

Chapter 395

ZONING

[HISTORY: Adopted by the Village Board of the Village of Forestville 1-8-1990 by Ord. No. 1-90 as Ch. 17 of the 1990 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 160.

Floodplain zoning — See Ch. 210.

Mobile homes and mobile home parks — See Ch. 270.

Subdivision of land — See Ch. 360.

ARTICLE I

General Provisions

§ 395-1. Authority.

This chapter is enacted pursuant to the authority granted by §§ 61.35, 62.23 and 87.30, Wis. Stats.

§ 395-2. Purpose.

The purpose of this chapter is to adopt minimum building and use requirements in order to promote the health, safety, morals, prosperity, aesthetics and general welfare of the Village; regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of each lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residences or other purposes; and for those purposes, to divide the Village into districts of such number, shape and area as are deemed best suited to carry out these purposes.

§ 395-3. Interpretation.

The provisions of this chapter shall be interpreted and applied as minimum requirements, shall be construed in favor of the Village and shall not be deemed a limitation or repeal of any power granted to the Village by the Wisconsin Statutes.

§ 395-4. No repeal of other covenants or restrictions.

It is not the intent of this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall apply.

§ 395-5. Other law or regulation.

Where the conditions imposed by any provision of this chapter upon the use of land or structures or upon the bulk of structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

§ 395-6. Title.

This chapter shall be known, referred to and cited as the "Zoning Ordinance, Village of Forestville, Wisconsin."

§ 395-7. Jurisdiction.

All lands and waters within the corporate limits of the Village are subject to this chapter.

§ 395-8. Definitions.

Whenever used in this chapter, the following terms shall have the respective meanings set forth below unless otherwise expressly provided:

ACCESSORY BUILDING — A building or portion of a building subordinate to a main building, but not part of the main building, and which is used for purposes customarily incidental to the use of the main building.

AGRICULTURAL USE — Farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any accessory uses shall be secondary to that of the normal agricultural activities.

ALLEY — Any street or thoroughfare affording only secondary access to abutting property.

BASEMENT — That portion of any structure located wholly or partly below the average adjoining lot grade.

BUILDING — A structure used, designed or intended for the protection, shelter, enclosure or support of persons or property.

CAMPGROUND — Any privately or municipally owned parcel or tract of land accessible by automobile or other engine-driven vehicle designed, maintained, intended or used for the purpose of supplying accommodations for overnight use by recreational vehicles, open to the public and designated as a developed camp area and set aside for free or paying camping purposes.

CONDITIONAL USE — Any use of land, water or structures which is allowable only after the issuance of a special permit by the Plan Commission under conditions specified in this chapter.

CORNER LOT — A lot abutting two or more streets at their intersection.

CORNER LOT, REGULAR — A corner lot, the rear of which abuts the rear of another lot.

CORNER LOT, REVERSE — A corner lot, the rear of which abuts the side of another lot.

DENSITY — The number of living units per acre.

DETACHED STRUCTURE — A structure surrounded by an open space on the same lot.

DUPLEX — A multifamily dwelling designed for and occupied by two families.

DWELLING, MULTIFAMILY — Any building or portion thereof designed for and occupied by two or more families.

DWELLING, SINGLE-FAMILY — A detached building designed for or occupied exclusively by one family, but excluding mobile homes.

FAMILY — A group of persons related by blood or marriage and living together as a single household entity.

FLOOR AREA — The area of all floors in a building, including elevators and stairways. Floor area shall be calculated using the measurement of the outside of the exterior walls and multiplying the single floor area by the number of floors. Floor area shall include basements which are used in the primary function of the building but not others.

FLOOR AREA RATIO — The square footage of floor area on all floors for each square foot of lot area.

FRONTAGE — The smallest dimension of a lot abutting a public street measured along the street line.

GARAGE, PRIVATE — An accessory building or space for the storage and only the storage of not more than three motor-driven vehicles per dwelling.

GARAGE, PUBLIC — A building or premises, other than a private or storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

GARAGE, STORAGE — A building or premises, other than a private garage, used for storage of motor-driven vehicles and where no vehicles are serviced, repaired, hired or sold.

HEIGHT OF A STRUCTURE — The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the gable of a gambrel, hip or pitch roof, as the case may be, of a structure.

HOME OCCUPATION — Any gainful occupation conducted by members of a family within their place of residence in which no article is sold or offered for sale on the premises except those articles produced by such occupation, no stock-in-trade is kept or sold, no mechanical equipment is used other than that which is permissible for purely

domestic purposes and no person other than members of the immediate family living on the premises is employed.

HOTEL — A building in which lodging, with or without meals, is offered to transient guests for compensation and which provides customary hotel services, such as maid, telephone, secretarial, bellboy and desk services, the use and upkeep of furniture and the furnishing and laundering of linen.

LIVING SPACE RATIO — The square footage of open space, less the space used for vehicular movement, that exists for each square foot of building floor area.

LOADING AREA — Any completely off-street space or berth on the same lot used or designed for the loading or unloading of freight carriers and which has adequate ingress and egress to a public street or alley.

LOT — A parcel of land on a public street having a width and depth sufficient to provide the space necessary for one main building and its accessory building, together with the open space required by this chapter.

LOT DEPTH — The horizontal distance between the front and rear lot lines of a lot.

LOT LINES — The lines bounding a lot.

LOT WIDTH — The shortest distance between side lot lines measured at the building setback line.

MINOR STRUCTURES — A small, movable accessory erection or construction including, without limitation, such things as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four feet in height.

MOBILE HOME — A structure intended for human habitation which is or was originally constructed or designed for movement from site to site as necessary, which may have an oversized width for normal traffic allowances and thereby require a special travel permit and which may have its undercarriage removed to facilitate a better location on a slab, piers or foundation.

MOBILE HOME PARK — A plat or plats of ground upon which two or more mobile homes occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.

MOTEL — A building in which lodging, with or without meals, is offered to transient automobile tourists and which provides customary motel services such as maid, telephone, secretarial and desk services, the use and upkeep of furniture and laundering of linen.

NONCONFORMING STRUCTURE — A structure lawfully used or occupied at the time of the passage of this chapter or amendments, which structure does not conform to the regulations of this chapter or any amendments.

NONCONFORMING USE — A use of land or structures lawfully engaged in at the time of the passage of this chapter or amendments, which use does not conform to the regulations of this chapter or any amendments.

OPEN SPACE — The total area of all uncovered open space of the land area within the site to be developed plus 1/2 of covered open spaces, such as park shelters and carports.

PARKING SPACE — An off-street area suitable to be used for parking a passenger automobile.

PLANNED UNIT RESIDENTIAL DEVELOPMENT — A group of buildings, structures and uses on a site which combines building types and uses in ways that would be prohibited by the detailed predeterminations of the zoning standards set forth in this chapter.

PLANNED UNIT RESIDENTIAL DEVELOPMENT, MULTIFAMILY — A planned unit residential development whose dwelling units are only multifamily dwellings or multifamily and single-family dwellings.

PLANNED UNIT RESIDENTIAL DEVELOPMENT, SINGLE FAMILY — A planned unit residential development whose dwelling units are only single-family dwellings.

PRINCIPAL BUILDING — The building on a lot in which is conducted the principal use on the lot.

PRIVATE SWIMMING POOL — Any pool, pond, lake or open tank which is not located within a completely enclosed building and which contains or is normally capable of containing water to a depth at any point greater than 1 1/2 feet.

RECREATION SPACE — The total area countable as open space which is not paved in streets, walks or driveways and which is suitable for recreational pursuits. The smallest countable recreation space area is 1,000 square feet. That part of a recreation area having a dimension of less than 20 feet shall not be included as recreation space.

RECREATION SPACE RATIO — The square footage of recreation space provided for each square foot of building area.

SETBACK — The horizontal distance from the street line and the nearest point of a building or any projection from it.

SIGN — Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, professional business, organization, commodity or product and which is visible from any public street or highway.

STORY — That portion of a building included between the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling above it.

STREET — That property which is dedicated or intended for public or private street purposes or which is subject to public easements.

STREET LINE — The dividing line between a lot, tract or parcel of land and a contiguous street.

STRUCTURAL ALTERATIONS — Any change in the supporting members of a building or any substantial change in its roof or in its exterior walls.

STRUCTURE — Anything constructed or erected, the use of which requires permanent location on the ground. The term "structure" shall not include utility facilities and their associated appurtenances.

TRAVEL TRAILER — A vehicular, portable structure built on a chassis which can be transported by any motor vehicle and is designated to be used as a temporary dwelling for travel, recreation and vacation use, which does not fall into the definition of a mobile home.

TRAVEL TRAILER PARK — A privately or publicly owned parcel or tract of land accessible by automobile or other engine driven vehicle designed, maintained, intended or used for the purpose of supplying accommodations for use by travel trailers or other recreational vehicles on a temporary basis, open to the public and designated as a travel trailer park area.

VISION CLEARANCE — An unoccupied triangular space at the corner of a corner lot which is bounded by the street lines and a setback line connecting points determined by measurements from the intersection of the street lines.

YARD — The open space on the same lot with a building and which is unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

YARD, FRONT — The yard extending the full width of the lot between the front lot line and the nearest part of the building. It shall be measured along the minimum horizontal distance between the front lot line and the nearest part of the building.

YARD, REAR — The yard extending the full width of the lot between the rear lot line and the nearest part of the building. It shall be measured along the minimum horizontal distance between the rear lot line and the nearest part of the building.

YARD, SIDE — The yard extending from the side lot line to the nearest part of the building. It shall be measured along the minimum horizontal distance between the side lot line and the nearest part of the building.

§ 395-9. Compliance.

Except as otherwise provided, the location, use and height of any structure hereafter erected, converted, moved, enlarged or structurally altered and all use of land shall be in compliance with the regulations established in this chapter for the district in which the structure or land is located.

**ARTICLE II
Zoning Districts**

§ 395-10. Establishment of zoning districts.

The following zoning districts are hereby established:

- A. Residential districts.

- (1) R-1 Single-Family Residential District.
- (2) R-2 Single-Family and Duplex Residential District.
- (3) R-3 Multifamily Residential District.
- B. B-1 General Commercial District.
- C. I General Industrial District.
- D. C-1 Conservancy District.
- E. A-1 General Floodplain District. See Chapter 210, Floodplain Zoning, of this Code.

§ 395-11. Zoning Map.

The boundaries of the zoning districts shown on the Official Zoning Map of the Village are hereby established. The Zoning Map, together with a copy of this chapter, shall be available for public inspection in the office of the Village Clerk. The Zoning Map shall be certified by the Village President and attested by the Village Clerk. Any changes in zoning district boundaries made pursuant to § 395-77 of this chapter shall be recorded on the Zoning Map. No change shall be effective until so recorded and until a certified and attested certificate describing the change is filed with the Zoning Map.

§ 395-12. Boundaries.

- A. Unless otherwise shown, the zoning district boundaries shall be either streets or alleys and where the designation on the Zoning Map indicates that a various district is approximately bounded by the center line of a street or alley, the district boundary line shall be the center line.
- B. Where zoning district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be lot lines and where the designations on the Zoning Map are approximately bounded by lot lines, the lot lines shall be the boundaries of the district.
- C. In unsubdivided property, the district boundary lines shown on the Zoning Map shall be determined by use of the scale shown on the map.

§ 395-13. Permitted and conditional uses and structures.

- A. Permitted uses and structures. The uses and structures listed below as permitted for a district are permitted in that district so long as all of the requirements in this chapter are complied with.
- B. Conditional uses and structures. The uses and structures listed below as conditional for a district may be allowed as a use pursuant to the procedure set forth in § 395-75 of this chapter, provided all of the requirements in this chapter are complied with.

- C. Other uses and structures. Except as otherwise expressly stated in this chapter, all uses and structures not listed below as either permitted or conditional in a district are prohibited in that district.

§ 395-14. R-1 Single-Family Residential District.

- A. Permitted uses and structures. Single-family dwellings and their accessory structures or uses, utility facilities and their appurtenances necessary to adequately serve the area.
- B. Conditional uses and structures. Parks, greenways and open spaces, playgrounds, public and private schools, guest houses, cemeteries, governmental and community service buildings and functions, pumping stations, golf courses, churches, libraries, single-family planned residential unit developments, home occupations, nursery schools, private swimming pools, funeral parlors and agricultural uses.
- C. Requirements. All lots and structures shall meet the following requirements:
 - (1) Lot size.
 - (a) Width: 100 feet minimum.
 - (b) Area: 12,000 square feet minimum.
 - (2) Building height: 30 feet maximum.
 - (3) Yards.
 - (a) Front: 25 feet minimum.
 - (b) Rear: 25 feet minimum.
 - (c) Side: 10 feet minimum.

§ 395-15. R-2 Single-Family and Duplex Residential District.

- A. Permitted uses and structures. Single-family dwellings and their accessory structures or uses, duplexes or two-family dwellings and their accessory structures or uses and utility facilities and their appurtenances necessary to serve the area.
- B. Conditional uses and structures. Parks, greenways and open spaces, playgrounds, public and private schools, guest houses, cemeteries, governmental and community service buildings and functions, pumping stations, golf courses, churches, single-family and multifamily planned residential unit developments, home occupations, nursery schools, private swimming pools, nursing homes and agricultural uses.
- C. Requirements. All lots and structures shall meet the following requirements:
 - (1) Lot size.
 - (a) Width: 100 feet minimum.
 - (b) Area: 10,000 square feet minimum.

- (2) Building height: 35 feet maximum.
- (3) Yards.
 - (a) Front: 25 feet minimum.
 - (b) Rear: 25 feet minimum.
 - (c) Side: 10 feet minimum.

§ 395-16. R-3 Multifamily Residential District.

- A. Permitted uses and structures. Single-family dwellings and their accessory structures or uses, multifamily dwellings and their accessory structures or uses and utility facilities and their appurtenances necessary to adequately serve the area.
- B. Conditional uses and structures. Parks, greenways and open spaces, playgrounds, public and private schools, cemeteries, nursing homes, governmental and community service buildings and functions, pumping stations, churches, single-family and multifamily planned residential unit developments and funeral homes.
- C. Requirements. All lots and structures shall meet the following requirements:
 - (1) Lot size.
 - (a) One hundred feet minimum.
 - (b) Area: 10,000 square feet minimum.
 - (2) Building height: 45 feet or four stories maximum, whichever is less.
 - (3) Yards.
 - (a) Front: 25 feet minimum.
 - (b) Rear: 25 feet minimum.
 - (c) Side: 10 feet minimum.

§ 395-17. B-1 General Commercial District.

- A. Permitted uses and structures. Hardware and feed stores, funeral parlors, drugstores, furniture stores, barbershops, grocery stores, supermarkets, bakeries, bars, cocktail lounges, restaurants, cafes, hotels, rooming houses, fruit stores, dry goods stores, luggage shops, stationery stores, personal and business service establishments, pet shops, clothing stores, public passenger transportation terminals, gift stores, variety stores, garages, theaters, professional offices, organization headquarters, newspaper and magazine publishers, jewelry stores, banks, shoe stores, packaged beverage stores, appliance sales and repair, sporting goods stores, insurance and real estate offices, radio and TV sales and service, catalogue order stores, savings and loan and finance company offices, department stores, coin-operated laundries, medical and dental offices, bowling alleys, churches, tobacco and magazine stores, beauty salons, music shops, radio (without antenna), parking areas, open spaces, libraries,

parks and utility facilities and their appurtenances necessary to adequately serve the area.

- B. Conditional uses and structures. Wholesale outlets, animal hospitals, governmental service functions and offices, garages and offices, secondhand stores, professional laundry and dry cleaning establishments, gas stations, contractor's offices, automobile sales and service lots and offices, motels, mobile home parks, commercial storage facilities, hospitals, amusement parks, community buildings, social halls, lodges, fraternal organizations and clubs, amusement centers, dance halls and similar places of amusement and other structures or uses similar or customarily incident to the above uses.¹
- C. Requirements. All lots and structures shall meet the following requirements:
 - (1) Lot size: no minimum size.
 - (2) Building height: four stories or 45 feet maximum, whichever is less.
 - (3) Yards: no minimum size.

§ 395-18. I General Industrial District.

- A. Permitted uses and structures. Automotive body repairs; automotive upholstery; cleaning, pressing and dyeing establishments; commercial bakeries; commercial greenhouses; distributors; farm machinery establishments; dairy plants; equipment repairs and storage; railroad depots; cooperatives; laboratories; machine shops; manufacture and bottling of nonalcohol beverages; painting; printing; publishing; storage and sale of lumber, machinery and equipment; trade and contractor's offices; warehousing and wholesaling; manufacturing, fabrication, packing, packaging and assembly of products from furs, glass, leather, metals, paper, plaster, textiles or wood; manufacture, fabrication, processing, packaging and packing of confections, cosmetics, electrical appliances, electronic devices, food (except fish and fish products), meat products and toiletries; freight yards, freight terminals and transshipment depots; inside storage; breweries; agricultural uses; mobile home sales; automobile sales and service and similar extensive commercial land uses; greenways and open spaces; parking areas; open areas and utility facilities and their appurtenances necessary to adequately serve the area.
- B. Conditional uses and structures. Mobile home parks; animal hospitals; dumps; disposal areas; incinerators and sewage disposal plants; earth and sanitary landfill operations; airports; manufacture and processing of abrasives, acetylene, acid, alkalies, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal, tar, coffee, coke, cordage, creosote, dextrine, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, glucose, gypsum, hair products, ink, insecticide, lime products, linoleum, matches, meat, oilcloth, paint, peas, perfume, pickles, plaster of paris, plastics, poison, potash, pulp, pyrozylin, radium, rope, rubber, sausage, seeds,

¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

starch, stove polish, textiles and varnish; manufacture, processing and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, radioactive materials, shellac, soap, turpentine, vinegar and yeast; bag cleaning; bleacheries; canneries; cold storage warehouses; electric and steam-generating plants; electroplating, enameling, lithographing and bulk gas storage and sales; offal; rubbish or animal reduction; oil, coal and bone distillation; excavating operations; refineries; road test facilities; slaughterhouses; smelting; poultry farms; stockyards; tanneries; migrant housing camps; weaving and commercial service facilities, such as restaurants and fueling stations, provided that their services physically and in terms of sales are oriented toward industrial district users and employees and other users are only incidental customers.

C. Requirements. All lots and structures shall meet the following requirements:

- (1) Lot size.
 - (a) Width: 90 feet minimum.
 - (b) Area: 1/2 acre minimum.
- (2) Building height: no maximum.
- (3) Yards.
 - (a) Street: 30 feet minimum.
 - (b) Rear: 30 feet minimum.
 - (c) Side: 10 feet minimum.

§ 395-19. C-1 Conservancy District.

- A. Permitted uses and structures. Harvesting of wild crops, such as marsh, hay, ferns, moss, wild rice, berries, tree fruits and tree seeds; sustained yield forestry; utilities, such as, but not restricted to, telephone, telegraph and power transmission lines; fishing; scenic, historic, scientific or wildlife preserves; nonresident buildings used solely in conjunction with the raising of waterfowl or fish; hiking trails and bridle paths; and accessory uses, public and private parks and picnic areas, greenways and open spaces, recreation-related structures not requiring basements, regulatory signs not over six square feet in area and general farming, provided no drainage, filling or dredging takes place and no farm buildings are constructed.
- B. Conditional uses. Filing, drainage, dredging, golf driving ranges, farm structures, animal hospitals, flowages, ponds, relocation of watercourses, removal of topsoil or peat, campgrounds, travel trailer parks.

§ 395-20. A-1 General Floodplain District.

See Chapter 210, Floodplain Zoning, of this Code.

Conditional Uses

§ 395-21. Additional requirements for certain conditional uses.

Before a conditional use permit may be issued under § 395-75 for certain uses listed as conditional in §§ 395-13 through 395-20, any of the following requirements which are applicable must be met.²

§ 395-22. Travel trailer parks and campgrounds.

- A. The minimum size of a travel trailer park or campground shall be five acres.
- B. The maximum number of travel trailers or campsites shall be 15 per acre.
- C. Minimum dimensions of a travel trailer site or campsite shall be 25 feet wide by 40 feet long.
- D. No travel trailer or campsite shall be occupied for a period of more than 30 consecutive days.
- E. Each travel trailer site or campsite shall be separated from other travel trailer spaces or campsites by a yard not less than 15 feet wide.
- F. There shall be a minimum yard setback of 40 feet at all lot lines of a travel trailer park or campground.
- G. The travel trailer park or campground shall conform to the requirements of Ch. DHS 178, Wis. Adm. Code.
- H. Unless adequately screened by existing vegetative cover, the travel trailer park or campground shall be screened by a temporary planting of fast-growing material capable of reaching a height of 15 feet or more, such as hybrid poplar, and a permanent evergreen planting, such as White or Norway pine. The number of individual trees and their arrangement shall be such that within 10 years, they will have formed a screen equivalent in opacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than 15 feet.³

§ 395-23. Private Swimming Pools.

DEFINED: A swimming pool, pond, or water garden shall mean any depression in the ground, either temporary or permanent or a container of water, either temporary or permanent and either above or below the ground, in which water of more than 24" in depth at any point is contained and which is used primarily for the purpose of wading, swimming or bathing.

². Editor's Note: Original 17.07(1), Mobile home parks, which followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

³. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

The following provisions apply to all swimming pools, ponds, or water gardens (temporary and permanent):

- A. The swimming pool, pond, or water garden must be intended to be and actually be used solely for the enjoyment of the occupants or the principal users of the property on which it is located.
- B. The swimming pool, pond, or water garden, including any walks or paved areas or accessory structures adjacent thereto, must not be located less than 20 feet from any lot line.
- C. When the installation requires a ladder to be raised to prevent pool access, the ladder shall be kept in a raised and locked position or removed from the pool. No swimming pool, pond, or water garden shall be so located, designed, operated or maintained in a manner so as to create a public nuisance as defined in Chapter 309 Peace and Good Order of the Code of Ordinances of the Village of Forestville. Lights used to illuminate any swimming pool, pond, or water garden shall be so arranged and shaded as to reflect light away from adjoining premises.
- D. Any swimming pool, pond, or water garden in existence on the date this ordinance becomes effective shall, within thirty (30) days from such effective date, require the property owner to apply for a conditional use permit **yearly** with the Village Board. In the case of a temporary pool, pond, or water garden, this permit shall also be good for only one year. The property owner also must submit proof of liability insurance to cover any uncontrolled access by people from the street or from adjacent properties that may result in damage, injury, or death. A valid policy for property liability insurance must be in force as long the property includes any swimming pool, pond, or water garden. The Village of Forestville will not be liable for any damage, injury, or death as a result of the existence of a swimming pool, pond, or water garden for personal use on properties located in the Village. The Village of Forestville may, at time of conditional use permit application, determine the need for fencing, walls, or screening.

§ 395-24. Animal hospitals.

- A. Animal hospitals shall be located not less than 100 feet from any residential district boundary line, restaurant, hotel or motel in any district.
- B. It must be demonstrated that adequate measures and controls shall be taken to prevent offensive noise and odor.
- C. No incineration of refuse shall be permitted on the premises.

§ 395-25. Guest houses.

- A. Guest houses may not have kitchen facilities and may only be constructed in rear yards.

- B. Guest houses must be a minimum of 10 feet from any other building and all yard requirements of this chapter for a principal building must be met.

§ 395-26. Home occupation.

- A. The home occupation must be one that is customarily incidental to the principal use of the premises, must not involve more than 25% of the area of any floor and must involve the use of household equipment only.
- B. No stock-in-trade may be kept or sold, except that made on the premises.
- C. Home occupations which may be allowed include, without limitation, babysitting, millinery, dressmaking, canning, laundering, crafts and the use of premises by a physician, surgeon, dentist, lawyer, clergyman or other professional person for consultation or emergency treatment, but not for the general practice of his profession. Home occupations which shall not be allowed include, without limitation, the display of any goods, barbering, beauty shops, conducting a dance school, real estate brokerage, photographic studios, commercial stables and kennels.

§ 395-27. Country club; golf course.

- A. No building shall be located within 100 feet of any property line.
- B. Facilities, such as restaurants and bars, may be permitted when conducted and entered from within the building.
- C. Swimming pools, tennis courts and the like shall be located not less than 25 feet from any property line.
- D. Adjoining property in any residential or commercial district shall be effectively protected by a wall, hedge and/or screen planting.

§ 395-28. Poultry farms.

- A. Any building housing poultry shall be at a distance of not less than 200 feet from every lot line.
- B. It must be demonstrated that odor, dust, noise and drainage shall not constitute a nuisance or hazard to adjoining property or uses.

§ 395-29. Animal feed yards; animal sales yards; commercial kennels for dogs and cats; riding academies; public stables.

- A. No such use or structure shall be located less than 200 feet from any lot line, shall provide automobile and truck egress and shall provide parking and loading spaces so designed as to minimize traffic hazards and congestion.
- B. It must be demonstrated that odor, dust, noise and drainage shall not constitute a nuisance or hazard to adjoining property or uses.

§ 395-30. Agricultural processing plants.

- A. Any agricultural processing plant which is located in any residential district and which processes agricultural products produced on the premises or within a contiguous area shall be located so as to provide convenient trucking access with a minimum of interference to normal traffic and shall also provide parking and loading spaces.
- B. It must be demonstrated that adequate measures shall be taken to control odor, dust, noise and waste disposal so as not to constitute a nuisance or hazard to adjoining property or uses and also that the proposed source of water will not deprive others of normal supply.

§ 395-31. Drive-in theaters.

- A. Drive-in theaters shall be located only on major or secondary thoroughfares and shall provide ingress and egress so designed as to minimize traffic congestion.
- B. Drive-in theaters shall be located sufficiently distant from any residential district and shall be screened from any such district and all dwellings so that any noise will not disturb residents.
- C. Drive-in theaters shall maintain lighted signs and other lights only in such a way as not to disturb residents.

§ 395-32. Golf driving ranges and amusement parks.

- A. Golf driving ranges and amusement parks shall be located only on major or secondary thoroughfares or nonresidential streets.
- B. Floodlights used to illuminate the premises shall be directed and shielded so that they will not be an annoyance to any developed residential property.
- C. Golf driving platforms shall be not less than 200 feet from any adjacent residential district.
- D. A certificate may be granted to be in force for one year only, which certificate may be renewed for a period of one year at the expiration of such certificate, provided all requirements of this chapter have been and can continue to be met.

§ 395-33. Cemeteries, crematories, mausoleums and columbariums.

- A. Any such structure or use shall provide entrance on a major street or road with ingress and egress so designed as to minimize traffic congestion.
- B. Any such structure or use shall provide either a minimum six-foot-high wall, a minimum three-foot thick, six-foot-high evergreen hedge or a minimum 20 feet of permanently maintained planting strip on all lot lines abutting any residential district or residential street.

§ 395-34. Airports, heliports and landing strips for aircraft.

- A. Any such structure or use shall be located not less than 600 feet from any dwelling.

- B. Any such structure or use shall provide runways only so oriented that aircraft landing and taking off do not pass directly over dwellings.
- C. Any such structure or use shall be located so that air or land traffic shall not constitute a nuisance to neighboring uses.
- D. It must be demonstrated that adequate controls or measures will be taken to prevent offensive dust, noise, vibrations or bright lights and that the field in question comes up to standards of the Federal Aviation Agency for the particular class of field.

§ 395-35. Community building; social halls; lodges; fraternal organizations; clubs.

- A. All buildings must be a minimum of 20 feet from the side lot lines and 50 feet from the rear lot line.
- B. There shall be no external evidence of any gainful activity, however incidental, nor any access to any space used for gainful activity other than from within the building.
- C. Any such structure or use must be located on a major or secondary thoroughfare or be able to provide access without causing heavy traffic on local residential streets.⁴

§ 395-36. Nursing homes.

- A. Approval must be obtained from proper agencies concerning health and safety conditions and the home must be licensed by such agencies.
- B. Any such structure or use must meet space requirements specified in § 395-16C for the R-3 Residential District.

§ 395-37. Hospitals; churches or other religious or eleemosynary institutions.

- A. Any such structure or use shall be located on a major street on a minimum parcel of 1/2 acre.
- B. Any such structure or use shall maintain a ten-foot-wide minimum landscape strip on all lot lines abutting residential districts and residential streets.

§ 395-38. Fertilizer plants and yards.

- A. Fertilizer plants and yards shall not be less than 200 feet from any residential district and shall provide automobile parking and truck loading area, together with ingress and egress, designed to minimize traffic hazard and congestion.
- B. It must be demonstrated that odor, dust, noise and drainage shall not constitute a nuisance or hazard to adjoining properties or uses.⁵

⁴. Editor's Note: Original Section 17.07(16), Private stables and paddocks, which followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

⁵. Editor's Note: Original Section 17.07(20), Shooting clubs, which followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 395-39. Inflammable liquid storage.

- A. Aboveground storage of more than 1,000 gallons of materials or products rated as fast burning or which produce flammable or explosive vapors or gases must be in a storage area that is not less than 600 feet distant from any other zoning district.
- B. Any such storage area must have adequate safety devices against the hazards of fire and explosion, must have adequate fire suppression and firefighting equipment and devices that are standard to the industry and must meet the requirements of all other ordinances which may be applicable.

§ 395-40. Amusement centers; bowling alleys; dance halls and similar places of amusement.

- A. Any such place of amusement shall provide parking with ingress and egress designed so as to minimize traffic congestion.
- B. Any such place of amusement shall not be less than 20 feet from any lot line and shall provide a minimum six feet solid board fence or masonry wall separating the parking areas from abutting residential property.
- C. It must be demonstrated that adequate controls or measures will be taken to prevent offensive noise and vibration.

§ 395-41. Nursery schools and day-care centers for more than five children.

- A. Such schools and centers shall maintain a minimum six-foot-high solid-board fence combined with a minimum three-foot-wide shrub planting area or a minimum six-foot-high masonry wall on any lot line abutting a residential district.
- B. Nurseries shall be located on a minimum 10,000 square foot lot, and it must be demonstrated that such use will not lead to excessive traffic on local residential streets.

§ 395-42. Conditional uses in Conservancy District.

Farm structures, travel trailer parks, campgrounds and related uses may be permitted as conditional uses only if the property owner or developer can demonstrate the following:

- A. That on-site soil tests indicate that the proposed structures, uses and proposed method of sewage disposal can be accommodated adequately and safely.
- B. That the lot in question is above any known high-water mark.
- C. That drain tile around foundations or other necessary improvements will be provided in areas having a high water table.
- D. In areas of severe slopes (over 10%), terracing, retaining walls or extensive landscaping will be used in order to prevent erosion of topsoils.

§ 395-43. Manufacturing uses.

All manufacturing uses listed in the conditional use classification in the industrial district regulations shall give evidence of ability to comply with all applicable state and federal codes or regulations governing vibration, radioactivity, odor, toxic or noxious matter, heat, dust, ash, smoke and sound, which codes and any amendments thereto are hereby adopted by reference.

§ 395-44. Temporary tract offices.

Temporary tract offices may be allowed as a conditional use in any district. Temporary tract offices in any district shall be located on the property to which they are appurtenant and shall be limited to a six-month period, at the expiration of which time the applicant may request a further extension of time. Otherwise, the tract office shall be removed at the expense of the owner.

ARTICLE IV
General Requirements

§ 395-45. Retail sales for guests only.

Community buildings, private clubs, lodges and social or recreational establishments may engage in retail sales for guests only, provided that:

- A. There shall be no external evidence of any gainful activity, however incidental, nor any access to any space used for gainful activity other than from within the building.
- B. There shall be no harm to adjacent existing or potential residential development due to excessive traffic generation or noise or other circumstances.

§ 395-46. Yard requirements for corner lots.

- A. Reversed corner lots. Reversed corner lots shall have a front yard of the required depth of either frontage and a second front yard of 1/2 the depth generally required for front yards in the district shall be provided on the other frontage.
- B. Regular corner lots. Regular corner lots shall have a front yard of required depth in accordance with the prevailing yard pattern and a second front yard of 1/2 the depth required generally for front yards in the district shall be provided on the other frontage.

§ 395-47. Multifamily dwellings.

All multifamily dwellings and uses shall meet the following additional requirements:

- A. The recreation space ratio shall not be less than 14.
- B. The floor area ratio shall not be more than 0.325.
- C. The open space ratio shall not be less than 2.2.
- D. The living space ratio shall not be less than 1.4.

§ 395-48. Outside storage and manufacturing areas.

Wrecking, junk demolition and scrap yards shall be surrounded by a solid fence or evergreen planting completely preventing a view from any other property or public right-of-way and shall be at least 600 feet from all residential and commercial structures.

§ 395-49. Yard requirements.

- A. No lot shall be so reduced that the dimensions and yard requirements imposed by this chapter cannot be met.
- B. No part of the yard or open space required for a given structure shall be included as a part of the yard or other space required for another structure.
- C. Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings and the ordinary projection of sills, cornices and ornamental features projecting not more than 48 inches. However, in commercial areas, permanent awnings and their accessory columns or struts may project not more than five feet into a required front or side yard.
- D. An open or enclosed fire escape may project into a required yard not more than five feet and into a required court not more than 3 1/2 feet, provided it is so located that it does not obstruct light or ventilation.

§ 395-50. Height requirements.

Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, silos, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts or aerials and necessary mechanical appurtenances, utility poles, towers, structures and their attached appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with such other regulations and ordinances of the Village, if any, as may from time to time be in effect.

§ 395-51. Sewage disposal facilities.

Sewage disposal facilities shall be connected to the sewage disposal system of the Village. In any district where public sewage service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site sewage disposal system designed in accordance with Ch. SPS 385, Wis. Adm. Code. In no case, however, shall the minimum lot size required in the zoning district in which such structure is to be located be reduced below the minimum specified in this chapter.

§ 395-52. Vision clearance at intersections.

In each quadrant of every street intersection there shall be designed a vision clearance triangle, bounded by the inner street lines and a line connecting them 15 feet from their intersection. Within this triangle, no object shall be allowed between the heights of 2 1/2 feet and 10 feet above the street grade if it obstructs the view across the triangle in any way. This provision shall not apply to tree trunks, posts or wire fences, utility facilities and their attached appurtenances. In the case of an arterial street intersecting with another

arterial street or a railway, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 50 feet from such intersection.

§ 395-53. Circuses and carnivals.

Circuses and carnivals involving temporary assemblages of over 300 people and their automobiles may be permitted in any district, provided that such establishment may not be located on a street developed with residences, within 500 feet of such residences or less than 200 feet from such residences, in any case for all such uses.

**ARTICLE V
Parking Space and Parking Lot Requirements**

§ 395-54. Parking space requirements.

- A. Any building hereafter erected or placed on a lot shall be provided with off-street parking spaces in accordance with the table set forth in Subsection B. Each required parking space shall be at least 200 square feet in area or approximately 10 feet by 20 feet in size. The allocation of parking areas shall be indicated on the plans submitted with the application for a building permit.
- B. Number of spaces required for each use:

Use	Required Parking Spaces
Single-family residential	2 per dwelling unit
Elementary schools	1 per teacher and staff member
Junior or senior high schools	1 per 4 students
Libraries	1 per 300 square feet GFA
Auditoriums, school gymnasiums, stadiums	1 per 4 seats
Institutions for the care of the aged	1 per 4 beds, plus 1 per 2 employees, plus 1 per doctor on staff
Hospitals	1 per 2 beds, plus 1 per 2 employees, plus 1 per doctor on staff
Mobile home parks	2 per lot
Philanthropic and charitable uses	1 per 2 employees, plus adequate number to serve the public
Public utilities and service uses	1 per 2 employees, plus adequate number to serve the public
Private clubs	5 per 100 square feet GFA
Noncommercial community center	A number equal to 30% capacity in persons
Radio and TV stations	1 per 2 employees

Churches	1 per 5 seats
Apartment hotels	1 per dwelling unit
Boardinghouses	1 per 2 dwelling units
Multifamily dwellings	1.5 per dwelling unit, except that in housing developments for the elderly, the ratio shall be 0.75 per unit
Taverns and restaurants	A number equal to 35% of capacity in persons
Service stations	1 per bay, plus 1 per employee
Resorts	1 per 2 employees, plus a number equal to 30% of capacity or 1 per rental unit, whichever is greater
Bowling alleys	5 per alley, plus 1 per 300 gross square feet used for bars, restaurants, etc.
Travel trailer parks	1.5 per travel trailer site
Campgrounds	1 per campsite
Pool halls, dance halls, pools, skating rinks, etc.	A number equal to 30% of the capacity in persons
Medical and dental clinics	4 per staff member
Auto sales	2 per employee
Post office	1 per 2 employees, plus 1 per each 300 gross square feet in excess of 4,000 square feet
Commercial schools	1 per 2 employees, plus 1 per 5 students
Indoor theaters	1 per 5 seats, plus 1 per 4 seats over 400
Funeral parlors	8 per funeral chapel, plus 1 per funeral vehicle
General commercial buildings	1 per 200 gross square feet in excess of 1,000 square feet or 5.5 for each 1,000 gross square feet in integrated center
Animal hospitals and kennels	2 per employee
Car washes	0.5 per employee, plus a number 5 times the capacity of the facility
Cartage and express facilities	1 per vehicle operated, plus 1 per 2 employees
Contractor or construction offices	1 per employee
Laundries	1 per 3 employees
Printing and publishing establishments	1 per 2 employees
Warehousing and wholesaling establishments	1 per 2 employees

Hotels	1 per 2 rooms
Laboratories	1 per 2 rooms
Motels	1 per unit, plus 1 for manager
Riding stables	1 per each employee, plus adequate number to serve the public
General industrial establishments	1 per each employee (maximum at one time in plant)

§ 395-55. Loading spaces in commercial and industrial districts.

- A. In commercial and industrial districts and in connection with any commercial or industrial use, sufficient space shall be provided on the lot for the loading or unloading of vehicles so that the public street shall at all times be free and unobstructed to the passage of vehicular and pedestrian traffic. Such space shall be provided as follows:

Gross Floor Area

(square feet)	Minimum Loading and Unloading Space Required
0 to 1,500	None
1,501 to 10,000	One space
10,001 and above	One space, plus space for each full 20,000 square feet in excess of 10,000 square feet

- B. All spaces shall be at least 10 feet by 50 feet or 500 square feet in area and shall have a clearance of at least 14 feet in height.

§ 395-56. Location of off-street parking.

All off-street parking for other than residential uses shall be either on the same lot or within 300 feet of the building it is intended to serve. This distance shall be measured from the nearest point of the building to the nearest point of the off-street parking lot.

§ 395-57. Building permit requirement.

No parking lot shall be constructed or reconstructed unless and until a building permit therefor is issued under § 395-74 of this chapter. All applications for building permits shall be submitted with two copies of plans for the development and construction of the parking lot. Adequate space for ingress to and egress from the parking lot shall be provided and each parking space shall have adequate access by means of maneuvering lanes. The matter of the provision of adequate ingress and egress shall be reviewed by

and subject to the approval of the Village Engineer, if any, or such other officials as may be designated by the Village Board.

§ 395-58. Landscaping requirements.

Any open off-street automobile parking area which is either created or redesigned and rebuilt subsequent to the adoption of this chapter and which contains two or more rows of parking stalls and an area of 7,500 square feet or more shall provide and maintain canopy type shade trees, along with other forms of vegetation hardy to this region, in tree islands and planting strips totaling not less than 5% of the parking surface area. The minimum size of each tree island or planting strip shall be 50 square feet. The size, type and location of the islands, planting strips and the plant materials themselves shall be indicated on the plans submitted with the application for a building permit.

ARTICLE VI
Signs

§ 395-59. Prohibition.

Except as allowed by this section, all signs are prohibited.

§ 395-60. Building permit requirement.

Except for those signs specified below in § 395-61, no sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered, unless and until a building permit therefor is issued under § 395-72. All signs shall be in conformity with the provisions of this chapter and shall also meet all the structural requirements of Chapter 160, Building Construction and Fire Prevention, of this Code.

§ 395-61. Signs permitted in residential districts.

All signs are prohibited in all residential districts, except the following, which are permitted:

- A. Signs over show windows or doors of a nonconforming business establishment which only announce, without display or elaboration, the name and occupation of the proprietor and which do not exceed two feet in height and 10 feet in length.
- B. Real estate signs which do not exceed eight square feet in area and which advertise the sale, rental or lease of the premises upon which the sign is temporarily located.
- C. Name, occupation and warning signs which do not exceed two square feet and which are located on the premises.
- D. Bulletin boards for public, charitable or religious institutions which do not exceed eight square feet in area and which are located on the premises.
- E. Memorial signs, tables, names of buildings and date of erection signs when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

- F. Official signs including, but not limited to, traffic control signs, parking restriction signs and information signs and notices.
- G. Temporary signs when authorized by the Building Inspector for a period not to exceed 30 days.

§ 395-62. Signs permitted in commercial and industrial districts.

Signs are permitted in all commercial and industrial districts, subject to the following restrictions:

- A. Wall signs placed against the exterior wall of a building shall not extend more than six inches from the wall's surface, shall not exceed 500 square feet in area for any one premises and shall not exceed 20 feet in height above the mean center-line street grade.
- B. Projected signs fastened to, suspended from or supported by structures shall not exceed 100 square feet in area for any one premises, shall not extend more than six feet into any required yard, shall not extend more than three feet into any public right-of-way, shall not be less than 10 feet from all side lot lines and shall not exceed a height of 20 feet above the mean center-line street grade or 15 feet above a driveway or an alley.
- C. Ground signs shall not exceed 20 feet in height above the mean center-line street grade, shall meet all yard requirements for the district in which they are located and shall not exceed a total of 100 square feet total on all sides for any one premises.
- D. Roof signs shall not exceed 10 feet in height above the roof, shall meet all yard and height requirements for the district in which they are located and shall not exceed a total of 300 square feet total on all sides for any one premises.
- E. Signs shall only advertise, promote or represent establishments, goods or services located, sold or manufactured within 100 feet of the sign.
- F. Any combination of any of the above signs shall meet all of the requirements for each sign individually.

§ 395-63. Signs facing residential districts.

No sign, except those permitted in § 395-61 above, shall be permitted to face a residential district if it is within 100 feet of the boundary of such district.

§ 395-64. No imitation of traffic signs, etc.

Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

§ 395-65. Nonconforming signs.

Signs lawfully existing at the time of the adoption or amendment of this chapter may be continued although the use, size or location does not conform with the provisions of this chapter. However, any such sign shall be deemed a nonconforming use or structure and the provisions of Article VII of this chapter shall apply.

**ARTICLE VII
Nonconforming Uses and Structures**

§ 395-66. Existing nonconforming uses.

- A. The lawful use of a structure, land or water which existed at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter.
- B. Only that portion of the land or water in such actual nonconforming use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this chapter.
- C. The total lifetime structural repairs or alterations to any nonconforming structure shall not exceed 50% of the Village's equalized value of the structure at the time of its becoming a nonconforming use, unless it is permanently changed to conform to the use provisions of this chapter.
- D. Substitutions of new equipment may be permitted by the Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

§ 395-67. Abolishment or replacement of nonconforming structures.

- A. If a nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this chapter. When a structure which is designed, used or intended for a use which is not permitted in the district in which it is located is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than 50% of its current equalized value, it shall not be restored, except so as to comply with the use provisions of this chapter.
- B. A current file of all nonconforming uses shall be maintained by the Village Clerk listing the following:⁶
 - (1) Owner's name and address.
 - (2) Use of the structure or land.
 - (3) Assessed value at the time of its becoming a nonconforming use.

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- C. Pursuant to § 62.23(7)(hc), Wis. Stats., a nonconforming structure damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation after March 2, 2006, may be restored to the size, location, and use that it had immediately before the damage or destruction occurred, and no limits may be imposed on the costs of the repair, reconstruction, or improvement of said structure. The size of the restored structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.⁷

§ 395-68. Relocation of structure.

A structure may be moved in whole or in part to any other location on the same or any other lot only after approval therefor shall have been granted by the Board of Appeals and further provided as follows:

- A. That such structure is designated or intended for a use permitted in the district in which it is to be located.
- B. That such relocated structure and its use shall be made to conform to all of the regulations of the district in which it is to be located.
- C. That such relocated structure shall be in harmony with the general character of existing structures within the immediate neighborhood.

§ 395-69. Existing nonconforming structures.

- A. A lawful nonconforming structure existing at the time of the adoption or amendment of this chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading and access provisions of this chapter.
- B. Ordinary repairs and alterations, including structural alterations, may be made to a nonconforming structure, which is nonconforming as to bulk, provided such repairs and alterations conform to the regulations of the district in which it is located.
- C. A nonconforming structure, which is nonconforming as to bulk, shall not be added to or enlarged in any manner unless such additions and enlargements thereto are made to conform to all of the regulations of the district in which it is located.
- D. A structure, all or substantially all of which is designed, used or intended for a use which is permitted in the district in which it is located and which is destroyed or damaged by fire, other casualty or act of God may be restored.

§ 395-70. Changes and substitutions.

Once a nonconforming use or structure has been changed to conform to this chapter, it shall not revert back to a nonconforming use or structure. The Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing

⁷. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

nonconforming use. If it does so, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Appeals.

§ 395-71. Nonconforming lots, structures and uses in industrial districts.

In industrial districts, single-family detached dwellings and their accessory structures may be erected on any legal lot or parcel of record at the time of the adoption of this chapter. The burden of proof shall be on the applicant for a building permit for certificate of zoning compliance to show that such lot was of record in the county Register of Deeds' office prior to the adoption of this chapter. No further subdivision for residential purposes is permitted in any industrial district. Any building or structure erected after the adoption of this chapter under this section shall conform to the requirements of §§ 395-68 and 395-70, but shall not be subject to the repair and termination provisions of §§ 395-66 and 395-67 hereof.

**ARTICLE VIII
Administration and Enforcement**

§ 395-72. Building permits.

- A. Requirement. No structure, water or land shall hereafter be used, no land use shall be substantially changed and no structure shall be erected, moved or structurally altered without full compliance with the terms of this chapter and other applicable regulations and unless and until a building permit has been issued.
- B. The Village President shall enforce the provisions of this chapter.⁸
- C. Applications. All applications for building permits shall be made to the Village Clerk and shall be accompanied by plans in duplicate, drawn to scale, showing the name and address of the property owner; location; actual shape and dimensions of the lot to be built upon; high-water mark of any abutting watercourse; center line of abutting streets and highways; exact size and location on the lot of the proposed or existing buildings and accessory buildings, lines within which the building shall be erected, altered or moved; existing and intended use of each building or part of a building; number of families the building is intended to accommodate; and such other information with regard to the lot and neighboring lots or buildings as the Building Inspector shall deem necessary to determine and provide for the enforcement of this chapter. The fees for building permits shall be established by the Village Board.⁹

§ 395-73. Conditional use permits.

- A. Requirement. No use listed in §§ 395-13 through 395-20 as a conditional use shall be allowed unless and until a conditional use permit is issued in accordance with this section.

⁸. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

⁹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- B. Authority to issue. The Plan Commission may direct the Village Clerk, with Board approval, to issue a conditional use permit for a use listed as conditional after a review and a public hearing by it as specified in this section, provided that such additional uses or structures are in accordance with the purpose and intent of this chapter and are found not to be hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or community.¹⁰
- C. Applications. Applications for conditional use permits shall be made in duplicate to the Village Clerk on forms provided by his office. Such applications shall be forwarded to the Plan Commission upon receipt by the Village Clerk. Such applications shall include, where applicable, the following information:¹¹
- (1) The names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all of the opposite and abutting property owners of record.
 - (2) A description of the subject site by lot, block and recorded subdivision or by metes and bounds, address of the subject site, type of structure, proposed operation or use of the structure or site, number of employees and zoning district within which the subject site lies.
 - (3) A survey prepared by a registered land surveyor showing all of the information required for a building permit and showing existing and proposed landscaping.
 - (4) Such additional information as may be required by the Plan Commission or the Village Board.
 - (5) A fee receipt from the Village Treasurer in the amount established by the Village Board.
- D. Review and approval.
- (1) The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.
 - (2) The Plan Commission shall hold a public hearing on each proposed conditional use. Notice of the time and place of a hearing shall be published not less than 15 nor more than 30 days preceding the hearing at least once in one or more newspapers of general circulation in the Village. The Village Clerk shall notify in writing all abutting or opposite property owners as listed by the applicant in the original application of the time, date and subject matter of the hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

¹⁰. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

¹¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (3) Any proposed conditional use of property located within 500 feet of any existing or proposed right-of-way of a freeway, expressway, interstate or controlled access trafficway or within 1,500 feet of the existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the trafficway. The Plan Commission shall request such review and await the highway agency's recommendations for a period not to exceed 60 days before taking final action. The Plan Commission shall issue its decision in the form of written findings of fact and conclusion to support its decision on an application for a conditional use permit.

E. Standards.

- (1) General. No conditional use shall be granted by the Plan Commission unless the Commission shall find that:
 - (a) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (b) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor substantially diminish and impair property values within the neighborhood.
 - (c) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (d) Adequate utilities, access roads, drainage and necessary facilities have been or are being provided.
 - (e) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (f) The conditional use shall in all other respects conform to the applicable regulations of the district in which it is located.
- (2) Standards relating to certain conditional uses. A conditional use permit authorizing a use which must meet specific requirements specified in Article IV of this chapter shall not be issued unless all such requirements as may be applicable have been met.
- (3) Standards for planned unit residential developments. A conditional use permit authorizing a planned unit residential development shall not be issued unless the procedure specified in Subsection J below has been followed and the requirements in that subsection satisfied.
- (4) Standards for extractions from or deposits on the earth of rock, stone, etc. A conditional use permit authorizing the excavation from or deposit on the earth

of such materials shall not be issued unless the requirements of Subsection K of this section are satisfied.

- F. **Conditions.** Conditions relating to matters such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be imposed by the Plan Commission as a condition on its granting of a conditional use permit if it finds that these are necessary to fulfill the purpose and intent of this chapter.
- G. **Resubmission.** No application for a conditional use that has been denied in whole or in part may be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence or proof of change in conditions found to be valid by the Plan Commission.¹²
- H. **Failure to establish use.** In any case where a conditional use has not been established within one year after the date of granting of the permit, then, without further action by the Plan Commission, the conditional use or authorization shall be null and void.
- I. **Termination.** If an authorized conditional use does not continue in conformity with the conditions of the original approval, the conditional grant may be terminated by action of the Plan Commission.
- J. **Conditional use permits for planned unit residential developments.**
 - (1) **General.** Planned unit residential developments consisting exclusively of single-family dwelling units are permitted in R-1, R-2 and R-3 Residential Districts as conditional uses. Planned unit residential developments which include any multifamily dwelling units are permitted in the R-2 and R-3 Residential Districts as conditional uses. An applicant for a conditional use permit may be allowed to modify the lot size, setback and yard requirements within the district in which the project is located. All other requirements shall be complied with as well as any fire, building or electrical codes and applicable subdivision regulations.
 - (2) **Application.** The original application for a conditional use permit shall include a preliminary plan. In addition to meeting the requirements of Subsection C above, this preliminary plan shall show the overall plan for development, including grading, landscaping, exterior design and location of buildings, lots, common structures, facilities, utilities, access roads, streets, sidewalks and parking and open spaces. A fee receipt from the Village Treasurer in the amount established by the Village Board shall be submitted with the application. In addition, the following data shall be summarized and attached:¹³

¹². **Editor's Note:** Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

¹³. **Editor's Note:** Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (a) Total land area.
 - (b) Total number of living units.
 - (c) Total floor area on all floors of proposed buildings.
 - (d) Total building area at ground level, including garages, carports and other community facilities.
 - (e) Total uncovered open space, including paved areas in streets, walks and driveways.
 - (f) Total recreation space.
 - (g) Total occupant car spaces defined as off-street parking spaces without time limit.
- (3) Action by the Plan Commission. The Plan Commission shall approve or tentatively approve with suggestions for revisions or deny the original application within 90 days. Any such action shall be in writing and shall set forth the Plan Commission's findings and conclusions and shall set forth its reasoning. If the original application is denied, the applicant must resubmit an original application to receive consideration. If the Plan Commission approves or tentatively approves with suggestions for revision, the applicant shall submit a final plan for final approval within six months after the date of the action of the Plan Commission. If the applicant does not do so, he must resubmit an original application in order to be eligible for further consideration. A public hearing shall be held on final application within 90 days of the receipt of the final plan.
- (4) Standards. In granting an application, the Plan Commission shall make the following determinations based on the final plan:
- (a) That the tract to be developed is at least 10 acres in the case of a single-family planned unit residential development and at least five acres in the case of a multifamily planned residential development.
 - (b) That the tract to be developed is in single or corporate ownership.
 - (c) That the heights of the proposed structures conform to the maximum set forth in the district regulations for the district in which the project is to be developed.
 - (d) That a certificate attested by the Building Inspector showing the availability of adequate public sewer and water is present.
 - (e) That landscaping and grading will be done to assure adequate drainage.
 - (f) That the streets to be provided will assure a traffic circulation pattern which minimizes through traffic, allows for adequate turning and parking and provides ample space for the turning and effective use of

snowplows, garbage and fire trucks, the loading and unloading of furniture and other pickups and deliveries without blocking traffic.

- (g) That there will be a minimum number of conflicts between pedestrian and vehicular traffic.
 - (h) That the design of open spaces and housing will provide both easy access and privacy.
 - (i) That no structure which contains residential units will be more than 200 feet from a street, parking area or other right-of-way on which a fire truck may be operated.
 - (j) That adequate lighting will be provided.
 - (k) That the final plans include the planting of adequate trees and shrubs where not already present.
 - (l) That the design of the development is in harmony with existing surroundings and will not be detrimental to the character of the neighborhood.
 - (m) That the applicant has bonded himself and his contractor to provide the improvements shown on the plans.
 - (n) That in a single-family planned unit residential development, adequate deed restrictions are present running in favor of the Village or an automatic homeowners' association and the individual owners, for the proper maintenance, care and preservation of the exterior design, common structures, facilities, public utilities, access and open spaces by the original and all subsequent owners of property within the development.
 - (o) That in a multifamily planned unit residential development, the owner or ownership has deeded all recreation space to the Village, with its consent, for the Village to maintain or has executed and recorded a covenant providing an obligation for maintenance which will be binding on all future owners.
- (5) Technical assistance. In reviewing original and final plans and applications, the Plan Commission may seek technical assistance from such sources as it deems necessary.
- (6) Modifications to plan. Any modifications to the original plan shall be made only by written agreement between the developer and the Plan Commission.
- K. Standards for the extraction from or deposit on the earth of rock, stone, gravel, sand, earth, minerals or building or construction materials.
- (1) Prohibited and permitted activities. No such activity shall be allowed in any zoning district, unless and until a conditional use permit shall first have been

secured; provided, however, that the following defined extractions and deposits shall be permitted in any district without a conditional use permit:

- (a) Excavations for the foundation or basement of any building or swimming pool for which a building permit has been issued or deposits on the earth of any building or construction materials to be used in a structure for which a building permit has been issued.
 - (b) The grading of any parcel of land for a permitted use where no bank is left standing and exposed of more than 10 feet in vertical height or when less than 1,000 cubic yards of earth is removed from the premises.
 - (c) Grading in a subdivision which has been approved by the Village in accordance with the Village subdivision regulations and any amendments thereto.
 - (d) Excavations by any public agency or public and private utility for the installation, operation, inspection, repair or replacement of any of its facilities.
 - (e) Any quarry existing and operating as such on the effective date of this chapter shall obtain a conditional use permit and conform with the provisions of this chapter within one year of the adoption of this chapter.
- (2) Conditional use permits.
- (a) The Plan Commission shall have the power to grant conditional use permits, revocable and valid for specified periods of time, to permit extractions from or deposits on the earth of rock, stone, gravel, sand, earth, minerals or building or construction materials.
 - (b) The Building Inspector shall make such inspections as he deems necessary or as are required by the Plan Commission to ensure that all work is in accordance with the permit. All inspection services shall be paid for by the applicant at the actual cost to the Village.
 - (c) The conditions under which a conditional use permit for excavation from or depositing on the earth of such materials may be issued, may include, but are not limited to, any requirements deemed necessary to protect the public health, safety, comfort, convenience or general welfare, including insurance against liability arising from production or activities or operations incident thereto, completion of the work and cleaning up and planting in accordance with approved plans, designation of area in which work may be done, designation of the slope to which excavation may be made or the grade of filling, provisions for controlling dust, hours during which operations may proceed, precautions which must be taken to guide safe traffic movements in and around and by such operation, enclosure by fences of exterior boundaries of property to be used, posting of a good and sufficient bond

to assure compliance with the permit and any other conditions deemed necessary by the Plan Commission.

§ 395-74. Certificates of zoning compliance. ¹⁴

Upon written request from a property owner, the Village Clerk, with Village Board approval, shall issue a certificate of zoning compliance for any structure or use in which he shall certify, after inspection, whether or not the structure or use complies with the provisions of this chapter.

§ 395-75. Certificate of occupancy.

No vacant land shall be occupied or used and no buildings hereafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued by the Building Inspector. The certificate shall show that the building or premises or part thereof and the use thereof are in conformity with the provisions of this chapter. A certificate shall be issued only when the building or premises and the use thereof conform to all of the requirements of this chapter.

§ 395-76. Board of Appeals; appeals and variances.

A. Board of Appeals.

- (1) Creation. A Board of Appeals is hereby established with the powers, duties and qualifications as set forth in this section and in § 62.23(7)(e), Wis. Stats. The Board of Appeals shall consist of five members appointed by the Village President, subject to confirmation by the Village Board, for terms of three years, except that of those first appointed, one shall serve for one year, two shall serve for two years and two for three years. The Village President shall designate one of the members chairman. Vacancies shall be filled for the unexpired term of members whose terms become vacant. The Village President shall appoint two alternate members for staggered terms of three years. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the Board so refuses or is absent. The first alternate shall act with full power only when a member of the Board of Appeals refuses to vote because of interest or is absent. Each year the Village President shall designate one of the alternate members as first alternate and the other as second alternate. The members shall serve without compensation and shall be removable by the Village President for cause upon written charges and after public hearing. The Board may employ a secretary and other employees.¹⁵
- (2) Procedure. The Board of Appeals shall adopt rules for its government and procedure not inconsistent with law and with the provisions of this chapter or of any other ordinance of the Village. Meetings of the Board of Appeals shall

¹⁴. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

¹⁵. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

be held at the call of the chairman and at such other times as the Board may determine. The chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question; if absent or failing to vote, indicating such fact; and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record. The presence of four members shall constitute a quorum. The Board shall act by resolution.

- (3) Powers. The Board of Appeals shall have the following powers:
- (a) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Building Inspector or the Plan Commission.
 - (b) To hear and decide special exceptions to the terms of this chapter upon which the Board of Appeals is required to pass.
 - (c) To authorize, upon appeal in specific cases, variances from the terms of this chapter which will not be contrary to the public interest, where due to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done; provided, however, that no such action shall have the effect of establishing in any district a use or uses not permitted in such district.
 - (d) To permit, in appropriate cases and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
 - (e) The Board of Appeals may reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Building Inspector and the Plan Commission. The concurring vote of four members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirement of this chapter. The grounds of every such determination shall be stated and recorded. No order of the Board of Appeals granting a variance shall be valid for a period longer than six months from the date of such order, unless the building permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.

B. Appeals and variances.

(1) Appeals.

- (a) Procedure. An appeal to the Board of Appeals may be taken by any person aggrieved, any governmental officer, department or board affected by any ruling or any administrative officer administering any portion of this chapter. An appeal from a ruling of the Village Clerk or the Plan Commission shall be taken within a reasonable time as prescribed by the rules of the Board of Appeals by filing with the Village Clerk or the Plan Commission, as the case may be, and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Village Clerk or the Plan Commission shall immediately transmit to the Board such notice of appeal, together with all the plans and papers constituting the record upon which the action appealed from was taken.¹⁶
- (b) Hearing. The Board of Appeals shall fix a reasonable time for the hearing of an appeal. The Board shall give public notice of the time and place of such hearing by publishing a notice at least once in a newspaper of general circulation and also by mailing notice thereof to the owners of all property adjacent to the property affected by any appeal, such publication and mailing to be made at least 10 days prior to the date of the hearing. The Board shall also mail notices to the appellant and to the Building Inspector or the Plan Commission, as the case may be. The owners of adjacent property as referred to herein shall be deemed to be the owners as shown by the assessment records. Any party may appear at the hearing in person or by agent or attorney. The Board shall decide the appeal within a reasonable time.
- (c) Stay of proceeding. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector or the Plan Commission, as the case may be, certifies to the Board of Appeals, after notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would in his or its opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which shall be granted by the Board of Appeals or by the circuit court, on application, on notice to the Building Inspector or the Plan Commission, as the case may be, on due cause shown.

(2) Variances.

- (a) Applications and hearings. An application for a variance shall be filed in writing with the Village Clerk. The application shall contain such information as the Board of Appeals may by rule require. The Board of Appeals shall fix a reasonable time for the hearing of the application. The Board shall give public notice of the time and place of such public hearing by publishing a notice at least once in a newspaper of general

¹⁶. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

circulation in the Village and also by mailing notice thereof to the parties in interest, such publication and mailing to be made at least 10 days prior to the date of the hearing. Any party may appear at the hearing in person or by agent or attorney. After the public hearing, the Board of Appeals may determine and vary the regulations of this chapter in harmony with their general purposes and intent, but only in the specific instances as set forth in Subsection B(2)(d) below and only where it makes specific findings of fact in accordance with the standards prescribed in Subsection B(2)(b) below and finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this chapter. The Board shall decide the application within a reasonable time.¹⁷

- (b) Standards for variance. The Board of Appeals shall not vary the regulations of this chapter, unless it shall make findings based upon the evidence presented to it in each specific case that:
 - [1] Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
 - [2] The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.
 - [3] The variance is not sought exclusively from a desire to make more money out of the property.
 - [4] The alleged difficulty or hardship is caused by this chapter and has not been created by any person presently having an interest in the property.
 - [5] The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - [6] The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood.
- (c) Conditions and restrictions. The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as

¹⁷. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

may be necessary to comply with the standards established in this subsection.

(d) Authorized variances. Variances from the regulations of this chapter may be granted by the Board of Appeals only in the following instances and in no others:

- [1] To permit any yard or setback less than the yard or the setback required by an applicable regulation.
- [2] To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall such a variance be granted if the respective area and width of the lot or lots is less than 80% of the required area or width.
- [3] To permit the same off-street parking facility to qualify as part of the required facilities for two or more users, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.
- [4] To reduce the applicable requirement for off-street parking or loading facilities by not more than one parking space or one loading space, or 20% of the number specified in the application regulation, whichever number is greater.
- [5] To increase by not more than 25% the maximum distance that required parking spaces are permitted to be located from the use served.
- [6] To increase by not more than 10% the maximum gross floor area of any use so limited by the applicable regulations.

C. Fees. Any appeal or application for variance shall be accompanied by a fee in an amount to be determined by resolution by the Village Board.

§ 395-77. Amendments.

- A. Procedure. The Village Board may, from time to time and on its own motion or on petition to it, amend, supplement or change this chapter or the district boundaries as shown in the Zoning Map. In doing so, the Village Board shall follow the procedure prescribed by § 62.23(7)(d)2. and 3., Wis. Stats.
- B. Fees. Any petition for amendment shall be accompanied by a fee to be determined by resolution of the Village Board which will be used to defray the cost of advertising, investigation and processing.

§ 395-78. Violations and penalties.

- A. General. Any person found in violation of any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in § 1-4 of this Code.
- B. Injunction. In the event any building or structure is or is proposed to be erected, constructed, reconstructed, repaired, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any provision of this chapter, the Village Clerk, with Village Board approval, or any adjacent or neighboring property owner who would be specially damaged by such violation may, in addition to other remedies provided by law, institute appropriate action or proceedings to:¹⁸
 - (1) Prevent such unlawful erection, construction, reconstruction, repair, alteration, conversion, maintenance or use.
 - (2) Restrain, correct or abate such violation to prevent the occupancy of such building, structure or land.
- (3) Prevent any illegal act, conduct, business or use in or about such premises.

¹⁸. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).