

AN ORDINANCE AMENDING THE ZONING CODE AND CREATING A SECTION FOR SPECIAL USE PERMITS

The Village Board of the Village of Eden does hereby ordain as follows:

I. The following Special Use Permit language is hereby adopted as Chapter 12 of the Village Zoning Code:

12. SPECIAL USE PERMITS

A. Statement of Purpose – Special

The development and execution of this Section is based upon the division of the Village into zoning districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use in a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as special uses.

B. Authority of the Plan Commission and Village Board; Requirements

1. The Village Board may, by resolution, authorize the Zoning Administrator to issue a special use permit for either regular or limited conditional use after review, public hearing and advisory recommendation from the Plan Commission, provided that such special use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of a limited special use permit, the Village Board in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing limited rather than regular conditional use. Such Board resolution, and the resulting special use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee and the location and legal description of the affected premises. Prior to the granting of a special use permit, the Plan Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

2. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.
3. Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

C. Initiation of Special Use

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a special use permit is sought may file an application to use such land for one (1) or more of the special uses provided for in this Section in the zoning district in which such land is located.

D. Application for Special Use Permit

An application for a special use shall be filed on a form prescribed by the Village. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed special use shall conform to the standards set forth hereinafter. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations. A non-refundable fee shall be paid at the time of application.

E. Hearing on Application

All requests for special use permits shall be to the Plan Commission or the Plan Commission can, on its own motion, apply special uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Village Board, on its own motion, from referring the request

for a special use permit to the Plan Commission. Upon receipt of the application and statement referred to above, the Plan Commission shall hold a public hearing on each application for a special use permit at such time and place as shall be established by such Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

F. Notice of Hearing on Application

1. HEARING. Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wisconsin Statutes in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Building Inspector, members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing.
2. REPORT OF PLAN COMMISSION. The Plan Commission shall report its advisory recommendations to the Village Board within thirty (30) days after a matter has been referred to it. If such action has not been reported by the Plan Commission within thirty (30) days, the Village Board can act without such recommendation.

G. Standards for Special Use Permits

No application for a special use permit shall be recommended for approval by the Plan Commission or granted by the Village Board unless such Commission and Board shall find all of the following conditions are present:

1. That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the special use and the proposed use will be compatible with existing adjoining development or can be made so by use of buffers and/or landscaping and said proposed use is compatible with the implied character of the zoning district where it is to be located.

3. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. That the special use shall, except for yard requirements, conform to all applicable regulations of the zoning district in which it is located.
7. That effective landscaping and visual screening is provided as may be required herein.
8. That the proposed use does not violate flood plain regulations governing the site.
9. That, when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission and Board shall bear in mind the statement of purpose for the zoning district in which it is located such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
10. That, in addition to passing upon a special use permit, the Plan Commission and Board shall evaluate the effect of the proposed use upon:
 - a. The maintenance of safe and healthful conditions.
 - b. The prevention and control of water pollution, including sedimentation.
 - c. Existing topographic and drainage features and vegetative cover on the site.
 - d. The location of the site with respect to floodplains and floodways of rivers and streams.
 - e. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - f. The location of the site with respect to existing or future access roads.
 - g. The need of the proposed use for a shoreland location.

- h. Its compatibility with uses on adjacent land.
- i. The amount of liquid waste to be generated and the adequacy of the proposed disposal systems.
- j. Any other unusual circumstances not addressed above.

H. Denial of Application for Special Use Permit

When an advisory recommendation of denial of a special use application is made, the Plan Commission shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met. The Plan Commission can also recommend any special conditions that should be attached before any reapplication would be considered.

I. Conditions and Guarantees

The following conditions shall apply to all special use permits:

1. **CONDITIONS.** Prior to the granting of any special use, the Plan Commission may review and recommend to the Village Board that it stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified above. In all cases in which special uses are granted, the Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:
 - a. Landscaping
 - b. Type of Construction
 - c. Construction Commencement and Completion Dates
 - d. Sureties
 - e. Lighting
 - f. Fencing
 - g. Operational Control
 - h. Hours of Operation
 - i. Traffic Circulation
 - j. Deed Restrictions
 - k. Access Restrictions

- l. Setbacks and Yards
 - m. Type of Shore Cover
 - n. Specified Sewage Disposal and Water Supply Systems
 - o. Planting Screens
 - p. Piers and Docks
 - q. Increased Parking
 - r. Safe Use and Storage of Hazardous Materials
 - s. Any Other Requirements necessary to fulfill the Purpose and Intent of this Chapter
2. SITE REVIEW. In making its recommendation, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The 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/use.
3. ALTERATION OF SPECIAL USE. No alteration of a special use permit shall be permitted unless approved by the Village Board after recommendation from the Plan Commission.
4. ARCHITECTURAL TREATMENT. Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Village Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
5. SLOPES SITES; UNSUITABLE SOILS. Where slopes exceed six (6%) percent and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
6. SPECIAL USES TO COMPLY WITH OTHER REQUIREMENTS. Special uses shall comply with all other provisions of this Chapter such as lot width and area, yards, height, parking and loading.

J. Validity of Special Use Permit.

Where the Village Board has approved or conditionally approved an application for a special use permit, such approval shall become null and void within twelve (12) months of the date of the Board's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Building Inspector shall notify the holder by certified mail of such revocation. The Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Village Board at least thirty (30) days before the expiration of said permit.

K. Complaints Regarding Special Use Permits

The Village Board shall retain continuing jurisdiction over all special uses for the purpose of resolving complaints against all previously approved special uses. Such authority shall be in addition to the enforcement authority of the Building Inspector to order the removal or discontinuance of any unauthorized alterations of an approved special use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official and after seeking an advisory recommendation from the Plan Commission, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject special use is in violation of either a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Subsection (F) above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Village Board may, in order to bring the subject special use into compliance with the conditions previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject special use. In the event that no reasonable modification of such conditional use can be made in order to assure that applicable conditions or requirements will be met, the Village Board may revoke the subject special use permit and direct the Building Inspector and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the special use in writing stating the reasons therefor.

II. In order to accommodate Special Use Permits as Chapter 12, the following chapters of the Village of Eden Zoning Code are hereby renumbered as follows:

- Board of Appeals to be Chapter 13.
- Changes and Amendments to be Chapter 14.
- Enforcement to be Chapter 15.
- Violations and Penalties to be Chapter 16.
- Annexation to be Chapter 17.
- Validity to be Chapter 18.
- Conflicting Provisions Repealed to be Chapter 19.
- Severability of Invalid Portions to be Chapter 20.

III. Zoning Code Chapter 10 (F) Permitted Uses for Industrial District shall be amended to read as follows:

F. Permitted Uses for Industrial District

1. Car washes
2. Bottling works
3. Building material sales establishments – dimension lumber, millwork, cabinets, and other building materials, not including planning, jointing, and manufacture of millwork
4. Contractors' offices
5. Fuel and ice retail sales establishments
6. Greenhouses, wholesale/retail
7. Laundries
8. Mail-order houses
9. Distribution stations for consumables
10. Mini warehousing/storage

11. Meeting halls and offices of labor organizations
12. Monument establishments must be in enclosed building, open-sales lots.
13. Publishing and printing establishments
14. Temporary buildings and fences for construction purposes – for a period not to exceed such construction and when located on the same lot where such construction is being undertaken or a contiguous lot thereto.
15. Trade schools
16. Heliports
17. Parks, playgrounds and other out-of-door recreation facilities, private, semi-public or public, including par 3 or standard golf courses and other outdoors recreation facilities.
18. Public utility and governmental service uses.
19. Accessory uses to the above permitted uses including, but not limited to, the following:
 - a. Off-street parking and off-street loading
 - b. Signs in accordance with the Village of Eden zoning and building codes as follows:
 - 1) Identification signs in accordance with the use of the lot.
 - 2) Special signs and devices.
20. Any establishment, the principal use of which is manufacturing, fabricating, processing, assembly, repairing, storing, cleaning, servicing, or testing of materials, goods, or products is allowed only by special use permit under Chapter 12 herein.
21. Uses that generate toxic or hazardous materials are allowed only by special use permit under Chapter 12 herein.

IV. Zoning Code Chapter 10 (G) is amended to read as follows:

- G. No building or occupancy permit shall be issued for any of the following uses unless approved by special use permit under Chapter 12 herein:

1. Acid manufacturer
2. Cement, lime, gypsum or plaster of paris manufacturer
3. Distillation of the bones
4. Explosives – manufacturer or storage
5. Fat rendering
6. Fertilizer manufacturer
7. Reduction or dumping of garbage, or dead animals
8. Glue manufacturing
9. Smelting or refining
10. Storage of old iron, bottles, rags, junk and automobile wrecking yard
11. Any other trade, industry or use, without limits because of prior enumeration, that is noxious or offensive to the physical senses of ordinary persons by reason of the emission of odor, smoke, dust, gas, noise or the propensity for attraction of rodents.

ADOPTED THIS 21st DAY OF July 2015, on a motion made by John Stommel and seconded by Elizabeth Augustyn.

VILLAGE OF EDEN

Dennis Immel
Village President

ATTEST

Sheila M Zook
Village Clerk