

**ORDINANCE NO. 2023-06**

**AN ORDINANCE AMENDING CHAPTER 118, ARTICLE V, DIVISION 3, SUBDIVISION II OF THE CODE OF ORDINANCES FOR THE VILLAGE OF UNION GROVE, RELATING TO CONDITIONAL USES.**

The Village Board of the Village of Union Grove ordains as follows:

1. That Section Chapter 118, Article V, Division 3, Subdivision II of the Municipal Code of the Village of Union Grove be, and hereby is, amended to read as follows on the attached Exhibit A incorporated herein by reference.
2. That this ordinance shall become effective upon adoption and publication as provided by law.

Adopted by the Village Board of Union Grove, Racine County, Wisconsin, this 14th day of August, 2023.

**VILLAGE OF UNION GROVE**

By: \_\_\_\_\_

Steve Wicklund, Village President

Attest: \_\_\_\_\_

Sara Spencer, Village Clerk

## **EXHIBIT A**

### **Subdivision II. Conditional Uses**

#### **Sec. 118-881. Right to conditional uses.**

(a) A conditional use, as provided for in this chapter, is a use which may be permitted in a particular zoning district. It is not permitted until approved in the manner provided in this chapter.

(b) If a use or structure is not specifically permitted or prohibited and is of a character that could be compatible with the principal use or structure, such use may be allowed as a conditional use.

#### **Sec. 118-882. Authority.**

The Plan Commission shall hear and decide applications for conditional uses or special exceptions to the terms of this zoning code and may authorize the issuance of a conditional use permit after its review and determination. The Plan Commission is designated the "Zoning Board" for purposes of Wis. Stat. §62.23(7)(de).

#### **Sec. 118-883. Application.**

An application for a conditional use permits or amendments to existing conditional use permits provided by this Subsection shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following:

(1) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor and all 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; a parking plan and the zoning district within which the subject site lies.

(3) A plat of the survey prepared by a registered land surveyor showing all of the information required under section 118-136 for a zoning permit and, in addition, the mean and historic high-water lines on or within 40 feet of the subject premises, and existing and proposed landscaping.

(4) For floodland conditional uses, the applicant shall include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations, lowest floor elevations of structures, size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types and other pertinent information.

(5) Additional information as may be required by the Plan Commission, engineer, or building inspector for the purpose of assisting the Plan Commission in its review of the application.

(6) Fee receipt from the Zoning Administrator.

#### **Sec. 118-884. Referral to Plan Commission.**

Each application for a conditional use shall be referred to the Plan Commission, which shall review it pursuant to section 118-886.

#### **Sec. 118-885. Publication and public hearing.**

(a) Upon receipt of an application for a conditional use permit and payment of the required fee, a notice of public hearing on the application shall be published as a Class 2 notice pursuant to Wis. Stat. Chapter 985.

(b) Prior to the public hearing, the Zoning Administrator shall provide written notice to all property owners of land adjacent to or within five hundred (500) feet of the property which is the subject of the application for a conditional use permit.

(c) A public hearing shall be held before the Plan Commission prior to the issuance of the Plan Commission's decision to approve or deny an application for conditional use permit.

(d) Notice to DNR of hearings on shoreland-wetland and floodplain uses.

(1) A copy of all notices for public hearings on applications for shoreland and shoreland-wetland conditional uses or for conditional uses in the floodland districts, including a copy of the application, shall be transmitted to the State Department of Natural Resources for review and comment at least ten (10) days prior to the hearing. Final action on floodland applications shall not be taken for thirty (30) days or until the DNR has made its recommendation, whichever comes first. A copy of any decision on any such conditional use shall be mailed to the DNR district office within ten (10) days after it is granted or denied.

#### **Sec. 118-886. Standards for review.**

In reviewing the proposed conditional uses, the Plan Commission shall consider all factors relevant to the issuance of the conditional use including but not limited to the following standards and requirements:

(1) All conditional uses must be in accordance with the purpose, intent, and specific conditions of this chapter and the particular zoning district in which the property is located and which authorizes the conditional use.

(2) A review of the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effect of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty, and wildlife habitat.

(3) Reasonable conditions necessary to protect adjacent properties, uses and structures and protect the health, safety, and welfare of the public. To the extent practicable, conditions must be measurable and may include conditions such as the permit's duration. Transfer, or renewal. Conditions may include without limitation, the following subject matters:

- a. Landscaping; existing topography, and vegetative cover; planting screens.
- b. Drainage facilities, including drain tile, swales, retention/detention basins, terraces, stream bank protections and storm water piping.
- c. Architectural design.
- d. Type of construction, construction commencement and completion dates;
- e. Sureties or letter of credit;
- f. Lighting;
- g. Fencing;
- h. Location, size and number of signs;
- i. Operational control;
- j. Hours of operation;
- k. Road access restrictions;
- l. Deed restrictions;
- m. Parking requirements; adequacy of existing and proposed parking areas and driveway locations.
- n. Traffic movement and control; existing and proposed traffic generation and circulation.
- o. Impact on water, sanitation, and utilities; adequacy of existing and proposed public services; adequacy of proposed water supply and waste disposal systems;
- p. Higher performance standards;
- q. Street dedication;
- r. Land divisions;
- s. Police and fire Protection.
- t. Other reasonable conditions required by the specific proposed use.

- u. Any harmful, offensive or otherwise adverse impacts on the environment.
- v. Duration of the permit if granted.
- w. Transfer of the permit if granted
- x. Renewal of the permit if granted.
- y. Compatibility of the use with other uses on adjacent properties.
- z. Flood proofing.
- aa. Increased yard setbacks or additional parking to comply with this chapter and state law, including the provisions of the state's floodplain and shoreland management programs.

(4) Compliance with all other sections 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. Variances shall only be granted as provided in section 118-106.

(5) With respect to conditional uses within shorelands, the standards set forth in W.S.A. § 144.26(5)(a), in particular as they relate to the avoidance or control of pollution.

#### **Sec. 118-887. Determination.**

(a) The Plan Commission may issue a conditional use permit with appropriate conditions, deny the permit with reasons, or require the submittal of a modified application. The decision must be supported by substantial evidence.

(b) All conditions imposed by the Plan Commission must be related to the purpose of the ordinance and shall be based on substantial evidence.

(c) The Plan Commission shall grant a conditional use permit if the applicant meets or agrees to meet the requirements and conditions established by the Village.

(d) "Substantial Evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements an applicant must meet to obtain a conditional use permit and that a reasonable person would accept in support of a conclusion.

(e) The applicant must demonstrate that the application and all requirements and conditions established by the Village are or shall be satisfied, both of which must be supported by substantial evidence.

(f) The Plan Commission shall decide all applications for conditional uses, except applications for floodland conditional uses, within 30 days after the public hearing and shall transmit a signed copy of its decision to the applicant and to the Village Clerk.

(1) Decisions on floodland district applications shall be made as soon as is practicable, but not more than 60 days after the required public hearing. Decisions on floodland district applications shall not be made for 30 days or until the state department of natural resources has made its recommendation, whichever comes first. A copy of all floodland conditional use decisions shall be transmitted to the department of natural resources within ten days of their effective date.

#### **Sec. 118-888. Appeal.**

If the Plan Commission denies an application for a conditional use permit, the applicant may appeal the decision to circuit court under the procedures set forth in Wis. Stat. Section 62.23(7)(e)(10).

#### **Sec. 118-889. Report to village board.**

Each decision of the Plan Commission made under this subdivision shall be reported to the village board at its next regular meeting.

#### **Sec. 118-890. Written decisions.**

All conditional uses shall be approved in writing. Such writing shall state all conditions which are imposed, all variations if any from underlying zoning requirements and all agreements made by owners.

#### **Sec. 118-891. Expiration.**

All conditional uses or temporary uses granted pursuant to this subdivision shall expire within six months of the date of the written approval unless substantial work has commenced pursuant to such grant. A copy of all decisions granting or denying applications for a conditional use or a temporary use for property located in a floodland shall be transmitted by the Plan Commission to the state department of natural resources within ten days.

#### **Sec. 118-892. Modification of an existing conditional use permit.**

Should the conditions of the area in which a conditional use exists change such that the conditional use allowed by the permit presents an imminent and substantial threat to public health, safety, or property, the Plan Commission may review such conditional use permit upon notification and hearing as set forth in this chapter. Any review conducted hereunder shall be limited to revision of the permit to eliminate the threat(s) to public health, safety, or property. Revision of the permit may include addition and/or deletion of specific conditions.

#### **Sec. 118-893. Failure to Comply.**

(a) No person, firm or corporation shall violate, disobey, neglect or refuse to comply with or abide by the terms and conditions of a conditional use permit.

(b) The failure of any person, firm or corporation to obtain a conditional use permit when required shall constitute a violation of this chapter.

(c) In the event of a violation of subsection (a), above, the Zoning Administrator or his designee may revoke any conditional use permit, whether or not a citation is issued, or injunctive relief is sought. Before the Zoning Administrator may revoke a conditional use permit, the Plan Commission shall follow the revocation procedure set forth below.

#### **Sec. 118-894. Revocation.**

(a) Should a permit applicant, or the applicant's heirs or assigns, fail to comply with the conditions of the conditional use permit issued by the Plan Commission or should the use, or characteristics of the use be changed without prior approval by the Plan Commission, the conditional use permit may be revoked. The process for revoking a permit shall follow the same procedures as those required for granting a conditional use permit as set forth in this Section. Additional grounds for revocation shall include, but not be limited to, the following:

(1) A change in conditions affecting the public health, safety, and welfare since adoption of the conditional use permit; or

(2) Repeated violations of this chapter by the owner/operator of the use, including violations of any conditions attached to the conditional use permit; or

(3) Fraudulent, false, or misleading information supplied by the applicant or the applicant's agent for the conditional use permit; or

(4) Improper public notice of the conditional use permit public hearing(s) when the permit was considered by the Plan Commission,

#### **Secs. 118-895--118-915. Reserved.**