

Sec. 10-1-60 Statement of Purpose Conditional Uses.

The development and execution of this Article is based upon the division of the Village of Friendship into 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 of 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 conditional uses.

Sec. 10-1-61 Authority of the Village Board; Requirements.

- (a) The Village Board hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearing, and approval from the Village Board, provided that such conditional 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. The Village Board in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing a permit for a conditional use. Such Board action, and the resulting conditional use permit, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Village Board shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) 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 their finding that these are necessary to fulfill the purpose and intent of this Chapter.
- (c) 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.

Sec. 10-1-62 Initiation of Conditional 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

conditional use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Article in the zoning district in which such land is located.

Sec. 10-1-63 Application for Conditional Use.

An application for a conditional 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 conditional use shall conform to the standards set forth in Section 10-1-66 hereinafter.. The Village Board 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; highwater 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.

Sec. 10-1-64 Hearing on Application.

All requests for conditional uses shall be to the Village Board or the Village Board can, on its own motion, apply conditional uses when applications for rezoning come before it. Upon receipt of the application and statement referred to in Section 10-1-63 above, the Village Board shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Board. 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 Village Board shall, by rule, prescribe from time to time.

Sec. 10-1-65 Notice of Hearing on Application.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wisconsin Statutes. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board, 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. The Village Board shall, within forty-five (45) days after a matter has been referred to it, take formal action.

Sec. 10-1-66 Standards Conditional Uses.

- (a) **Standards.** No application for a conditional use shall be granted by the Village Board, unless the Board shall find all of the following conditions are present:
- (1) That 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.

- (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 conditional use and the proposed use is compatible with the use of adjacent land.
 - (3) That 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.
 - (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 conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
 - (7) That the proposed use does not violate flood plain regulations governing the site.
 - (8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
 - (9) That when applying the above standards to any new construction of a building or an addition to an existing building, the Village Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- (b) **Additional Considerations.** In addition, in passing upon a Conditional Use Permit, the Village Board shall also evaluate the effect of the proposed use upon:
- (1) The maintenance of safe and healthful conditions.
 - (2) The prevention and control of water pollution including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (6) The location of the site with respect to existing or future access roads.
 - (7) Its compatibility with uses on adjacent land.
 - (8) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

Sec. 10-1-67 Denial of Application for Conditional Use Permit.

When a conditional use application is denied by the Village Board, the Village Board shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Village Board has used in determining that each standard was not met.

Sec. 10-1-68 Conditions and Guarantees,

The following conditions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction,

maintenance and operation of the conditional 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 in Section 10-1-66 above. In all cases in which conditional uses are granted, the Village 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!

- (1) Landscaping;
 - (2) Type of construction;
 - (3) Construction commencement and completion dates;
 - (4) Sureties;
 - (5) Lighting;
 - (6) Fencing;
 - (7) Operational control;
 - (8) Hours of operation;
 - (9) Traffic circulation;
 - (10) Deed restrictions;
 - (11) Access restrictions;
 - (12) Setbacks and yards;
 - (13) Specified sewage disposal and water supply systems;
 - (14) Planting screens;
 - (15) Increased parking; or
 - (16) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) **Site Review.** In making its decision, the Village Board shall evaluate each application and may request assistance from any source which can provide technical assistance. The Village Board may 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.
- (c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Village Board.
- (d) **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.
- (e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that 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.
- (f) **Conditional Uses to Comply With Other Requirements.** Conditional uses shall comply with all other provisions of this Chapter except as noted herein.

Sec. 10-1-69 Validity of Conditional Use Permit.

Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within twenty-four (24) months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building contract for under which construction is commenced within six (6) months of the date of issuance and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Village 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.

Sec. 10-1-70 Complaints Regarding Conditional Uses.

- (a) **Continuing Jurisdiction.** The Village Board shall retain continuing jurisdiction over all conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition of approval or any other provision of this Code.
- (b) **Written Complaints.** Any citizen or Village official may file a written complaint alleging that the subject conditional use has violated or is in violation of a condition of approval, the performance standards in Section 10-1-66, or other requirements of this Chapter. Such complaints shall be forwarded to the Village Board.
- (1) The Village Board shall preliminarily review the complaint.
 - (2) In connection with its preliminary review of the complaint, the Village Board may require the Building Inspector, Zoning Administrator or other Village official to conduct such investigation and make such report as they may direct. The Plan Commission may request information from the holder of the Conditional Use permit, the complainant, and any other person or entity to assist with its primary review.
 - (3) Following its preliminary review, the Plan Commission may:
 - a. Dismiss the complaint; or
 - b. Refer the complaint to the Zoning Administrator for prosecution; or
 - c. Conduct a hearing to determine whether the alleged violations have occurred, and what remedial action should be taken. Prior to such hearing, notice of the hearing shall be given to the holder of the conditional use permit, the complainant, and as provided in Section 10-1-65. The holder of the Conditional Use permit and the complainant, and any other person, may appear at the hearing and may offer testimony and other relevant evidence, and may be represented by an attorney. If the Village Board concludes that violations have occurred, the Village Board may:
 1. Modify the conditions imposed upon each conditional use and impose additional conditions to the extent reasonably necessary to bring the subject conditional use into compliance with the

- standards set forth in Section 10-1-66 or conditional previously imposed; or
2. Revoke the subject conditional use permit and direct the Zoning Administrator to seek elimination of the subject use, if no reasonable modification of such conditional use can be made to assure compliance with the standards in Section 10-1-66; or,
 3. Refer the matter to the Zoning Administrator for prosecution; or,
 4. Take no action, if the Village Board concludes that no further action is needed to bring the subject conditional use into compliance with the standards set forth in Section 10-1-66 or conditions previously imposed, and that prosecution is unwarranted.

Following any such hearing, the Village Board's written decision shall be furnished to the current owner of the property subject to the conditional use and to the complainant. An appeal from a decision under this paragraph may be taken to the Village Board as provided by Section 10-1-71.

Sec. 10-1-71 Appeal from Action by the Village Board.

- (a) An appeal from the decision of the Plan Commission may be taken to the Village Board by the applicant of the conditional use or by twenty percent (20%) or more of the property owners notified objecting to the establishment of such conditional use. Such appeal must specify the grounds thereof in respect to the establishment of such conditional use. Such appeal must specify the grounds thereof in respect to the findings of the Plan Commission and must be filed with the Village Clerk within ten (10) days of the final action of the Plan Commission. Final action may be either initial action of a conditional use or action following reconsideration of the said initial action under the Plan Commission's rules of procedure. However, reconsideration shall only occur following written notification of intent to reconsider by a Plan Commission member to the Village Clerk no later than two (2) days after said initial action. Thereupon, the notice requirements of Section 10-1-65 shall be complied with before the Plan Commission reconsiders such initial action. The taking of an appeal prior to the third day after said initial action shall not preclude or invalidate reconsideration by the Plan Commission as herein provided. The Village Clerk-Treasurer shall file such appeal with the Village Board. The Village Board shall fix a reasonable time for the hearing of the appeal, and give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. The action of the Plan Commission shall be deemed just and equitable unless the Village Board, by a favorable vote of a majority of the members of the Village Board, by a favorable vote of a majority of the members of the Village Board present, reverses or modifies the action of the Plan Commission. An appeal from a decision of the Village Board shall be commenced by the remedy of certiorari in Circuit Court within 30 days of the date of the decision.

Sec. 10-1-72 Failure to Comply

Notwithstanding any other provision of this Article, and in addition to any other remedies allowed by law or elsewhere in this Chapter, any person, firm, or corporation who fails to comply with any provision of this Article, or fails to comply with any decision, determination, condition, order, or permit issued hereunder, shall be subject to the violation, remedial action and penalty provision of Section 10-1-175.

Sec. 10-1-73 Bed and Breakfast Establishments.

- (a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in the R-1, R-2 and R-3 Residence Districts pursuant to this Article.
- (b) **Definition.** "Bed and Breakfast Establishment" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.
- (c) **State Standards.** Bed and breakfast establishments shall comply with the standards of Ch. HSS 197, Wis. Adm. Code.

Sec. 10-1-74 Home Occupations.

- (a) **Intent.** The intent of this Section is to provide a means to accommodate a small family home-based business or professional home office as a conditional use without the necessity of a rezone into a commercial district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- (b) **Restrictions on Home Occupations.** Except as provided in the permitted use exception in Subsection (c) below, occupations are a conditional use in all Residential Districts and are subject to the requirements of the District in which the use is located, in addition to the following:
 - (1) The home occupation shall be conducted only within the enclosed area of the dwelling unit or an attached garage.
 - (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.
 - (3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
 - (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
 - (5) Only one (1) sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated and shall comply with district sign regulations.

- (6) The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises.
 - (7) The Village Board may determine the percentage of the property that may be devoted to the occupation, but shall not exceed thirty percent (30%).
 - (8) The home occupation is restricted to a service-oriented business; the manufacturing of items or products or the sale of items or products on the premises is prohibited. The home occupation may be restricted to a service-oriented business prohibiting the manufacturing of items or products or the sale of items or products on the premises. A home occupation includes, but is not limited to, uses such as baby sitting, dressmaking, crafts, dance schools, professional offices or photographic studios, but does not include the display of any goods.
 - (9) The types and number of equipment or machinery may be restricted by the Village Board.
 - (10) Sale or transfer of the property shall cause the Conditional Use Permit to be null and void.
 - (11) Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.
 - (12) No more than one (1) non-resident employee may be employed at the home occupation.
- (c) **Permitted Use Exception.** A home occupation under this Section may be maintained in any Residential District as a permitted use, as opposed to a conditional use, if the standards of Subsection (b) above are complied with, and no sign is erected or maintained regarding the home occupation, no more than one (1) non-resident person works on the premises, no customers regularly come to the house, and the business is service-oriented and not engaged in retail trade.

See. 10-1-75 Planned Unit Development Conditional Use.

- (a) **Intent.**
 - (1) The planned unit development conditional use is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and supporting facilities. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The planned unit development under this Chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining the land use density and other standards or use requirements as set forth in the underlying basic zoning district.
 - (2) The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703, Wis. Stats., (condominiums) may be permitted by the Village upon specific petition under Subsection (g) and after public hearing, with such development encompassing one (1) or more principal

uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section of the Chapter have been met.

- b) **Types of Planned Unit Developments.** This Article contemplates that there may be Residential, Commercial or Industrial Planned Unit Developments.
- (c) **General Requirements for Planned Unit Developments.** A planned unit development shall be consistent in all respects to the expressed intent of this Article and to the spirit and intent of this Chapter; shall be in conformity with the adopted master plan (comprehensive land use and thoroughfare plan), neighborhood plan or any adopted component thereof; and shall not be contrary to the general welfare and economic prosperity of the community.
- (d) **Physical Requirements for Planned Unit Developments.**
 - (1) *Minimum Area Requirements.* Areas designated as planned unit developments shall contain a minimum development area as follows:

<i>Principal Uses</i>	<i>Minimum Area of PUD</i>
Residential PUD	3 acres
Commercial PUD	5 acres
Industrial PUD	10 acres

- (2) *Density Requirements (Lot Area, Width and Yard Requirements).* The district area, width and yard requirements of the basic use district may be modified; however, in no case shall the average density in a residential district exceed the number of dwelling units that would have been permitted if the planned unit development regulations had not been utilized.
 - (3) *Building Height and Area Requirements.*
 - a. Buildings in a planned unit development shall not exceed the height permitted in the basic use district.
 - b. Buildings in a planned unit development shall have a minimum area that is equal to or greater than that required in the basic use district.
 - (4) *Single Parcel, Lot or Tract.* The planned unit development shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the County Register of Deeds.
- (e) **Requirements as to Public Services and Facilities.**
- (1) The development site shall be provided with adequate drainage facilities for surface and storm waters.
 - (2) The site will be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the development.
 - (3) No undue constraint or burden shall be imposed on public Services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm drainage, and maintenance of public areas by the developments.
 - (4) The streets and driveways on the site of the development shall be adequate to serve the residents of the development and, in the case of public dedicated streets, will meet the minimum standards of all applicable ordinances or administrative regulations of the Village.
 - (5) Public water and sewer facilities shall be provided.

(f) **Subsequent Land Division.** The division of any land or lands within a planned unit development for the purpose of change or conveyance of ownership may be accomplished pursuant to the land division/subdivision regulations of the Village when such division is contemplated.

(g) **Procedural Requirements for Planned Unit Developments.**

(1) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a planned unit development, the owner or his agent making such petition shall meet with the Village Board or its staff to discuss the scope and proposed nature of the contemplated development.

(2) **Petition for Approval.** Following the pre-petition conference, the owner or his agent may file a petition with the Village Clerk-Treasurer for approval of a planned unit development. Such petition shall be accompanied by a review fee as determined by the Village Clerk as well as incorporate the following information:

a. **Informational Statement.** A statement which sets forth the relationship of the proposed PUD to the Village's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:

1. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
2. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
3. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
4. Any proposed departures from the standards of development as set forth in the Village zoning regulations, land subdivision ordinance, other Village regulations or administrative rules, or other universal guidelines.
5. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.

b. **A General Development Plan Including:**

1. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
2. The location of public and private roads, driveways, sidewalks and parking facilities.
3. The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
4. The location of institutional, recreational and open space areas and

areas reserved or dedicated for public uses, including schools, parks and drainage-ways.

5. The type, size and location of all structures.
 6. General landscape treatment.
 7. The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
 8. The existing and proposed location of all private utilities or other easements.
 9. Existing topography on the site with contours at no greater than two (2) foot intervals.
 10. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
 11. If the development is to be staged, a staging plan.
 12. A plan showing how the entire development can be further subdivided in the future.
- (3) **Public Hearing.** The Village Board shall hold public hearing on the petition in the manner provided in Sections 10-1-61 through 10-1-69 for Conditional Uses.
- (4) **Precise Implementation Plan (PIP).** A precise implementation plan shall be submitted to the Village following the public hearing. The PIP shall include the same information as requested in the general development plan, and may include more specific details about the development.
- (h) **Basis for Approval of the Petition for Planned Unit Development.**
- (1) **Requirements.** The Village Board, in making a determination approving a petition for planned unit development, shall find as follows:
- a. That the general requirements made and provided in Subsection (c) will be met;
 - b. That the applicable physical requirements made and provided in Subsection (d) will be met;
 - c. That the requirements as to public services and facilities made and provided in Subsection (e) will be met.
- (2) **Proposed Construction Schedule.** The Village Board, in making their respective recommendation and determination, shall consider the reasonableness of the proposed construction schedule add any staging plan for the physical development of the proposed PUD, commencement of the physical development within one (1) year of approval being deemed reasonable.
- (3) **Residential PUD, Considerations.** The Village Board, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:
- a. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
 - b. The total net residential density within the planned unit development will be compatible with the Village master plan (comprehensive land use and thoroughfare plan), neighborhood plan, or components thereof, and shall be compatible with the density of the district wherein located.

- c. Structure types will be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows:
 - 1. Planned residential developments in the R-1 or R-2 Districts shall not exceed four (4) dwelling units per structure.
 - 2. Planned residential developments in the R-3 District shall not exceed twenty-four (24) dwelling units per structure.
 - d. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.
 - e. Provision has been made for adequate, continuing fire and police protection.
 - f. The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - g. Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.
- (4) **Commercial PUD, Considerations.** The Village Board, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:
- a. The economic practicality of the proposed development can be justified.
 - b. The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.
 - c. The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.
 - d. The locations of entrances and exists have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - e. The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (5) **Industrial PUD, Considerations.** The Village Board, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:
- a. The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
 - b. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and

police protection, street maintenance, water sanitary, sewer and storm water drainage and maintenance of public areas.

- c. The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
- d. The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

(i) **Determination of Disposition of the Petition.**

- (1) **General.** The Village Board, following public hearing thereon and after due consideration, shall either deny the petition, approve the petition as submitted or approve the petition subject to any additional conditions and restrictions the Village Board may impose.
- (2) **Approval.** The general and detailed approvals of a planned unit development shall be based on and include, as conditions thereto, the building, site and operational plans for the development as approved by the Village Board.
 - a. **General Approval.** The general development plan submitted with the PUD application need not necessarily be completely detailed at the time of petition provided it is in sufficient detail to satisfy the Village Board as to the general character, scope and appearance of the proposed development. Such plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings and building sites. The approval of such general development plan and precise implementation plan, by way of approval of the petition, shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.
 - b. **Detailed Approval.** Detail plans must be furnished to the Village Board for its consideration and the detailed approval by the Village Board of any part or stage of the proposed development shall be required before construction of such part or stage of the development may be commenced. Before plans submitted for detailed approval within the corporate limits will be approved, the petitioner shall give satisfactory proof that he has contracted to install all improvements or file a performance bond insuring that such improvements will be installed within the time required by the Village Board.
- (3) **Changes and Additions.** Any subsequent substantial change or addition to the plans or uses shall be submitted for approval to the Village Board and if, in the opinion of the Village Board, such change or addition constitutes a substantial alteration of the original plan, it shall schedule an additional public hearing in which event the Village Board shall schedule a notice of public hearing as for the original petition. Following such public hearing, the Village Board shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

Sec. 10-1-76 Wind Energy Systems Conditional Use.

(a) Permit Required.

- (1) *Approval Required.* No owner shall, within the Village, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (2) *Separate Permit Required For Each System.* A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (3) *Basis of Approval.* The Village Board shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- (4) *Definitions.* "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

(b) Specific Requirements Regarding Wind Energy Systems.

- (1) *Additional Standards.* Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (2) *Application.* Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (3) *Construction.* Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds square foot in area.
- (4) *Noise.* The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (5) *Electromagnetic Interference.* Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful

interference in accordance with Federal Communications Commission regulations.

- (6) ***Location and Height.*** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (7) ***Fence Required.*** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (8) ***Utility Company Notification.*** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

Sec. 10-1-77 through Sec. 10-1-79 Reserved for Future Use.

