lot area, lot width), all conditional uses are prohibited, unless the Plan Commission determines, on a case-by-case basis, that the nature of the nonconformity does not affect the appropriateness of the lot for the conditional use. Any such determination in the affirmative shall have no bearing on the Plan Commission's recommendation or the Town Board's decision made under this chapter.

**Existing nonconforming uses** In the event a lot has a nonconforming use, all conditional uses are prohibited, unless the Plan Commission determines, on a case-by-case basis, that the nonconforming use and proposed conditional use are compatible. Any such determination in the affirmative shall have no bearing on the Plan Commission's recommendation or the Town Board's decision made under this chapter.

**Existing conditional uses** In the event a lot has an approved conditional use, all other conditional uses are prohibited, unless the Plan Commission determines, on a case-by basis, that the existing and proposed conditional uses are compatible. Any such determination in the affirmative shall have no bearing on the Plan Commission's recommendation or the Town Board's decision made under this chapter.

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**Inappropriate use of the conditional use process** The current code also uses the conditional use review process to review things that are not land uses per se. Such instances include:

- § 48-108 (a) Maximum height of accessory structures
- § 48-108 (b) Maximum floor area of accessory structures
- § 48-108 (c) Maximum floor area of shed
- § 48-267 Special use permits
- § 48-302 Exceeding multiple standards for ground signs

Following the statutory changes in 2017 for how conditional uses are reviewed, these sections should be revised to incorporate a different review process that gives the Village the needed discretion.

## 25. Financial Guarantees

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While it is common to include provisions in a land division code addressing financial guaranties for infrastructure, there are instances in the zoning code where the use of financial guarantee may be warranted. For example, if weather inhibits installation of required landscaping or the completion of a site improvement, temporary occupancy may occur if an adequate financial guarantee is in place. Sometimes a financial guarantee is required to ensure a telecommunication tower is removed when it is no longer in service.

The zoning code should describe when financial guarantees may be used and most importantly what types of guarantees are acceptable. In this regard, bonds are the least desirable and should not be used. Cash deposits and letters of credit are far more desirable, because the money is easier to access.

## 26. Floodplain Regulations

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The Village's floodplain regulations are currently not part of the zoning code, with the exception of floodplain terms and references to the different floodplain districts. Since the regulations were adopted, the Department of Natural Resources published a new model ordinance that is intended to comply with statutory changes (2019 Act 175, regarding regulation of nonconforming structures). As proposed in the table of contents (Appendix A), the floodplain regulations should be part of the zoning code.

## 27. Shoreland Regulations

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The Village's zoning code does not address shoreland-wetlands as required under § 62.231, Wis. Stats.

## 28. Specific Revisions to Existing Code

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1. The definition for family should be renamed to household unit and revised accordingly.
2. Include details on how lot area is measure. In particular, lot area should only include developable land. Potential exclusions are shown below. All of the numbers are illustrative.

### Sample Definition for Lot Area

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Lot area means the total horizontal area within the lot lines of the lot, but excludes the following:

- 100 percent of any waterbodies
- 50 percent of any slopes exceeding 18 percent
- 100 percent of any wetlands
- 85 percent of any floodfringe areas
- 100 percent of any floodways
- Etc.

3. The term "church" is used a number of times in the zoning code. While not entirely inappropriate, the more appropriate term is "place of worship" or "worship facility".
4. Remove "parties in interest" from the list of definitions in § 48-1, because it is not referenced in the zoning code in any meaningful way. A review should be done to remove any unused terms from the definitions section.
5. The current code establishes prescriptive front yard setbacks. Setback averaging is a tool that works well in older established neighborhoods that may have been developed before the advent of the zoning code being adopted.
6. Mobile homes and manufactured homes are distinctly different housing types based on their construction specifications. It appears the code uses these terms somewhat interchangeably. The code should clarify where these different housing types are allowed.
7. Review § 48-1 to make sure all unique terms are defined. By way of example, impervious surface should be defined.
8. The code should be revised to comply with 2023 Wisconsin ACT 16 which was enacted in June of 2023. The act addresses (i) the procedure for amending zoning ordinances and appeal rights, (ii) approval of "permits" for residential housing developments, (iii) judicial review of local residential development decisions, and (iv) planned development district zoning.

9. The code should be revised to comply with 2017 Wisconsin Act 67 which was enacted in November of 2017. The Act (i) limits the authority of local governments to regulate the development on substandard lots and repair, rebuilding, and maintenance of nonconforming structures, (ii) requires the issuance of conditional use permits under certain circumstances (previously discussed above), and (iii) provides standards for the granting of variances.
10. The definitions for front, side and rear yard leave land unclassified (i.e., not part of any yard area).
11. Section 48-150 address the requirements for a PUD and include requirements for “proof of financial capability.” How is that evaluated? It should be removed as a requirement.
12. Section 48-174 establishes a standard of one loading space for every 3,000 feet of floor area for businesses. That standard is excessive and should be revised.
13. The way setbacks are measured should be more clearly defined.

## Appendix A. Sample Table of Contents

**Article**

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**1. General Provisions**

**2. Interpretation, Construction, and Definitions**

**3. Administrative Bodies**

Division 1 – Plan Commission

Division 2 – Board of Adjustment

Division 3 – Zoning Administrator

**4. General Procedural Requirements**

Division 1 – Generally

Division 2 – Notice Requirements

Division 3 – Public Hearings

Division 4 – Site Visits

Division 5 – Financial Guarantees

**5. Specific Procedural Requirements**

Division 1 – Code Amendment

Division 2 – Planned Development District

Division 3 – Special Exception

Division 4 – Wireless Telecommunication Facility

Division 5 – Wind Energy System Facility

Division 6 – Solar Energy System Facility

Division 7 – Site Plan

Division 8 – Registration of a Nonconforming Use

Division 9 – Conversion of a Nonconforming Use

Division 10 – Zoning Permit

Division 11 – Floodplain Permit

Division 12 – Code Interpretation

Division 13 – Administrative Appeal

Division 14 – Variance

Division 15 – Reasonable Accommodations

**6. Zoning Districts and Land Use**

Division 1 – General Provisions

Division 2 – Zoning Map

Division 3 – Zoning Districts

Division 4 – Allowable Land Uses

**7. Use and Development Standards**

Division 1 – Dimensional and Related Standards

Division 2 – General Standards

Division 3 – Environmental and Engineering Standards

Division 4 – Performance Standards

Division 5 – Site Design Standards

**8. Building Types (optional)**

**9. Alternative Development Options**

Division 1 – Conventional Planned Unit Development

Division 2 – Cottage Housing Project

Division 3 – Adaptive Reuse Project

Division 4 – Conservation Subdivision

**10. Specific Planned Development Districts**

**11. Floodplain Overlay District (Ch. 16, Art. II)**

Division 1 – General Provisions

Division 2 – Maps and Districts

Division 3 – General Provisions Applicable to all  
Floodplain Districts

Division 4 – Floodway District

Division 5 – Floodfringe District

Division 6 – General Floodplain District

Division 7 – Flood Storage District

Division 8 – Administration

Division 9 – Nonconformities

**12. Wellhead Protection Overlay District**

**13. Shoreland-Wetland Overlay District**

**14. Shoreland Overlay District**

**15. Landscaping and Buffers**

**16. Parking, Loading and Access**

**17. Outdoor Lighting**

**18. Signs**

**19. Nonconformities**

**20. Enforcement**

**Appendix**

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**A. Land Use Table**

**B. Land Use Descriptions and Supplemental Standards**

**C. Zoning Districts and Dimensional Standards**

**D. Building Type Illustrations (optional)**

**E. General Definitions**

**F. Mapping Requirements**

## Appendix B. Sample of Typical Land Uses

### 1. Residential

- Mixed-use residential
- Multi-family, 2 units
- Multi-family, 3 to 4 units
- Multi-family, 5 or more units
- Single-family dwelling
- Townhouse, 2 units
- Townhouse, 3 to 4 units
- Townhouse, 5 or more units

### 2. Special Care Facilities

- Assisted living center
- Community living arrangement, 8 or fewer residents
- Community living arrangement, 9 to 15 residents
- Community living arrangement, more than 15 residents
- Group day care center
- Group day care center (company)
- Hospice care center
- Nursing home
- Temporary residential shelter

### 3. Food and Beverage

- Banquet hall
- Craft brewery, winery, distillery
- Restaurant
- Tavern

### 4. Vehicle Sales and Service

- Marine sales and service
- Truck stop
- Truck-trailer rental establishment
- Vehicle fuel station
- Vehicle repair shop
- Vehicle sales and service
- Vehicle service shop

### 5. General Commercial

- Adult-oriented establishment
- Body-piercing establishment
- Business incubator
- Commercial greenhouse
- Conference - exposition center
- Equipment rental, large (new subtype)
- Equipment rental, small (new subtype)
- Financial services
- General services
- Healthcare clinic
- Instructional studio
- Multipurpose business
- Office
- Overnight lodging
- Retail sales, 15,000 square feet or less
- Retail sales, more than 15,000 square feet
- Secondhand store
- Shared-use kitchen
- Tattoo establishment
- Tobacco/vape/smoke store
- Veterinary clinic

### 6. Recreation and Entertainment

- Golf course
- Indoor entertainment
- Indoor recreation
- Marina
- Outdoor recreation
- Park, community
- Park, neighborhood
- Recreational trail

### 7. Government & Community Services

- Administrative government center
- Animal shelter
- Cemetery
- Community center
- Community cultural facility
- Community garden
- Delivery/pickup hub
- Food pantry
- Funeral establishment
- Health care center
- House museum (needed?)
- Place of worship
- Public safety facility
- School, K-12

### 8. Transportation

- Airport
- Park and ride lot
- Parking structure
- Railroad
- Transit center
- Truck terminal

### 9. Utilities and Telecommunication

- Large wind energy system
- Public utility office and yard
- Solar power plant
- Telecommunication tower and Class 1 collocation
- Telecommunication, Class 2 collocation
- Utility installation, major
- Utility installation, minor

### 10. Industrial & Manufacturing

- Artisan shop
- Composting facility
- Construction equipment sales and service
- Contractor yard
- General repair
- Makers space
- Manufacturing
- Recycling center
- Solid waste transfer station

### 11. Storage

- Bus storage facility
- Dry boat storage
- Personal storage facility
- Vehicle storage yard
- Warehouse

### 12. Agriculture & Resource-Based Uses

- General cultivation
- Open lands

### 13. Accessory Uses for All Principal Uses

- Amateur radio and/or citizens band antenna
- EV charging facility, 1 to 4 stations
- EV charging facility, 5 or more stations
- Exterior communications device
- Firewood storage
- Little free library
- Rain garden
- Retaining wall
- Small wind energy system
- Solar energy system, building-mounted
- Solar energy system, ground-mounted

### 14. Accessory Uses for Residential Uses

- Accessory building, residential
- Accessory dwelling unit (ADU)
- Amateur radio tower
- Backyard chickens
- Bed and breakfast
- Boat house
- Family day care home
- Gardening
- Home occupation
- Hot tub
- Household livestock
- Household pets
- In-family suite
- Keeping of bees
- Outdoor fireplace
- Outdoor kitchen
- Patio
- Pergola
- Play structure
- Private kennel
- Sport court (private)
- Swimming pool
- Tourist rooming house

### 15. Accessory Uses for Other Principal Uses

- Accessory building, non-residential
- Drive-through window
- Outdoor food and beverage service
- Outdoor play area
- Parking lot
- Roof-top greenhouse

### 16. Temporary Uses

- Construction office
- Livestock for vegetation management
- Mobile food establishment
- Model home
- Party tent
- Portable storage container
- Rummage sale
- Sale of vehicles and recreational equipment
- Seasonal retail sales
- Sidewalk café
- Topsoil removal and sale
- Wind test tower