

Memo

To: Plan Commission

Fr: Trevor Fuller, Planning and Zoning Administrator

Re: ACTION OF RECODIFICATION PROJECT

Date: 22 December 2015

The village begun the recodification process with the consultant group, General Code. Over the years, amendments made to sections of the village code have left behind several inconsistencies in language, values, and formatting within our code. In addition, state and federal laws have changed, introducing even more inconsistencies.

General Code has finished the first milestone in the recodification process – the editorial and legal analysis. The objective of this stage is not to rewrite our ordinances, but to identify the inconsistencies and suggest solutions. An electronic copy of the document which identifies inconsistencies and suggests solutions (Editorial and Legal Analysis) was emailed to the plan commission. An electronic copy of our existing zoning code in the new proposed format (Manuscript) was also provided via email.

Many of the questions were straight forward or simple updates. Below are specific questions staff would like the commission to review. The referenced sections are attached. Staff suggestions are noted below and reasoning will be provided at the meeting. Plan commission is asked to review the below questions and recommend a decision for staff to submit to General Code.

Questions:

Section 475-17, "C" Professional Office and Residence District, Subsection A(4) reads, "A child day-care center serving nine or more children, as provided under Chapter ILHR 60, Part III of the Wisconsin Administrative Code." We were unable to determine how this reference to the Administrative Code should be updated. We could find no record of a Chapter ILHR 60. Child care centers are now under the jurisdiction of the Department of Children and Families (DCF).

Decision:

- ☒ Revise reference as follows: Delete the whole phrase and replace with "Day-care centers".
- ☐ Delete "as provided under Chapter ILHR 60, Part III of the Wisconsin Administrative Code"

Subsection A(5) contains two cross-references to Section 11.08H. We were unable to update this reference, as no such subsection is included in the Zoning Ordinance. Section 11.08, now § 475-17, contains Subsections A through G.

Decision:

- ☒ Change § 11.08H to Article VII (Conditional Uses); change "special use" to "conditional use"
- ☐ Revise as follows:

Section 475-31D(1) begins "Apartment buildings or multiple-family dwellings shall provide 1 2 parking spaces contained within and under the cover of said building." Which number is correct, one or two?

Decision:

- ☐ Revise to read "shall provide two parking spaces"
- ☒ Revise to read "shall provide one parking space"
- ☐ Other:

Section 475-35, Special uses, exceptions and general regulations. Much of the text in this section duplicates wording already included earlier in this chapter. There are also conflicts between this section and other sections. Please review the following:

Subsection A(1) provides that in the "A" and "B" Residence Districts and Commercial Districts, "public and semi-public buildings may be erected to a height not exceeding 75 feet provided the side yards heretofore specified are increased **two feet** for each foot such building exceeds the height limit heretofore specified." This provision conflicts with §§ 475-14B, 475-15B and 475-19B, which provide that in the "A" and "B" Residence Districts and Commercial District: "public and semi-public buildings may be erected to a height not exceeding 75 feet, provided that the side yards are increased **1/2 square foot** for each foot such building exceeds the height limit above specified." We recommend that Subsection A(1) be deleted. If the correct increase is two feet, §§ 475-14B, 475-15 and 475-19B should be revised accordingly.

Decision:

- ☒ Delete Subsection A(1) and revise "1/2 square foot" to "two feet" in §§ 475-14B, 475-15B and 475-19B
- ☐ Revise as follows:

- D. Minimum dwelling unit size. The minimum size of dwelling units in a High Density District residence building shall be 700 square feet for one-bedroom units and 1,000 square feet for units with two or more bedrooms. No dwelling units without a bedroom are permitted.
- E. Off-street parking. Off-street parking shall be regulated as set forth in Article IV, Off-Street Parking.
- F. Signs. Signs shall be regulated as set forth in Article IX, Signs.

§ 475-17. "C" Professional Office and Residence District.

- A. Use regulations. In a "C" Professional Office and Residence District, no structure or land shall be used, and no structure shall be hereafter erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
 - (1) A professional office building which does not have therein an accessory use specified in Subsection A(5)(d).
 - (2) An administrative office building which does not have therein an accessory use specified in Subsection A(5)(d).
 - (3) A telephone exchange building.
 - (4) A child day-care center serving nine or more children, as provided under Chapter ILHR 60, Part III of the Wisconsin Administrative Code.
 - (5) The following if approved as a "special use" under the provisions of § 11.08H:
 - (a) An apartment building.
 - (b) A hotel.
 - (c) A motel.
 - (d) A professional office building, hotel, motel, or an administrative office building, or a combination thereof, in which there is located one or more of the following accessory uses: a beauty parlor, a barbershop, a retail outlet for the sale of fermented malt beverages and/or intoxicating liquors, a restaurant, a health club, or a pharmacy which is operated in conjunction with a medical office.
 - (e) In conjunction with a permitted principal use, such accessory use as approved under the provisions of § 11.08H.
 - (f) A hospital.
 - (g) A clinic.
 - (6) One identity or directory sign, not exceeding 32 square feet in total area, for and located upon the premises, as an accessory use of a professional or administrative

office building, hotel, or apartment building. Any such sign shall comply with all applicable requirements contained in Article IX of this chapter.

- (7) A facility for the practice of massage therapy or bodywork, as those terms are now or may hereafter be defined in § 440.97, Wis. Stats., by one or more persons who:
 - (a) Are massage therapists or body workers licensed by the Wisconsin Department of Regulation and Licensing under Chapter 440, Wisconsin Statutes; or
 - (b) Hold a current license, permit, registration or certification granted by the State of Wisconsin or the federal government, who engage in the practice of massage therapy or bodywork within the scope of his or her license, permit, registration or certification, and who do not use any title or description that implies that he or she is registered, or represents himself or herself to be registered, under Chapter 440, Wisconsin Statutes.
 - (8) A school providing instruction to students in massage therapy or bodywork, as those terms are now or may hereafter be defined by § 440.97, Wis. Stats., in preparation for the registration of such students under Chapter 440, Wisconsin Statutes, and which school is operated under the direct supervision of one or more persons who are either licensed as a massage therapist or body worker under said Chapter 440 or who are permitted to engage in the practice of massage therapy or bodywork within the scope of a current license, permit, registration or certification granted by the State of Wisconsin or the federal government to such person.
 - (9) College/university.
- B. Height regulations. In a "C" Professional Office and Residence District, no building shall hereafter be erected or structurally altered so as to exceed 40 feet or three stories in height, whichever is lower.
- C. Area regulations.
- (1) Front yards. Every lot in a "C" Professional Office and Residence District shall have a front yard with a depth of not less than 30 feet; provided, however, as follows:
 - (a) Where lots comprising 40% or more of the frontage on one side of a block are developed with buildings having an average front yard depth with a variation of not more than six feet from such average, no building hereafter erected or structurally altered shall project beyond the average front yard line so established, and provided further that this regulation shall not be interpreted so as to require a front yard depth of more than 50 feet.
 - (b) No front yard depth is required to be greater than the buildings on the lots abutting on either side of the lot in question, provided that said adjoining buildings on such abutting lots are less than 100 feet apart.
 - (2) Side yards. Every lot in a "C" Professional Office and Residence District shall have two side yards, one on each side of the principal building, as follows:

- (a) All lots except corner lots. Neither of such side yards shall be less than 10 feet in width.
- (b) Corner lots. Except as provided in Subsection C(2)(c) below, the side yard regulations in Subsection C(2)(a) above shall apply to all corner lots, except that the side yard on the street side of each corner lot shall have a width equal to the front yard depth of either the adjoining inside lot facing such street or, if no inside lot adjoins, the nearest inside lot facing such street, but in no event shall the side yard on the street side be less than that required for front yards under Subsection C(1) or Subsection C(1)(a) above, whichever is applicable.
- (c) Reversed corner lots. The side yard regulations in Subsection C(2)(a) above shall apply to all reversed corner lots, except that the side yard on the street side of such corner lot shall have a width equal to the front yard depth of either the adjoining inside lot facing such street or, if no inside lot adjoins, the nearest inside lot facing such street, but in no event shall the side yard on the street side be less than that required for front yards under Subsection C(1) or Subsection C(1)(a).
- (d) Exception; zero lot line duplexes. The side yard setback may be zero on one side, provided that:
 - [1] The lot adjacent to that side yard is held under the same ownership at the time of initial construction on both lots.
 - [2] The adjoining side yard setback of the lot adjacent to the zero side yard setback is also zero.
 - [3] The opposite side yard on both of said lots is not less than eight feet.
 - [4] When attached dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, and maintenance shall be addressed by private covenants and deed restrictions, all of which shall be placed of public record, and the approving authorities shall not be held responsible for the same.
 - [5] Easements shall be provided across zero lot lines where necessary for water, sewer, and utility services.
 - [6] There shall be a common wall. Wherever improvements abut on the common boundary line between adjoining units, there shall be a one-hour fire wall running from the lowest floor level, including the basement if it is the common wall, to the underside of the roof sheathing. Such basement wall, if any, shall be waterproofed masonry.
 - [7] When attached dwelling units are created, the plans, specifications and construction of such buildings shall require that the installation and construction of sewer, water and other utility services be done in such a manner so as to provide separate systems to each dwelling unit. Both tenants may use common sewer and water laterals to the street, provided

that such lateral connections are separated at a point outside the structure so as to provide separate access to each dwelling unit.

- (3) Rear yards. Every lot in a "C" Residence District shall have a rear yard with a depth of not less than 20% of the depth of the lot, provided that such rear yard shall not be required to exceed 30 feet in depth, but shall not in any case be less than 15 feet in depth.
- (4) Lot area and minimum lot dimension.
 - (a) Every lot in a "C" Residence District utilized for a single-family dwelling and not of record or under contract of purchase at the time that these zoning regulations, or similar regulations, were adopted shall have an area of not less than 7,500 square feet, a frontage of not less than 100 feet, and a mean width of not less than 100 feet.
 - (b) Every lot utilized for two or more families shall have an area of not less than 9,000 square feet, a frontage of not less than 100 feet, and a mean width of not less than 100 feet.
 - (c) Every lot in a "C" Residence District shall have one enclosed parking stall for each dwelling unit, plus one additional space located to the rear of said apartment building or multiple-family dwelling for each dwelling unit. Two parking spaces must be provided on a paved surface parking lot located to the rear of said apartment building or multiple-family dwelling for each 100 square feet of floor space used for a restaurant, drugstore, delicatessen, valet shop, beauty shop, or barbershop.
- (5) Total area. The total area occupied by the building, accessory buildings and car stalls or parking places shall not exceed 50% of the total area of the lot on which they are located.
- (6) Accessory buildings and parking areas. All accessory buildings shall conform to all area regulations set forth in Subsection C above.
- D. Exterior storage. No exterior trash or garbage disposal area or storage of garbage or refuse is permitted in a "C" Professional Office and Residence District. No exterior incineration of garbage or refuse is permitted. Any storage of trash, garbage or refuse shall be within an area which is completely enclosed by walls.
- E. Minimum dwelling unit size. The minimum size of dwelling units in a "C" Residence District residence building shall be 700 square feet for one-bedroom units and 1,000 square feet for units with two or more bedrooms. No dwelling units without a bedroom are permitted.
- F. Access.
 - (1) Every lot and other parcel of land in a "C" Professional Office and Residence District shall be provided with permanent access for the purposes of ingress and egress by means of either a street or a private road as defined in § 475-3 of this chapter.

- (2) No lot or other parcel of land without such access shall be used for any purpose permitted in such district, and no improvements thereon shall be made or structurally altered, unless such lot is under common ownership with one or more abutting lots or parcels of land which have such an access and all such lands under common ownership lay entirely within the "C" Professional Office and Residence District, have a common principal use, and are in full compliance with all of the regulations for such district.

G. Off-street parking regulations. Off-street parking shall be regulated as set forth in Article IV, Off-Street Parking.

§ 475-18. High Rise District.

A. Use regulations. In a High Rise District no building or land shall be used and no building shall be erected or structurally altered except for one or more of the following uses:

- (1) Apartment houses and multiple-family dwellings.
- (2) In buildings containing not fewer than 10 dwelling units, said structures may include restaurants, drugstores, delicatessens, valet shops, beauty shops, and barbershops, which are accessible to the public only through the lobby of the building, but provided that no advertising or display for such accessory uses shall be visible from outside said building, and that all of such accessory uses are located on only one floor in each building.

B. Height regulations. In a High Rise District, no building shall be hereafter erected or structurally altered so as to be less than 40 feet or four stories in height, whichever is higher, or more than 100 feet or 10 stories in height, whichever is lower.

C. Building design and construction regulations.

- (1) All structures in the High Rise District shall provide at least one public elevator.
- (2) No exterior trash or garbage disposal area or storage of garbage or refuse is permitted in a High Rise District. No exterior incineration of garbage or refuse is permitted. Any storage of trash, garbage or refuse shall be within an area which is completely enclosed by walls and a roof.
- (3) Every apartment building or multiple-family dwelling shall have at least one service entrance located at the rear or side of said building.
- (4) The minimum size of dwelling units in high rise residence buildings is 700 square feet for one-bedroom units and 1,000 square feet for units with two or more bedrooms. No dwelling units without a bedroom are permitted.

D. Area regulations.

- (1) Yards. Every lot in a High Rise District shall have a front yard with a depth of not less than 75 feet, plus an additional one foot of depth for each 10 feet by which the building height exceeds 40 feet; interior side yards of not less than 50 feet in width, plus an additional one foot of width for each 10 feet by which the building

- (1) One garage of at least 220 square feet shall be required for each dwelling unit.
 - (2) On all lots with a street frontage of 90 feet or more, such garage must be attached to the principal building.
 - (3) Allowed unattached garages shall conform to the setback requirements specified elsewhere in this chapter.
 - (4) Construction of the required garage shall be completed before an occupancy permit is issued for the principal building.
- C. "C" Professional Office and Residence District requirements.
- (1) One garage of at least 220 square feet shall be required for every single-family dwelling unit.
 - (2) One garage of at least 220 square feet shall be required for each unit of a two-family dwelling.
- D. High Rise District requirements.
- (1) Apartment buildings or multiple-family dwellings shall provide 1 2 parking spaces contained within and under the cover of said building for each dwelling unit, plus one additional space located on a paved surface parking lot located to the rear of said apartment building or multiple-family dwelling for each dwelling unit. Two parking spaces must be provided on a paved surface parking lot located to the rear of said apartment building or multiple-family dwelling for each 100 square feet of floor space used for a restaurant, drugstore, delicatessen, valet shop, beauty shop, and/or barbershop in such buildings.
 - (2) Each stall or parking place required in Subsection D(1) above shall be at least 10 feet wide and 20 feet long and shall be directly accessible to driveways or access ways without passing through other parking spaces. Every parking space located in a parking lot shall be within 200 feet of the building to which the space is assigned.
 - (3) No separate garage buildings or carports are permitted in the High Rise District.
 - (4) No parking will be permitted on any street located in or immediately adjacent to a High Rise District.
- E. High Density District requirements. At least one parking space for each dwelling unit shall be in an enclosed garage.

§ 475-32. Parking space requirements.

- A. Unless specifically required by § 475-31 above, the following parking areas shall be required for the use specified:

- (d) A room which contains the mechanical equipment for operation of any such pools and/or tanks;
 - (e) A room or court which has as its principal use the playing of a sport which involves a ball and two or more players; or
 - (f) A room or defined area which has as its principal use rehearsal space for dance and/or theater and/or the storage of props and/or costumes.
- (3) "Floor area" shall be determined by the Building Inspector by examination of the state-approved plans and the building, and/or by verification by actual measurement of the foundation footprint and each occupied floor, and as approved by the Village Board.

§ 475-33. Child care establishments.

Kindergartens, day schools, and similar child training and care establishments shall provide loading and unloading space on a private drive, off-street, to accommodate one motor vehicle for each 10 students or children cared for by the establishment.

§ 475-34. Loading docks.

Loading docks for any establishment which customarily receives goods between the hours of 9:00 p.m. and 8:00 a.m. and is adjacent to a residential use or district shall be designed and constructed so as to fully enclose the loading operation, in order to reduce the effects of the noise of the operation on adjacent residences. Where adjacent to residential uses or districts, off-street loading areas shall be screened from the view of the residential use or district.

ARTICLE V

Administration and Enforcement

§ 475-35. Special uses, exceptions and general regulations.

The foregoing use regulations and height and area regulations shall be subject to the following exceptions and regulations.

A. Height.

- (1) In the "A" Residence Districts, "B" Residence Districts, and the Commercial Districts, public and semi-public buildings may be erected to a height not exceeding 75 feet provided the side yards heretofore specified are increased two feet for each foot such building exceeds the height limit heretofore specified.
- (2) On through lots the height of the building may be measured from the mean elevation of the finished grade along the front of the building considering the end facing either street as the front.
- (3) Chimneys, cooling towers, elevator bulkheads, scenery lofts, monuments, domes, spires, parapet walls, similar structures and necessary mechanical appurtenances