

16.01 PURPOSES AND INTERPRETATION

(1) WHEREAS, the Village of Whitefish Bay is a community in the Metropolitan District of Milwaukee, which village is almost exclusively residential and in which a large percentage of all of the property has been developed for private residence purposes by the owners thereof, and

WHEREAS, territory available for business uses accessible from this Village and territory hereinafter made available for business uses in this Village is deemed and hereby found to be sufficient for the needs of this Village, and territory available for manufacturing uses accessible from this Village is deemed and hereby found to be sufficient for the needs of this Village, and

WHEREAS, it is the desire of the citizens of said Village and the Village Board thereof, to preserve the general character of said Village, to prevent congestion and provide for the health, safety, morals and general welfare of the citizens thereof, and

WHEREAS, the street, sewer and water systems of said Village have been designed and constructed to take care of such restricted use and would prove inadequate for more congested use;

NOW, THEREFORE, IT IS HEREBY DETERMINED that public health, safety, welfare and morals will be protected, promoted and conserved by the regulations contained in this code, and that in interpreting and applying the provisions of this code, the provisions thereof shall, in every instance, be held to be the minimum requirements adopted for said purposes.

(2) TITLE

This chapter shall be known as the "Zoning Code" of the Village and will be hereinafter referred to as "this code" in this Chapter 16.

16.02 DEFINITIONS

Certain words in this code are defined for the purposes thereof as follows:

(1) An accessory use or building is a use or building customarily incident to and located on the same lot with another use or building.

(2) An apartment is a room or suite of rooms in an apartment or combination building, which room or suite is arranged, intended or designed to be occupied as a residence of a single family, individual or group of individuals.

(3) An apartment building is a building other than a combination building used entirely or in part as a residence by more than two households independently of each other.

(4) A building is defined as any structure built for the support, shelter, or enclosure of persons, animals, or chattels.

(4a) A business building is a building used entirely for retail stores, shops, sales offices or sample rooms and accessory uses.

(5) A combination building is a building using all or part of the first or ground floor for business purposes and any part of the other floors for apartment, residence or office purposes.

(6) A corner lot is a lot or portion of a lot not more than fifty feet wide, at the junction of and fronting on two intersecting streets. Any portion of a corner lot more than fifty feet distant from the street with the greater frontage, shall comply with all the provisions of this chapter respecting interior lots.

(7) The depth of a rear yard is the minimum distance between the rear line of the building other than a building for an accessory use and the rear lot line.

(8) A double house is two attached single-family dwellings, each of which conforms to the requirements for a single-family dwelling.

(9) A dwelling is a detached or semi-detached building having accommodations for and occupied by not more than two families.

(10) Established grade is the elevation of the street curb as fixed by ordinance.

(11) A family is an individual or group of individuals related by blood, marriage or adoption or not to exceed three (3) persons not so related, living, sleeping, cooking or eating on the premises as a single housekeeping unit, including domestic servants for whom, subject to the provisions of this ordinance, separate living quarters may be provided. This definition does not include, within the meaning of family, clubs, community houses, convents, homes for the aged, lodges, orphanages and religious associations.

Section 16.02 (12)

(12) The front line of a building is the point or line nearest the front lot line, measured from the most exterior or forward of any permanent structural element of, or appurtenant to, any structure including finish siding material. Not included in said measurements shall be uncovered

porches, steps, decks, or platforms, no part of which is more than three (3) feet above the natural grade of the lot nor more than seven (7) feet forward of the furthest exterior or forward wall of the foundation. Also not included are bay windows, overhangs, cantilevers, eaves, sills, or similar projections which extend no more than two (2) feet forward of the furthest exterior or forward wall of the foundation and comprise no more than twenty (20) percent of the total frontal **façade** area (excluding roofs); or of the concrete slab under, or lateral support of, a garage, covered porch, or accessory structure. (Ord. 1718)

(13) A front yard is an open uncovered space on the same lot with the building between the front lot line and the front line of the building, extending the full width of the lot.

(14) The height of a building is the vertical distance measured at the center line of its principal front from the established grade or from the natural grade, if higher than the established grade, to the level of the highest point in the coping of flat roofs or the deck line of a mansard roof, or to the mean height of the highest gable of a pitched roof, or to half the height of a hipped roof. Where no roof beams exist or there are structures wholly or partly above the roof, the height shall be measured to the level of the highest point of the building.

(15) An inner court is an open, unoccupied space on the same lot with a building and enclosed on all sides by walls of such building.

(16) An interior lot is a lot other than a corner lot.

(17) An inner lot line court is an open, unoccupied space, other than a yard, on the same lot with a building, bounded on all except one side by the walls of such building and on the remaining side by a lot line.

(18) The length of the front yard is the minimum distance between the front line of the building and the street lot line.

(19) A lot is a parcel of land in single ownership occupied or designed to be occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this code and such open spaces as are arranged and designed to be used in connection with such buildings.

(20) The natural grade is the elevation of the surface of the lot adjoining the building.

(21) A nonconforming use is any use of a building or premises which does not conform with the regulations imposed by this code for the district in which such building or premises is situated.

Section 16.02 (22)

(22) An outer court is an open, unoccupied space, other than a yard, on the same lot with a building, enclosed on all except one side by walls of such building and extending to either the street, alley or to the front or rear yard.

(23) The rear line of a building is the point or line nearest the rear lot line (opposite the front setback as shown on the front setback map), measured from the most exterior or rearward of any permanent structural element of, or appurtenant to, any structure including finish siding material. Not included in said measurements shall be uncovered porches, steps, decks, or platforms, no part of which is more than three (3) feet above the natural grade of the lot nor more than seven (7) feet forward of the furthest exterior or forward wall of the foundation. Also not

included are bay windows, overhangs, cantilevers, eaves, sills, or similar projections which extend no more than two (2) feet rearward of the furthest exterior or rearward wall of the foundation and comprise no more than twenty (20) percent of total rear **façade** area (excluding roofs); or of the concrete slab under, or lateral support of, a garage, covered porch, or accessory structure. (Ord. 1718)

(24) A rear yard is an open, uncovered space on the same lot with a building between the rear lot line and the rear line of the building, extending the full width of the lot perpendicular to the side lot lines. Detached accessory buildings may be placed in the rear yard. Air conditioning equipment may be placed in the area created by a building ell which projects toward the rear lot line of a one or two-family dwelling, where the distance from the sideline of the main building to the side of the ell is six (6) feet or more.

(25) The side line of a building is the point or line nearest the side lot line, measured from the most exterior or sideward of any permanent structural element of, or appurtenant to, any structure including finish siding material. Not included in said measurements shall be uncovered porches, steps, or platforms, no part of which is more than three (3) feet above the natural grade of the lot. Also not included are eaves and gutters which extend no more than one and one-half (1-1/2) feet from the furthest exterior or sideward wall of the foundation; or the concrete slab under, or lateral support of, a garage, covered porch, or accessory structure. (Ord. 1718)

(26) A side yard is an open uncovered space on the same lot with a building or an accessory building between the side lot line and the building or accessory building, extending from the front line of the building to the rear line of the building.

(27) A duplex is a detached or semi-detached dwelling arranged, intended or designed to be occupied by two families, one of which has its principal living rooms on the second floor.

(28) The street line is the dividing line between the street and the lot.

(29) A single-family dwelling is a dwelling arranged, intended or designed to be occupied by a single family.

(30) The width of a side yard is the minimum distance between the side line of the building, other than an accessory building and the side lot line.

Section 16.02 (31)

(31) Lot area is the area of any lot exclusive of abutting streets, alleys or other public grounds.

(32) Top land lot area is the lot area of that part of any lot in District I which lies westerly from the top of the bluff which roughly parallels the shore of Lake Michigan.

(33) An apartment story is a floor or story of a combination building used for one or more apartments.

(34) A building site is any lot or parcel of land which complies with the minimum requirements of this code for the erection of a building thereon.

(35) A garage is an accessory building designed and used primarily for the storage or keeping of passenger automobiles but which may also be used for the keeping of chattels customarily and ordinarily owned and used by the occupant of the particular Zoning District in

which the premises lies, which is completely enclosed by walls, windows, doors and roof.

(36) A carport is an accessory building designed and used primarily for the storage or keeping of passenger automobiles but which may also be used for the keeping of chattels customarily and ordinarily owned and used by the occupant of the particular Zoning District in which the premises lies, which is not completely enclosed by walls, windows, doors and roof.

(37) Approved driveway shall mean a path for vehicles leading from a garage or parking space to a public street or alley or private road, constructed of materials specified herein.

(38) Park, parking, or parked shall mean to leave or the leaving of a vehicle in a certain place habitually but temporarily.

(39) Approved parking space shall mean an area used for the parking of a vehicle constructed of materials specified herein.

(40) Private road shall mean a roadway for vehicular traffic not in public ownership.

(41) Public street or alley shall mean the paved surface area of the public way designed for vehicular traffic.

(42) Public way shall mean the right-of-way dedicated for public use, including street, parkway and sidewalk areas between property line.

(43) Vehicle shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, and shall include boats or mobile homes.

Section 16.02 (44)

44) Improved space in an accessory building or structure is any area, other than that for vehicular parking, with finished walls, finished ceiling and electrical outlets or fixtures. (Ord. 1723)

(45) An attached garage is a garage that is substantially attached to the principal structure on a lot. Substantially attached includes connection by contiguous heated and improved space that meets or exceeds the following criteria: (Ord. 1721)

- (a) A rectangular shape, or comparable shape with parallel sides as determined by the Building Inspector, where all sides are at least 15 feet measured horizontally; and
- (b) Notwithstanding (a), the connecting space cannot be longer than 30 feet with a width that is anywhere less than 20 feet; and
- (c) At least 15 or 20 feet measured horizontally of common wall, under (a) or (b) respectively, on one of the sides of the garage.

In addition to the above, the following shall apply:

1. An attached garage must provide access to the dwelling from inside the garage at the first floor level; and

2. If there is improved space above or below the garage, additional access to the dwelling must be provided at that level and the same criteria above shall apply to the connecting space on that level; and
3. The heating system must be capable of maintaining heat of at least 70 degrees Fahrenheit in the improved space.

16.03 ZONING DISTRICTS

(1) The Village is hereby divided for the purposes of this code into the following districts:

District 1 - Lake Shore Residence District

District 1A - Single Family Residence District (Ord. 1227)

District 2 - Single Family Residence District

District 3 - Two Family Residence District

District 4 - Churches, Public Buildings & Grounds District

District 4A - Clubs and Lodges District

District 5 - Apartment District

District 6 - Business District

District 7 - Automobile Parking District

District 8 - Special Use District

District 9 - Planned Development

(2) AREA AND EXTENT

Said districts are shown and indicated on a map of the Village of Whitefish Bay entitled, "ZONING MAP OF THE VILLAGE OF WHITEFISH BAY", dated May 2, 1938 as amended to March 15, 2004 and Conditionally amended on January 5, 2009 (Ord. 1733), signed by the Manager and Clerk-Treasurer of this Village and on file in the office of the Village Clerk-Treasurer.

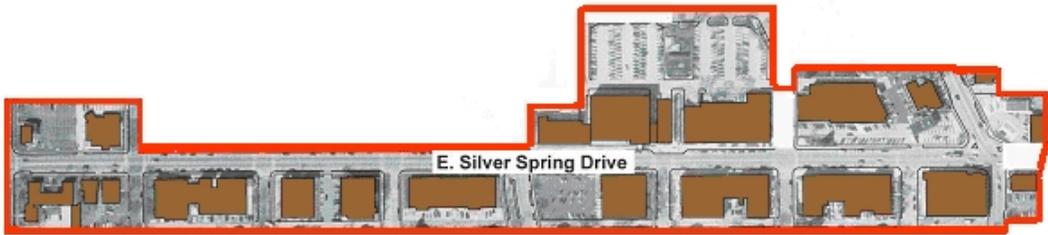
(3) BOUNDARIES

The district boundaries are either lot lines, the center line of streets or alleys, or the extension thereof, and where the district designated on said official zoning map or any amendment thereof hereafter adopted are approximately bounded by lot lines, streets or alleys, the lot lines or center lines of such streets or alleys, or the extension thereof, as determined by the Village Board in case of controversy, shall be considered to be the district boundaries. Where the district boundaries are not shown as being either lot lines, streets or alleys, or the extension thereof, unless otherwise indicated, they shall be construed to be parallel to and one hundred twenty (120) feet from the nearest street line.

(4) ANNEXED TERRITORY

Whenever territory is annexed to the Village of Whitefish Bay, such territory shall be and is hereby placed in District 2 - Single Family Residence District - until such time as another zoning regulation may be duly adopted for such territory.

District # 11 Boundary
(Adopted by Village Board March 15, 2004)



N. Lydell Ave.

N. Bay Ridge Ave.

N. Kent Ave.

N. Shoreland Ave.

N. Santa Monica Blvd.

N. Berkeley Blvd.

N. Diversey Blvd.

N. Hollywood

N. Marlborough Dr.

16.04 DISTRICT 1 - LAKE SHORE RESIDENCE DISTRICT

(1) In District 1, except as in this code otherwise provided, no building or premises shall be used and no building or structure shall be erected, altered, or maintained which is arranged, intended or designed to be used except for one or more of the following uses:

- (a) Single family dwellings. Not more than one dwelling shall be located on any lot. (Ord. 1722)
- (b) Non-commercial greenhouses, nurseries and gardens
 - (c) Uses and buildings accessory to those enumerated above in this subsection, including private garages designed for not more than one motor vehicle for each twenty-four hundred square feet of top land area, but not including any store, trade, professional office, business or industry. However, not exceeding one person may in a dwelling used as his residence: (Ord. 1723)
 - 1. Furnish room or table board to no more than two persons.
 - 2. Carry on a customary home occupation provided no persons other than members of his own household are employed therein.
(Cannot stock materials and cannot create parking problems)

Improved space is not allowed in accessory buildings or structures, except that one area of up to 220 square feet of improved space on the ground floor of any garage is allowed, provided at least 440 square feet of garage space in the garage is maintained for vehicle parking. In no event may accessory buildings or structures be used for sleeping.

- (d) A two car garage (of minimum dimensions of 20 feet wide by 22 feet deep, or 10 feet wide by 40 feet deep in the case of a tandem garage, with a garage door opening not to exceed 9 feet in height) whether attached or detached shall be erected and completed no later than - (Ord. 1365)
 - 1. The completion of each new dwelling erected subsequent to May 1, 1964, or
 - 2. The completion of the conversion of existing garage facilities to other than garage use, subsequent to January 20, 1971, or
 - 3. Six months after the razing or removal of existing garage facilities, subsequent to January 20, 1971.

The Board of Appeals may grant special exceptions from the requirements of this subsection pursuant to Section 16.20(3).

- (e) Access from the public street or alley or from a private road, to each garage required in (d) above, shall be by means of an approved driveway.

Section 16.04 (1) (f)

- (f) Newly constructed driveways shall have a concrete, an asphaltic concrete or an asphaltic penetration surface, free of dust, loose stones or gravel, constructed on an adequate base.
- (g) New parking spaces hereafter, and existing parking spaces no later than six months after adoption of this ordinance, shall have an adequate concrete, asphaltic concrete or asphaltic penetration surface, free of dust, loose stones or gravel, constructed on an adequate base.
 - 1. The minimum setbacks for an approved parking space shall be as follows:
 - (a) In Districts I, IA, 2 and 3, three feet from side and rear property lines where no alley exists. (Ord. 1227)
 - (b) In Districts I, IA, 2 and 3, five feet from the adjacent alley line. (Ord. 1227)
 - (c) In Districts I, IA, 2 and 3, the established setback from the adjacent street property line. (Ord. 1227)
 - (d) In Districts 4, 4a, 5, 6 and 7, as required under Section 16.095.
 - 2. The maximum number of vehicles permitted to be parked on an approved parking space in Districts I, IA, 2 and 3 shall be two. (Ord. 1227)
 - 3. A plot plan to a minimum scale of 1 inch equals 20 feet, showing the location and size of the proposed parking space, the location and dimensions of all buildings and physical features on the premises and the location of buildings immediately adjacent to the parking space shall be submitted to the Building Inspector.
 - 4. The Building Inspector may refer said plot plan to the Architectural Review Commission for approval or denial if he believes the proposal will have a depreciating effect on the property values of the neighborhood.
 - 5. The permit fee for construction of the parking space, if approved, shall be \$10.00.
- (h) Parking of vehicles except on public streets, where not otherwise prohibited or restricted, on approved off street parking facilities, in garages, on approved driveways or approved parking spaces is prohibited.

Section 16.04 (1) (i)
- (i) Parking in the public way, except upon the public street where permitted, is prohibited.
- (j) Notwithstanding (h) above, no vehicle except an automobile may be parked

in the front setback area of an interior lot, nor between adjacent residences which front on the same street, nor in the side setback area which fronts on a street or a corner lot.

(2) In District I each lot shall abut either upon a public street or upon the westerly line of said district, shall extend from such public street or the westerly line of District I to the shore of Lake Michigan, shall contain at least 9,600 square feet of top land lot area and have an average width from north to south of at least eighty feet for each single family dwelling erected, altered or maintained thereon. No dwelling shall be erected, altered or maintained on any lot in District I which occupies more than thirty (30) percent of the top land area of the lot. No building accessory to a dwelling, including garages, shall occupy more than ten (10) percent of the top area of the lot. The combined area of the dwelling and all accessory buildings including garages and any satellite earth station shall not exceed forty (40) percent of the top land lot area of the lot. (Ord. 1343) & (Ord. 1724)

(3) (a) Each dwelling shall have two side yards each at least three feet in width, in case the height of any building exceeds twenty-five feet, the required width of the side yards shall be increased ten percent for each foot that such dwelling exceeds such height. Dwellings shall have a rear yard of at least ten feet in depth. No building, when accessory to a dwelling, shall be over eighteen feet in height. Subject to the provisions of 16.13 (l) each garage attached or detached, and each accessory building shall have a minimum side yard of three feet; a detached garage or an accessory building, except where adjacent to alley (see Section 16.14), shall have a minimum rear setback of three feet; an attached garage shall have a minimum rear yard of five feet except when dwelling space or quarters are provided over said garage, in which event a minimum rear yard of ten feet shall be provided.

(b) The maximum height of single- and two-family residential structures shall be as designated in Section 16.31 "Single-Family and Two-Family Residential Design Guidelines". (Ord. 1685)

(c) Repealed (Ord. 1724)

(4) In the event that the property is on the bluff of Lake Michigan, the following requirements shall also apply: (Ord. 1467)

(a) A registered professional engineer, having a minimum of ten (10) years of geotechnical experience involving foundation investigation/engineering and shoreline slope stability evaluation, and who is hired by the owner of the lot, shall certify to the Village that the construction of any proposed building and structure(s) proposed to be located within 100' of the top edge of the bluff will be safe. Specifically, he shall certify that:

Section 16.04 (4) (a) (1)

1. The design of any building or structure(s), the method of constructing such building or structure(s), and the materials used therefor are structurally adequate and will protect the public health and safety;
2. The proposed building and structure(s) will not in anyway adversely affect the structural integrity or safety of any building, or structure(s) located on adjoining or adjacent sites;
3. The proposed building and structure(s) will not adversely disturb ravine

and bluff slopes, interfere with surface or subsurface drainage, or create new or exacerbate existing problems of erosion and recession;

4. The drainage system will not adversely affect the adjacent and adjoining properties;

5. There is no danger to the proposed or existing buildings or structures and its occupants from slippage of the slope above and/or below the proposed structure.

(b) The engineer shall make a technical report accompanying the certificate which shall include at a minimum:

1. Recommendations regarding site preparation, foundation design, lateral earth pressure and support of slabs on grade;
2. The stability of the slope before, during, and after construction;
3. The effect of the construction on the natural drainage in the areas including any measures, such as "weepers" which are designed to improve natural drainage in the area.

(c) The owner of the property shall certify to the Village that he/she is aware of potential problems of lake shore erosion, including but not limited to the possibility of adding fill of various types to stabilize the bluff area, is aware of the requirement for securing of a fill permit from the Village for any such filling, is aware of the provisions of said fill permit ordinance, and is further aware of the potential cost involved.

(d) A memorandum of said certifications, including the legal description of the property, shall be recorded with the Register of Deeds of Milwaukee County.

16.045 DISTRICT 1A - SINGLE FAMILY RESIDENCE DISTRICT (ORD. 1227)

(1) In District 1A, except as in this Code otherwise provided, no building or premises shall be used and no building or structure shall be erected, altered or maintained which is arranged, intended or designed to be used except for the uses specified in Section 16.04 (l) as expressly modified by this Section.

(2) Subject to Section 16.17 of this Code, no dwelling shall be erected, altered or maintained on any lot in District 1A which lot does not have at least 50 feet of width and does not contain at least 6,000 square feet of area for each single-family dwelling located thereon, or which dwelling occupies more than 30 percent of the area of the lot. The lot shall abut on a public or private road. No building accessory to a dwelling, including garages, shall occupy more than ten percent of the area of the lot. The combined area of the dwelling and all accessory buildings, including garages and any satellite earth station shall not exceed forty (40) percent of the area of the lot, but in no event shall any garage be designed for more than one (1) motor vehicle for each two thousand four hundred feet (2,400') of lot area. (Ord. 1343) & (Ord. 1724)

(3) Notwithstanding the provisions of subsection (2) above, no lot shall be reduced from its size existing on the effective date of this Ordinance.

(4) The provisions of Section 16.04 (3) and (4) shall also be applicable to District 1A. (Ord. 1467)

16.05 DISTRICT 2 - SINGLE FAMILY RESIDENCE DISTRICT

(l) In District 2, except as in this code otherwise provided, no building or premises shall be used and no building or structure shall be erected, altered, or maintained which is arranged, intended or designed to be used except for the uses specified in Section 16.04 (l) as expressly modified by the section.

(2) (a) Subject to Section 16.17 of this code, no dwelling shall be erected, altered or maintained on any lot south of East and West Montclair Avenue in District 2 which does not have at least forty feet of street frontage and does not contain at least 4800 square feet of lot area for each single family dwelling located thereon, or which dwelling occupies more than thirty percent of the area of the lot, and no dwelling shall be erected or altered on any lot in District 2 north of East and West Montclair Avenue which does not have fifty (50) feet or more of street frontage. No dwelling (excluding any garage or any portion of such dwelling designed for or capable of being used for garage purposes) shall have a volume less than 17,500 cubic feet, as defined in Section 30.14 (2) of the Building Code. No building accessory to a dwelling, including garages, shall occupy more than ten percent of the area of the lot.

The combined area of the dwelling and all accessory buildings, including garages and any satellite earth station, shall not exceed forty (40) percent of the area of the lot, but in no event, shall any garage be designed for more than one (1) motor vehicle for each two thousand four hundred square feet (2,400') of lot area. (Ord. 1343) & (Ord. 1724)

(b) No corner lot or interior lot shall be created, formed or assembled from another lot, platted lot or parts of platted lots to make a building site after February 19, 1962, unless the building site so created and the building site remaining after the creation of such a lot, each comply with the following requirements:

1. Shall have a minimum width of 40 feet if located south of East and West Montclair Avenue.
2. Shall have a minimum width of 50 feet if located north of East and West Montclair Avenue.
3. Shall have a minimum depth of 120 feet.

(c) The requirements of Section 16.05 (2) (b) shall not prevent the use of any building site existing on February 19, 1962 pursuant to the requirements of Section 16.05 (2) (a) and does not thereby make such building sites nonconforming after said date.

(3) The provisions of Section 16.04 (3) shall also be applicable to District 2.

16.06 DISTRICT 3 - TWO FAMILY RESIDENCE DISTRICT

(1) In District 3, except as in this code otherwise provided, no building or premises shall be used and no building or structure shall be erected, altered or maintained which is arranged, intended or designed to be used except for one or more of the following uses:

(a) Uses permitted in District 2, subject to all restrictions contained in Section 16.05.

(b) Duplexes. Not more than one duplex, double houses or single family dwelling shall be located on any lot. (Ord. 1722)

(c) Double houses. Not more than one double house, duplex or single family dwelling shall be located on any lot. (Ord. 1722)

(d) Uses and buildings accessory to those enumerated in paragraphs (b) and (c) of this subsection, including private garages designed for not more than one motor vehicle for each 2400 square feet of lot area, but not including any store, trade, professional office, business or industry. However, not exceeding one person may in a dwelling used as his residence: (Ord. 1723)

1. Furnish room or table board to not exceeding two persons.

2. Carry on a customary home occupation provided no persons other than members of his own household are employed therein. (Cannot stock materials and cannot create parking problems.)

Improved space is not allowed in accessory buildings or structures, except that one area of up to 220 square feet of improved space on the ground floor of any garage is allowed, provided at least 440 square feet of garage space in the garage is maintained for vehicle parking. In no event may accessory buildings or structures be used for sleeping.

(2) No duplex or double house shall be erected, altered or maintained which does not contain at least 7200 square feet of lot area or which dwelling occupies more than thirty (30) percent of the area of the lot. No building accessory to a duplex or double house, including garages, shall occupy more than ten (10) percent of the area of the lot. The combined area of the duplex or double house and all accessory buildings, including garages and any satellite earth station shall not exceed forty (40) percent of the area of the lot. (Ord. 1343) & (Ord. 1724)

(3) Duplexes and double houses shall have two side yards, each at least five feet in width, and the aggregate width of both side yards shall be at least twenty (20) feet; the height of any duplex or double house shall not exceed thirty (30) feet. Duplexes and double houses shall have a rear yard at least ten (10) feet in depth. No building which is accessory to a dwelling shall be over eighteen (18) feet in height. (Ord. 1724)

Section 16.07

16.07 DISTRICT 4 - CHURCHES, PUBLIC BUILDINGS AND GROUNDS

(1) In District 4, except as in this code otherwise provided, no building or premises shall be used and no building or structure shall be erected, altered or maintained which is arranged, intended or designed to be used except for:

- (a) Churches, including accessory rectories, auditoriums and convents.
- (b) Public buildings and grounds.
- (c) Private, public and parochial schools including accessory buildings, playgrounds, athletic fields, stadiums, gymnasiums and fieldhouses, provided that such schools have a full time academic curriculum as required by State Statutes.
- (d) Sewerage and water pumping stations and water storage tanks.
- (e) Parking of passenger automobiles, motorcycles and bicycles which shall be subject to Section 16.095 of this code. (Ord. 1574) (Ord. 1814)
- (f) Uses and buildings accessory to those enumerated in subsections (a) to (e) of this subsection, including single family dwellings and private garages for the sole use of the owner and his or its officers, members of their families and employees, but not including any duplex or double house, store, trade, business or industry. (Ord. 1574) (Ord. 1814)

(2) BUILDING REGULATIONS

Single family dwellings and private garages shall be subject to all regulations imposed by subsections (2) and (3) of Section 16.05; all other buildings shall be subject to the regulations imposed for duplexes and double houses by subsection (2) and (3) of Section 16.06 and shall not exceed sixty (60) feet in height, except in the case of a church spire, belfry, clock tower, wireless tower, chimney flue or elevator bulkhead. (Ord. 1724)

(3) PROVISIONS FOR OFF-STREET PARKING

Secondary schools and colleges-universities shall provide off-street parking in accordance with the requirements of Section 16.095 as follows:

(a) Secondary schools (high schools) shall make provisions for one automobile parking stall for every five (5) students of designed capacity and shall make available for use one automobile parking stall for every five (5) students in average daily attendance for the school year.

(b) Colleges-universities shall make provisions for one automobile parking stall for every two (2) students of designed capacity and shall make available for use one automobile parking stall for every two (2) students in average daily attendance for the school year.

(c) A change in the status of use, i.e., secondary school to college-university, shall not be permitted unless the prescribed parking accommodations are provided.

16.075 DISTRICT 4A - CLUBS AND LODGES

(1) In District 4A, except as in this code otherwise provided, no building or premises shall be used and no building or structure shall be erected, altered or maintained which is arranged, intended or designed to be used except for:

(a) Clubs or lodges provided that such clubs or lodges are registered with the State of Wisconsin as non-profit organizations.

(b) Parking of passenger automobiles, motorcycles and bicycles which shall be subject to Section 16.095 of this code.

16.08 **DISTRICT 5 - APARTMENT DISTRICT**

(l) In District 5, except as in this code otherwise provided, no building or premises shall be used and no building or structure shall be erected, altered, or maintained which is arranged, intended or designed to be used except for:

- (a) Uses permitted in District 2, subject to the restrictions contained in Section 16.05, excepting, however, the provisions of Section 16.04 (3) (b).
- (b) Uses permitted in District 3, subject to the restrictions contained in Section 16.06.
- (c) Uses permitted in District 4, subject to the restrictions contained in Section 16.07.
- (d) Uses permitted in District 6, subject to the restrictions contained in Section 16.091 with regard to the establishment of conditional uses, and subject further to the limitation that no such conditional use in District 5 may exceed 2,500 square feet in total floor area. (Ord. 1744).
- (e) Requirements for apartment buildings.

I. Frontage.

- a. A minimum frontage of 80 feet for a site to be used for an apartment building having more than four (4) apartments.
- b. A minimum frontage of 60 feet for a site to be used for an apartment building having four (4) apartments or less.
- c. A minimum frontage of 40 feet for a site to be used for a duplex.
- d. Exception. Where a parcel of land is zoned in District 5 and is abutted by lands so improved that it is impossible or uneconomical to acquire additional frontage to meet the requirements of (a) (b) and (c) hereof then upon appeal, the Board of Appeals, after hearing and satisfactory proof submitted, may grant a variance from the frontage requirements of Section (a) and (b).

2. Setbacks.

Apartment buildings shall have two side yards, each at least 7 1/2 feet in width and a rear yard at least twenty-five feet in length, except when the rear yard is adjacent to an alley in which case said rear yard shall not be less than ten feet.

Section 16.08 (1) (e) (3)

3. Height.

Said apartment buildings shall not exceed 35 feet in height.

4. Lot Area.

Said apartment buildings shall occupy a lot area of not less than 850 square feet per apartment.

5. Inside Area.

Each apartment shall have a minimum inside area of 650 square feet.

6. Accessory Building.

No accessory building to said apartment building shall be designed or used for store, trade, business or industrial purposes.

(f) Passenger automobile parking lots for parking of passenger automobiles, motorcycles and bicycles which shall be subject to Section 16.095 of this code.

(2) PARKING (Ord. 1702)

Not less than one and one-half (1 ½) automobile parking spaces shall be provided in a detached building, parking area or basement garage for each family occupying said building, plus one space per 10 units for guest parking. Such parking shall either be on-site or in reasonable proximity as determined by the Plan Commission.

A detached building, parking area or any combination thereof shall occupy not to exceed fifty (50) percent of the actual rear yard area, and shall have side and rear setbacks of not less than three feet except where the detached building is adjacent to an alley, in which case the rear setback shall be not less than five feet. Such detached building shall not exceed twelve (12) feet in height.

The Board of Appeals may grant special exceptions from the requirements of this subsection pursuant to Section 16.20 (3). (Ord 1611)

16.09 DISTRICT 6 - BUSINESS DISTRICT

(l) In District 6, except as in this code otherwise provided, no building premises shall be used and no building or structure shall be erected, altered, or maintained which is arranged, intended or designed to be used except for: (Ord. 1424-Amended)

(a) Uses permitted in District 2, subject to the restrictions contained in Section 16.05 and in paragraph (3) of subsection 2 of this section, excepting, however, the provisions of Section 16.04 (3) (b). (Ord. 1424)

(b) Uses permitted in District 3, subject to the restrictions provided in Section 16.06 and in paragraph (e) of subsection (2) of this section. (Ord. 1424)

(c) Uses permitted in District 4, subject to the restrictions provided in Section 16.07. (Ord. 1424)

(d) Uses permitted in District 5, subject to all restrictions provided in paragraphs (a) and (d) in subsection (2) in this section. (Ord. 1424)

(e) Offices, other than those located at street level. For the purposes of this subsection, an office is defined as a room or series of rooms in which the affairs of a profession are carried out, or in which the administrative or financial affairs of a business (without any retail or direct sales activity) of a business are carried out. (Ord. 1424)

(f) Uses permitted as conditional uses pursuant to the provisions of Section 16.091. (Ord. 1424)

(2) **BUILDING REGULATIONS IN DISTRICT 6**

(a) Apartment buildings and office buildings shall have two side yards, each at least seven and one-half (7 1/2) feet in width, and in addition to the above restriction where there is an existing building on an adjacent lot, the minimum distance between said buildings shall be at least ten (10) feet. Rear yards shall be not less than twenty-five (25) feet in depth, except where the rear yard is adjacent to an alley, in which case said rear yard depth shall be not less than fifteen (15) percent of the lot depth. In case of corner lots, the rear yard depth shall be a minimum of fifteen (15) feet, except where the rear yard is adjacent to an alley, in which case said rear yard shall not be less than ten (10) feet. Side and front setbacks for corner lots shall be at least equal to the established minimum side and front setbacks. Said apartment buildings and office buildings shall not exceed three stories or thirty-five (35) feet in height. Apartment buildings shall occupy a lot area of not less than eight hundred fifty (850) square feet per apartment. Each apartment shall have a minimum inside area of 650 square feet.

Section 16.09 (2)(b)

(b) **Business and Combination Buildings**

In District 6 business and combination buildings shall be erected, altered and maintained according to the provisions of either paragraph 1 or 2 following:

1. In District 6 business and combination buildings located on interior lots may extend to the side lot line but shall maintain a minimum distance of six (6) feet from an adjacent single family dwelling and a minimum distance of ten (10) feet from an adjacent duplex or double house. However, the side setback of the second and third stories of such combination building shall be a minimum of five feet, except where adjacent to a side street in which case all stories shall conform to the established minimum side setback. Business and combination buildings shall not exceed three stories or thirty-eight (38) feet in height from the established street grade opposite such buildings.

2. In District 6 business and combination buildings located on interior lots may extend to the side lot line but shall maintain a minimum distance of six (6) feet from an adjacent single family dwelling and a minimum distance of ten (10) feet from an adjacent duplex or double house. The second and third stories of such combination buildings may extend to the side lot line provided: Every room in which one or more persons live, sleep, work or congregate except storage rooms and other rooms where the nature of the occupancy does not require direct light and air, shall have a window area equal to one-tenth of the floor area of the room, shall open directly either upon a street or alley or upon a rear yard, side yard, outer court or inner court located upon the same lot, which court shall conform to the requirements hereinafter prescribed as to its minimum area and least dimensions as follows:

a. No inner court shall be less than fourteen feet (14) in width nor less than 280 square feet in area for courts two stories or less in height.

b. No inner lot line court shall be less than eight feet in width nor less than one hundred square feet in area for courts two stories or less in height.

c. No outer court shall be less than ten (10) feet wide for a court two stories or less in height and thirty (30) feet or less in length, and for any additional length, the width of such court shall be increased at the rate of one foot in six (6) feet.

Section 16.09 (2) (b) (2) (d)

d. Where adjacent to a side street, all stories shall conform to the established minimum side setback.

e. Business or combination buildings shall not exceed three stories or thirty-eight (38) feet in height from the established street grade opposite such buildings.

(c) Rear Setbacks: Rear Yards: Percent of Lot Occupancy

1. A business building may extend to the rear lot line except where adjacent to an alley, in which case the rear setback shall be five feet.

2. Any apartment story of a combination building shall not occupy more than fifty (50) percent of the area of an interior lot nor more than sixty (60) percent of the area of a corner lot and shall have a lot area of not less than 1,000 square feet per apartment. Each apartment shall have a minimum inside area of 650 square feet.

3. Apartments occupying the second and third floors of combination buildings may be provided with a flat roof terrace in lieu of the required rear yards. Rear yard requirements for the apartment portion of combination buildings shall be as provided in subsection (2) (a). Such roof terrace shall be accessible at all times and provided with a substantial railing around the same.

(d) Parking (Ord. 1703)

Not less than one and one-half (1 ½) automobile parking spaces shall be provided in a detached building, parking area or basement garage for each family occupying said building, plus one space per 10 units for guest parking. Such parking shall either be on-site or in reasonable proximity as determined by the Plan Commission.

A detached building, parking area or any combination thereof shall occupy not to exceed fifty (50) percent of the actual rear yard area, and shall have side and rear setbacks of not less than three feet except where the detached building is adjacent to an alley, in which case the rear setback shall be not less than five feet. Such detached building shall not exceed twelve (12) feet in height.

(e) Residences

A single family dwelling shall not be erected closer than six feet to any adjacent building. A duplex or double house shall not be erected closer than ten (10) feet to any adjacent building.

(3) DISPLAY OF GOODS BETWEEN SETBACK LINES PROHIBITED

In District 6 it shall be unlawful to place or expose for sale any goods, merchandise or advertising matter anywhere between the setback lines on each side of the street.

(4) OFF-STREET PARKING REQUIRED - (Ord. 1189)

(a) Off-Street on-site parking shall be required in District 6. The number of parking spaces required shall be determined by the criterion set forth in Section 6.065 (3) (a) of the Municipal Code. (Ord. 1703)

(b) The requirements of this Section are applicable in the following instances:

(1) A building is being erected,

(2) A building is being remodeled or altered so that the outside dimensions are increased, or

(3) A building is being remodeled or altered internally, which results in an increase in the demand for parking as determined by Section 6.065 (3) (a).

(c) The criterion for determining parking requirements shall be based upon the anticipated uses in the new, remodeled or altered building. In the event of interior remodeling or alteration where the new use is not definitely know, the last previous use will be deemed to be the new use. In the event of a new building or exterior remodeling or alteration where the new use is not definitely known, the use will be presumed to be that with the greatest parking requirements.

(d) No property which is held in single ownership on August 7, 1978 may be later subdivided unless the resulting parcels, including those parcels with existing buildings, meet the requirements of Subsection (a) of this Section.

(5) In addition to the other restrictions contained in this section, no property shall be used for any of the prohibited used described in Section 16.11. None of the uses listed in Section 16.11 shall be considered for a conditional use permit under Section 16.091. The Village Board hereby expressly finds that such uses would be contrary to the public health, safety and welfare of the Village. (Ord. 1424)

16.091 CONDITIONAL USES IN THE BUSINESS DISTRICT

A. STATEMENT OF PURPOSE - CONDITIONAL USES. - (Ord. 1424)

The development and execution of this Section is based upon the heretofore established Business District, within which district the use of land and buildings, and bulk and location 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 the Business District, without consideration, in each case, of the impact of those uses upon neighboring properties, property uses and facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be desirable to be allowed in the Business District provided that due consideration is given to the location, development and operation of such uses. Such uses are classified as conditional uses.

B. AUTHORITY OF THE PLAN COMMISSION; REQUIREMENTS

(1) The Plan Commission may authorize the Building Inspector to issue a conditional use permit after review and public hearing, 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, and are not otherwise prohibited by other Sections of this Zoning Code. Prior to the granting of a conditional use, the Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

(2) Conditions such as limitation on certain uses, control of operation, hours of operation, improved traffic circulation, deed restrictions, increased yards, parking requirements, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing parking screens and private security services may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Section.

(3) Compliance with all other provisions of this Chapter, including but not limited to lot width and area, yards, height and parking shall be required of all conditional uses.

C. 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 property for which a conditional use is sought, may file an application to use such property for a conditional use in the Business District.

Section 16.091 (D)

D. APPLICATION FOR CONDITIONAL USE.

(1) Required Application Materials.

A written application for a conditional use shall be filed in duplicate on a form prescribed by the Village. Such applications shall be forwarded to the Plan Commission on receipt by the Building Inspector. Such applications shall include where applicable:

- (a) A statement by applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section G hereinafter.
- (b) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within one hundred (100) feet.
- (c) Description of the subject site by street address, type of structure, proposed operation or use of the structure or site, and number of employees.
- (d) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping, if the application involves an entire building or any exterior changes of an existing building.
- (e) Statement of plan of operation of the business, including products to be sold and method of sales and service.
- (f) Plans for location of buildings, rooms, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting.
- (g) Statement as to number of square feet of sales area.
- (h) Any other pertinent information needed by the Plan Commission upon which to base its determination as to whether the proposed use meets the requirement of this Section.
- (i) Fee receipt in the amount of One Hundred Dollars (\$100.00).

E. HEARING ON APPLICATION.

Upon receipt of the application and the application materials referred to in Subsection D above, the Plan Commission shall hold a public hearing on each application for a conditional use 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 prescribe from time to time.

Section 16.091 (F)

F. NOTICE OF HEARING OF APPLICATION.

Notice of the time place and purpose of such hearing shall be given by publication of a Class I 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 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 five (5) days prior to the date of such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

G. STANDARDS - CONDITIONAL USES.

No application for a conditional use shall be granted by the Plan Commission unless 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 properties and businesses.
- (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 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 conforms in all substantial respects to the Silver Spring Drive Master Plan as amended from time to time, if applicable, currently on file and approved by the Community Development Authority and Village Board. (Ord. 1659)

H. CONDITIONS AND GUARANTEES.

The following provisions shall apply to all conditional uses:

(l) Conditions. Prior to the granting of any conditional use, the Plan Commission may require 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 as specified in Section G above. In all cases in which conditional uses are granted, the Plan Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions required in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration, the following:

- (a) Specific uses;
- (b) Control of operation;
- (c) Hours of operation;
- (d) Traffic circulation;
- (e) Deed restrictions;
- (f) Setbacks and yards;
- (g) Planting screens;
- (h) Increased parking;
- (i) Landscaping;
- (j) Type of construction;
- (k) Construction commencement and completion dates;
- (l) Sureties;
- (m) Lighting;
- (n) Fencing;
- (o) Private security services;
- (p) Consistency with the approved Silver Spring Drive Master Plan, if applicable (Ord.1666).
- (q) Any other requirement necessary to fulfill the purpose and intent of this Section.

(2) Site Review. In making its decision, the Plan Commission shall evaluate each application and may request assistance at the expense of the applicant, from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, traffic generation and circulation, and the proposed operation and use.

(3) Alteration of Conditional Use. No alteration of a conditional use shall be permitted unless approved by the Plan Commission.

(4) Architectural Treatment. Architectural treatment will be as approved by the Architectural Review Commission, if so required under any other provision of the Zoning Code.

5) Outdoor Seating for Businesses. (Ord. 1666)

Outdoor seating for businesses shall, at a minimum, be subject to the following requirements. Additional requirements may be imposed at the discretion of the Plan Commission:

- (a) An operating plan showing the location and design of all tables, chairs and related equipment including covered trash receptacles and describing methods of operation approved by the Plan Commission, which plan the Plan Commission finds to be reasonable in view of the Master Plan and suitable for the approved use.
- (b) Placement of all tables and chairs and related equipment must be on the owner's property and not on the Village right-of-way unless otherwise permitted by the Village.
- (c) No outdoor seating for businesses is permitted before April 1 or after October 31 of each calendar year unless the tables and chairs and related equipment are taken in at night.
- (d) All tables, chairs and related equipment shall be secured or removed to indoor storage at the nightly closing time of the business.
- (e) All tables, chairs and related equipment placed outdoors shall be under the supervision of employees inside the business.
- (f) Conditional use approval by the Village shall be subject to and contingent upon any necessary approvals by any other governmental agency or authority with jurisdiction or authority.
- (g) Approved outside trash receptacles shall be provided and serviced by the owner, to include emptying trash receptacles no less frequently than the close of business each day.
- (h) The general area involved shall be maintained and kept reasonably free of litter at all times.

(6) Conditional Uses to Comply with Other Requirements.

Conditional uses shall comply with all other provisions of the Zoning Code such as lot width and area, yards, height, and parking as minimum requirements, subject to such other increased requirements as may be imposed as conditions under (l) above.

I. DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT.

When a decision of denial of a conditional use application is made, the Plan Commission shall furnish to the applicant, in writing when so requested, a statement of those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met.

J. COURT REVIEW.

Any person or persons, jointly or severally aggrieved by any decision of the Plan Commission, or any taxpayer, or any officer of the municipality, may, within 30 days after the filing of the decision in the office of the Plan Commission, commence an action in the Circuit Court of Milwaukee County seeking the remedy available by certiorari.

K. VALIDITY OF CONDITIONAL USE PERMIT.

Where the Plan Commission has approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Commission'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.

L. ENFORCEMENT REGARDING CONDITIONAL USES.

The Building Inspector shall have the enforcement authority 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 imposed prior to or after approval or violation of any other provision of this Code. Any person or persons, jointly or severally aggrieved by any order of the Building Inspector pursuant to the provisions of this subsection may, within ten (10) days after the Building Inspector's order, appeal the decision and order of the Building Inspector to the Plan Commission. A Hearing shall be held by the Plan Commission after notice of hearing has been given pursuant to the provisions of Section F above.

M. COMPLAINTS REGARDING CONDITIONAL USES.

The Plan Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Building Inspector. Upon written complaint of any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section G above, a condition of approval or other requirements imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section F above. Any person may appear at such hearing and testify in person or represented by an Agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in Section G or conditions previously imposed by the Plan Commission, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. Additionally, the offending party may be subjected to a forfeiture as set forth in Section 16.30 and Section 17.04 of the Municipal Code. In the event that no reasonable modification of such conditional use can be made in order to assure that the standards in Section G will be met, the Plan Commission may revoke the subject conditional approval and direct the Building Inspector to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be furnished to the current owner of the conditional use in writing stating the reasons therefore.

16.095 DISTRICT 7 - AUTOMOBILE PARKING DISTRICT

(l) Permitted Uses. In District 7, except as in this code otherwise provided, no premises shall be used except for the parking of passenger automobiles, motorcycles and bicycles as follows:

(a) Between the hours of 6:00 A.M. and midnight, passenger automobile, motorcycle or bicycle parking will be permitted on a passenger automobile parking lot provided: (Ord. 1338)

1. The premises shall be graded and drainage shall be provided in an approved manner to prevent surface water flowing from the premises onto street walks or onto adjoining premises.

2. The premises, exclusive of setbacks and side yards, shall be maintained with a dustless surface. Marked parking stalls shall be provided as follows:

<u>Angle Layout</u>	<u>Minimum Stall Width Parallel to Aisle</u>
90	9 feet
75	9.25 feet
60	10.00 feet
45	12.50 feet

Approved guards shall be installed, and maintained at the front center of each stall adjacent to a setback, so that the extension of any part of a parked vehicle into the required setback or side yard shall not exceed 2.5 feet.

3. Setbacks shall be provided on each premises used for the parking of motor vehicles and shall be 5 feet in Districts 4, 4A, 5, 6, 7 and 8. However, if any other lot in the same block as the automobile parking lot is zoned in District 1, 1A or 2, then the setback shall be 10 feet. Provided further, that where the adjoining premises is zoned in Districts 1, 1A or 2, side yards shall be not less than 3 feet. Setbacks and side yards shall be measured as the distance from the property line to the parking area for the purpose of this Section only.

4. The premises shall be screened from any public street upon which it abuts or from adjoining residential property, except for openings for access or egress (1) by a wall, opaque fence, or chain wire fence located in compliance with setback requirements and adequately screened by a substantial growth of shrubbery, or (2) by a substantial growth of shrubbery; not to exceed 3' in height, in either case within 10' of entrances and exits.

Section 16.095 (l) (a) (5)

5. The premises shall be provided the smallest number of entrances and exits consistent with efficient and safe traffic movement, the width, number and location of which shall be approved by the Village Manager.

6. All setback areas and side yards not devoted to shrubbery screening shall be adequately sodded and maintained as lawn.

(b) At any time between the hours of midnight and 7:00 A.M., passenger automobile, motorcycle or bicycle parking will be permitted on a passenger automobile parking lot provided:

1. A license therefor has been obtained in the manner provided in Section 15.10 of the Village Code, and said lot is in compliance with the requirements thereof;

2. Said lot also complies with paragraphs 1,2,3,4,5, and 6 of subsection (l) (a) of this section;

3. Where illumination from street lights located adjacent to a parking premises is approved, no additional illumination of the premises will be required. Where such illumination is not available, approved illumination of such premises (parking lots) shall be provided and maintained and installed in a manner so as to preclude the reflection or glare onto adjoining premises used for residential purposes, on all lots where more than ten (10) cars are regularly parked.

16.096 DISTRICT 8 - SPECIAL USE DISTRICT

(1) Definition. The special use district shall be a zoning district within which may be located lands, the use of which prior to transfer to such district did not conform to the then existing zoning ordinance, providing:

- (a) The conditions prescribed in (2) hereof exist.
- (b) The owner has made written request for transfer to such district.
- (c) The use complies with the requirements prescribed in (3) and (6) hereof, and such further requirements as may be imposed pursuant thereto.
- (d) The owner has consented in writing to such requirements prior to such zoning.

(2) Qualification. No real property shall be zoned within District 8 until and unless the Village Board shall have, prior thereto, by resolution determined that:

- (a) The non-conforming use is not objectionable.
- (b) The non-conforming use is compatible with the surroundings.
- (c) An immediate improvement in such premises is proposed.
- (d) The proposed improvement, when incorporated with the existing improvement, will have a use similar to the land use when it became non-conforming, or conforming to requirements for non-conforming uses or more nearly in conformance with the then existing zoning.
- (e) Such improvement will be neither objectionable nor incompatible with the surroundings but will enhance and benefit the area and the Village.

(3) Conditions to Zoning. Real property which complies with (2) hereof may be zoned in District 8 only if, as a condition of such zoning, the use will comply with such requirements as may be imposed in respect to:

- (a) Setback, providing that such setback shall be not less than the building line setback as it existed at the time of transfer to the special zoning district nor more than the setback as fixed by the official setback map.
- (b) Off-street parking, providing that the requirements shall in no instance be less restrictive than prescribed in Section 16.096 of the Municipal Code and may include further special requirements deemed necessary or desirable by reason of the characteristics and proximity of the uses in adjacent zoning districts.

Section 16.096 (3) (c)

- (c) Signs, providing that the requirements shall in no instance be less restrictive than prescribed in Section 16.18 of the Municipal Code and may include further special requirements deemed necessary or desirable by reason of the characteristics and proximity of the uses in the adjacent and abutting zoning

districts.

(d) Hours of operation, providing that the requirements shall in no instance be less restrictive than prescribed in Section 15.04 (13) of the Municipal Code and may include further special requirements deemed necessary or desirable by reason of the characteristics and proximity of the uses in the adjacent and abutting zoning districts.

(e) Landscaping, including the design and maintenance thereof.

(f) Design of improvement and particularly the proportions, color, texture, material and other aesthetic considerations relating thereto.

(g) Relationship to traffic flow, including the manner in which vehicular movement to and from the facility joins, separates from and reconnects to the traffic flow in adjacent streets, and such requirements, conditions and regulations as may be imposed by covenant, deed restriction, declaration of restriction, contract, lease or option.

(4) Prohibitions on Use. It shall be unlawful and prohibited in respect to any lands zoned in District 8 to provide, allow or permit:

(a) Regularly scheduled entertainment, providing that this shall not prohibit addresses by speakers or entertainment for a private gathering arranged by the participants in the gathering.

(b) Dancing by patrons.

(c) Sale of merchandise other than food products and beverages for consumption on the premises, providing, however, that food products regularly prepared for service to patrons for consumption upon the premises may be sold and delivered upon the premises to patrons for removal from the premises and consumption within the abode of the patron.

(d) Warehousing of goods, except that such prohibition is not to relate to the storage of supplies, stationery, and generally, goods used for display and convenience.

(e) Shows, exhibits, displays, conventions or other activities which result in the participation of an unusually large number of persons.

(f) Any of the uses prohibited in Section 16.11 of the Municipal Code.

Section 16.096 (5)

(5) Limitations on Use. The use of any premises situated in District 8 shall not be significantly changed without the prior approval of the Village Board, nor shall any improvements upon land be enlarged or materially altered without the prior approval of the Village Board.

(6) Amortization of Use. Notwithstanding any other provision herein, the Village Board, as a further condition of zoning in District 8, may require an option for sale of the premises or enter into a contract for purchase and sale of the premises or may enter into such arrangement as

appears reasonable and feasible to accomplish the elimination of that use which resulted in the premises being non-conforming prior to transfer to District 8 hereunder.

16.097 DISTRICT 9 - PLANNED DEVELOPMENT DISTRICT

(1) Purpose

The purpose of the Planned Development District is to encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation and conservation in the Village of Whitefish Bay by allowing for greater flexibility, better utilization of topographical and natural site characteristics, more economical and stable development and variations in siting, land use and types of dwellings and commercial buildings, thereby promoting the public health, safety, welfare and morals.

(2) Standards and Requirements

(a) Uses Permitted- All uses which are permitted in Chapter 16 of the Village Code are permitted in the Planned Development District subject to the conditions, standards, requirements and procedures imposed under Section 16.097 of the Zoning Code.

(b) Area- The minimum area for application of the Planned Development District shall be 50,000 square feet except:

1. When undertaken in extension of an adjoining planned development area in which case there shall be no minimum area requirement; or
2. When the extension of a planned development area extends across a public street or alley, the minimum area across the public street or alley shall be 25,000 square feet; or
3. When undertaken in an area adjacent to an area zoned for public building and grounds, the minimum area shall be 25,000 square feet and the area may be separated by a public street.

(c) Standards- Standards for land area per dwelling unit, land coverage by building, density, front, side and rear yard setback requirements, building height requirements, parking requirements, aesthetic consideration and other requirements deemed necessary shall be established by the Village Plan Commission and the Village Board when these bodies find that such standards encourage a desirable environment and promote the intended purpose of the district.

A development plan shall contain such information as the Village Plan Commission and the Village Board shall deem necessary, and shall include the following:

1. A plat of survey of the development area by a registered land surveyor, with a recordable legal description, including all existing utilities and recorded easements. Plat of survey shall conform to Chapter 236 of the Wisconsin Statutes.

Section 16.097 (2) (c) (2)

2. A plot plan showing location of all existing structures to be removed or retained, all other features to be constructed, and all other uses of land, to

scale, and with sufficient detail to determine the extent of each use of said structures and land; plan shall also show existing uses and development within 300 feet of the boundaries of the proposed plan development.

3. A topographic map with a contour interval of not less than two feet, and sufficient spot elevations to determine the nature of the grade in the proposed development.

4. Building plans in sufficient detail such that the use of each floor can be determined, and the bulk of the building and aesthetic nature of the building may be determined.

5. A landscape plan sufficient in detail to indicate the nature of all landscaping to be done in the proposed development including fences, signs, lighting, plantings, screening for off-street parking spaces and other features relating to the development of the open space.

6. A statement of the various stages, if more than one is intended, by which the development is proposed to be constructed or undertaken and the time limit of the completion of each stage, together with a description of the real property to be included in each stage. If more than one stage is proposed, a plot plan shall be furnished, showing the physical location of each stage.

7. A statement of the proposed changes, if any, in locations or levels of streets or alleys and any proposed street or alley closings or vacations.

8. The location and type (materials) of drives, driveway entrances, walks, parking areas, loading areas, refuse collection areas and screening therefor.

(3) Procedures.

(a) Pre-Petition Conference- Prior to official submittal of a petition for consideration of a Planned Development District, the petitioner (owner, agent or proponent) shall meet with the Village Plan Commission and its technical advisory staff, as may be provided by the Village Board, for a preliminary discussion as to the scope and nature of the proposed development and to consider alternate solutions to the development of a given area. Failure to secure preliminary approval of the Plan Commission in the pre-petition conference shall preclude further consideration of the proposed development.

Section 16.097 (3) (b)

(b) Petition- Upon securing preliminary approval from the Village Plan Commission and its technical advisory staff, the petitioner shall submit to the Village Board the preliminarily approved proposal, requesting a change in zoning to that of Planned Development District. Such petition for approval of a plan and for a change of zoning shall be processed in accordance with the procedures set forth in Section 62.23 (7) (d) of Wisconsin Statute. A fee of \$100 shall accompany the petition; fee shall be payable to and will be retained by the Village of Whitefish Bay.

Petitioner shall submit evidence satisfactory to the Village Board that he is or has the power to be the owner of all lands in the proposed planned development upon

compliance with prescribed conditions at a date set by the Village Board.

(c) Referral- Prior to making a final determination, the proposed development plan shall be referred by the Village Board to the Village Plan Commission, which body in turn shall refer the proposed plan to the Architectural Review Commission for consideration, advice and recommendation. Unless extended by the Village Board, the recommendation of the Village Plan Commission shall be made to the Village Board within sixty (60) days of such referral to the Building Board.

(d) Findings and Action Required-

I. The Village Plan Commission may recommend rezoning of an area into the Planned Development District. The Village Board, after receiving the recommendations of the Village Plan Commission and the Architectural Review Commission, and after public hearing, held after public notice as provided by Wisconsin Statutes and in addition thereto, notification to all property owners within 500 feet in all directions from the boundaries of the proposed development project, may by ordinance rezone the area to a Planned Development District, provided that the information submitted with the application and presented at the hearings establishes that:

- a. The development as proposed will create an environment of sustained desirability and stability, and will not be detrimental to the present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;
- b. The development plan is in accord with the intent and purpose of this ordinance;

Section 16.097 (3) (d) (l) (c)

c. The area to be developed complies with the area requirements of Section (2) (b) of this ordinance and that the area will be developed in an efficient and economically satisfactory manner and will contribute substantially to the improvement of the area in which the development is to be located.

d. The various stages, if any, by which the development is proposed to be constructed or undertaken as stated in the development plan, are practical and in the public interest;

e. Public facilities and utilities, existing or proposed adequate to meet the requirements imposed by the proposed planned development project, either in conjunction with the plan or separately, are or will be completed by the time the related stage of the development plan is completed;

f. The proposed changes, if any, to the Village map with regard to street and alley locations, levels, closing, or vacations are necessary, desirable, and in the public interest;

g. Exceptions from standard Zoning Code requirements are warranted by the design and amenities incorporated in the development plan;

h. The area surrounding said development must have been considered in the planning and its existing uses and probable future use shall be substantially compatible with the proposed development.

i. When the development is an extension to an existing planned development, said development is compatible with or complimentary in appearance and use to the existing planned development.

2. In taking action, the Village Plan Commission may recommend a denial of the development plan and development schedule as submitted, or may recommend approval of said plan and schedule subject to specified amendments.

3. At the time of adopting any ordinance establishing a Planned Development District, the Village Board shall make appropriate arrangements with the petitioner, through contract or a performance bond which will insure the accomplishment and completion at scheduled times of the development plan in accordance with approvals given.

Section 16.097 (3) (d) (4)

4. Any change in the development plan made after adoption of the ordinance placing an area in the Planned Development District shall be considered a change in zoning. The owner shall record with the Register of Deeds of Milwaukee County a covenant running with the land restricting the use and development of the area within the boundaries of the development plan to that approved by the Village Board.

5. If no development has occurred to effectuate a planned development within the time limit established by the Village Board, the Village Plan Commission shall review the action and determine whether or not the continuation of a given planned development is in the public interest. Upon its determination, it shall make recommendations to the Village Board in accordance therewith.

6. Upon receipt of the recommendation of the Village Plan Commission and in the event no development has occurred to effectuate a planned development within the time limit established, the Village Board shall determine what action shall be taken, including whether or not the area shall be rezoned to its former classification.

7. Upon completion of a planned development area, no changes shall be made without approval of the Plan Commission and the Village Board. (Changes in a completed planned development area shall be considered the same as a change in zoning and shall be made in accordance with the provisions of law.)

16.098 DISTRICT 10 - FLOOD PLAIN DISTRICT

The Flood Plain District Regulations - District 10 - is available at the Village Hall upon request.
(Ord. 1725)

16.099 DISTRICT 11 - SILVER SPRING DRIVE BUSINESS DISTRICT

(1) District Intent

(2) District Boundary

(3) Prohibited and Conditional Uses

- A. Prohibited District Uses
- B. Conditional Uses

(4) Conditional Use Process

(5) Building Design Standards

- A. Vehicular Access
- B. Build to and set back lines
- C. Building Composition - Height
- D. Building Composition - Base, Middle and Top
- E. Building Composition - Proportion
- F. Entrance Location
- G. Transparency
- H. Materials
- I. Landscape and Screening
- J. Lighting
- K. Mechanical Equipment
- L. Ground Floor Setback Zone
 - 1. Architectural Elements
 - 2. Hoods, Canopies and Awnings
 - 3. Signage
 - 4. Lighting
 - 5. Street Furnishings
- M. Upper Floors Setback Zone
 - 1. Architectural Elements
 - 2. Signage
 - 3. Balconies and Bay Windows
 - 4. Sun Control Devices
 - 5. Lighting
- N. Conformance requirements

(6) Parking Standards

(7) Miscellaneous Provisions

16.099 DISTRICT 11 - SILVER SPRING DRIVE BUSINESS DISTRICT

(1) District Intent

The intent and purpose of the Silver Spring Drive Business District is to provide land for retail, office and mixed-use residential developments and provide employment and purchasing opportunities. In addition, the district is intended to offer a vibrant gathering place for Village residents and visitors. The Silver Spring Business District Master Plan, adopted by the Village Board in June 2003, was the catalyst for the creation of this unique business zoning district. Development or redevelopment within this district should conform to the intent of the Master Plan. The desired character of this district includes buildings close to and oriented towards the sidewalk. Development is intended to be pedestrian oriented. The district allows a full range of retail, service, business and mixed use-residential uses with a local, community and regional market area.

(2) District Boundary

The Silver Spring Drive Business District shall be incorporated into the Zoning Map of the Village of Whitefish Bay.

(3) Prohibited and Conditional Uses

Permitted uses that existed prior to the adoption of this zoning code amendment (date) are permitted in their current location.

A. Prohibited District Uses

The following uses are prohibited in District 11:

1. Adult-oriented business including but not limited to adult bookstores, movie theatres, video arcades, paraphernalia dealers, and Internet providers.
2. Coin operated facilities of any kind.
3. Outdoor freestanding automated teller machines, vending machines or unattended dispensing machines of any kind that dispense cash, prepaid telephone cards or goods.
4. Short-term loan facilities that provide loans in exchange for collateral (other than collateral real estate or vehicles and equipment owned by and used in a business).
5. Establishments that charge a fee for cashing checks or exchanging currency or financial instruments (other than the exchange of foreign for domestic currencies, or the sale of travelers checks, or the assessment of fees and service charges by chartered banks, savings and loans and credit unions).
6. The maintenance of vehicles, equipment, or other forms of personal property as collateral executed upon in satisfaction of any type of loan.
7. Tattoo and piercing parlors.
8. Gas station and auto or other equipment service businesses.
9. Sale of firearms, fireworks, or weapons of any kind.
10. Drive-through establishments which derive more than one-half of sales from drive-through operations.
11. Boarding houses or other places of accommodation that charge on more than a nightly basis and do not provide an individual self-contained unit including a full-bath with each sleeping room.
12. Convenience stores.
13. Pawn shops.
14. All uses prohibited in the entire Village pursuant to the Zoning Code.

B. Conditional Uses

All uses that are not specifically prohibited in this district are classified as conditional uses. Because of the unique character of the District, these uses require special review and consideration. Such uses may be desirable to be allowed in the District provided that due consideration is given to the location, development and operation of such uses.

Uses deemed similar in function as those listed below exemplify a mix of uses that is consistent with the goals of the Silver Spring Drive Master Plan. Retail uses are primarily encouraged on the first floor of facilities fronting Silver Spring Drive and non-retail uses are primarily encouraged on second floors or higher or in areas not fronting Silver Spring Drive.

Retail

- Art Galleries
- Art Supply
- Bakeries
- Clothing Stores
- Florists
- Home Furnishings Stores
- Gift Stores
- Health and Personal Care Stores
- Jewelry Stores
- Luggage and Leather Goods Stores
- Paint and Wallpaper Stores
- Shoe Stores
- Specialty Food Stores
- Sporting Goods and Hobby Stores
- Stationary Stores
- Supermarkets and Full Service Grocery Stores
- Specialty Retail
- Restaurants

Services

- Barber Shops
- Beauty Salons
- Camera and Photofinishing Stores
- Financial Institutions
- Footwear and Leather Goods Repair
- Interior Design Services
- Real Estate Agents and Brokers
- Photography Studios and Services
- Travel Arrangement and Reservation Services
- Video Tape and Disc Rental

Offices

Office Uses - Offices, other than those located at street level, are specifically permitted. For the purposes of this subsection, an office is defined as a room or series of rooms in which the affairs of a profession are carried out, or in which the administrative or financial affairs of a business (without any retail or direct sales activity) of a business are carried out. (Ord. 1729)

Arts, Entertainment and Recreation

Fitness and Recreational Sports Centers

Performing Arts Companies including public performance spaces

Residential

Apartment style or townhomes (not permitted to front on Silver Spring Drive if on the ground floor.

(4) Conditional Use Process

Section 16.099(4)

(A) AUTHORITY OF THE PLAN COMMISSION: REQUIREMENTS

(1) The Plan Commission may authorize the Building Inspector to issue a conditional use permit after review and public hearing, 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, and are not otherwise prohibited by other Sections of this Zoning Code. Prior to the granting of a conditional use, the Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

(2) Conditions such as limitation on certain uses, control of operation, hours of operation, improved traffic circulation, deed restrictions, increased yards, parking requirements, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing parking screens and private security services may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Section.

(3) Compliance with all other provisions of this Chapter, including but not limited to lot width and area, yards, height and parking shall be required of all conditional uses.

(B) 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 property for which a conditional use is sought, may file an application to use such property for a conditional use in the District 11.

(C) APPLICATION FOR CONDITIONAL USE.

(1) Required Application Materials.

A written application for a conditional use shall be filed in duplicate on a form prescribed by the Village. Such applications shall be forwarded to the Plan Commission on receipt by the Building Inspector. Such applications shall include where applicable:

(a) A statement by applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section F hereinafter.

Section 16.099(4)(C)(1)(b)

(b) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within

one hundred (100) feet.

(c) Description of the subject site by street address, type of structure, proposed operation or use of the structure or site, and number of employees.

(d) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping, if the application involves an entire building or any exterior changes of an existing building.

(e) Statement of plan of operation of the business, including products to be sold and method of sales and service.

(f) Plans for location of buildings, rooms, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting.

(g) Statement as to number of square feet of sales area.

(h) Any other pertinent information needed by the Plan Commission upon which to base its determination as to whether the proposed use meets the requirement of this Section.

(i) Fee receipt in the amount of One Hundred Dollars (\$100.00) or such other amount as the Village Board determines from time to time.

(D) HEARING ON APPLICATION.

Upon receipt of the application and the application materials referred to in Subsection D above, the Plan Commission shall hold a public hearing on each application for a conditional use 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 to comply with state law and as the Plan Commission shall prescribe from time to time.

(E) NOTICE OF HEARING OF APPLICATION.

Notice of the time, place, and purpose of such hearing shall be given by publication of a Class I 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 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 five (5) days prior to the date of such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

(F) STANDARDS - CONDITIONAL USES.

No application for a conditional use shall be granted by the Plan Commission unless the following conditions are present and any necessary findings are made under state law and the Zoning Code:

(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 properties and businesses.

(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 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 conform to all other applicable regulations of the Zoning Code.

(G) CONDITIONS AND GUARANTEES.

The following provisions shall apply to all conditional uses:

(l) Conditions. Prior to the granting of any conditional use, the Plan Commission may require 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 as specified in Section F above. In all cases in which conditional uses are granted, the Plan Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions required in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration, the following:

- (a) Specific uses;
- (b) Control of operation;
- (c) Hours of operation;
- (d) Traffic circulation;
- (e) Deed restrictions;
- (f) Setbacks and yards;
- (g) Planting screens;
- (h) Increased parking;
- (i) Landscaping;
- (j) Type of construction;
- (k) Construction commencement and completion dates;
- (l) Sureties;
- (m) Lighting;
- (n) Fencing;
- (o) Private security services;
- (p) Compliance with design standards set forth in Section 5 of the Silver Spring Drive District;
- (q) Any other requirement necessary to fulfill the purpose and intent of this Section.

(2) Site Review. In making its decision, the Plan Commission shall evaluate each application and may request assistance at the expense of the applicant, from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, traffic generation and circulation, and the proposed operation and use.

(3) Alteration of Conditional Use. No alteration of a conditional use shall be permitted unless approved by the Plan Commission.

Section 16.099(4)(G)(4)

(4) Architectural Treatment. Architectural treatment will be as approved by the

CDA or Architectural Review Commission, if so required under any other provision of the Zoning Code.

(5) Conditional Uses to Comply with Other Requirements.

Conditional uses shall comply with all other provisions of the Zoning Code such as lot width and area, yards, height, and parking as minimum requirements, subject to such other increased requirements as may be imposed as conditions under (I) above.

(H) DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT.

When a decision of denial of a conditional use application is made, the Plan Commission shall furnish to the applicant, in writing when so requested, a statement of those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met.

(I) COURT REVIEW.

Any person or persons, jointly or severally aggrieved by any decision of the Plan Commission, or any taxpayer, or any officer of the municipality, may, within 30 days after the filing of the decision in the office of the Plan Commission, commence an action in the Circuit Court of Milwaukee County seeking the remedy available by certiorari.

(J) VALIDITY OF CONDITIONAL USE PERMIT.

Where the Plan Commission has approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Commission'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.

(K) ENFORCEMENT REGARDING CONDITIONAL USES.

The Building Inspector shall have the enforcement authority 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 imposed prior to or after approval or violation of any other provision of this Code. Any person or persons, jointly or severally aggrieved by any order of the Building Inspector pursuant to the provisions of this subsection may, within ten (10) days after the Building

Section 16.099(4)(K)

Inspector's order, appeal the decision and order of the Building Inspector to the Plan Commission. A Hearing shall be held by the Plan Commission after notice of hearing has been given pursuant to the provisions of Section E above.

(L) COMPLAINTS REGARDING CONDITIONAL USES.

The Plan Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Building Inspector. Upon written complaint of any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section G above, a condition of approval or other requirements imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section E above. Any person may appear at such hearing and testify in person or represented by an Agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in Section F or conditions previously imposed by the Plan Commission, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. Additionally, the offending party may be subjected to a forfeiture as set forth in Section 16.30 and Section 17.04 of the Municipal Code. In the event that no reasonable modification of such conditional use can be made in order to assure that the standards in Section F will be met, the Plan Commission may revoke the subject conditional approval and direct the Building Inspector to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be furnished to the current owner of the conditional use in writing stating the reasons therefore.

(5) BUILDING DESIGN STANDARDS:

The following standards apply to new construction or remodeling of existing structures in District 11:

A. Vehicular Access

Intent: Like blank walls, vehicular curb cuts effectively “deaden” the street environment by increasing pedestrian exposure to moving vehicles, limiting opportunities for landscaping and trees, eliminating on-street parking spaces, and inhibiting uses that promote interaction.

Section 16.099(5)(A)

Standard: Public alleys shall be preserved and used to access service areas, loading docks and parking.

Access to structured parking: There shall be no more than 24 feet of combined driveway width for every 60 feet of block length. Driveways shall be no wider than 24 feet as they cross the public walk. Garage doors where used, shall be set back a minimum of 4 feet from the building’s facade. Garage doors on alleys need not be set back from the building’s facade. Entrances shall not front on Silver Spring Drive.

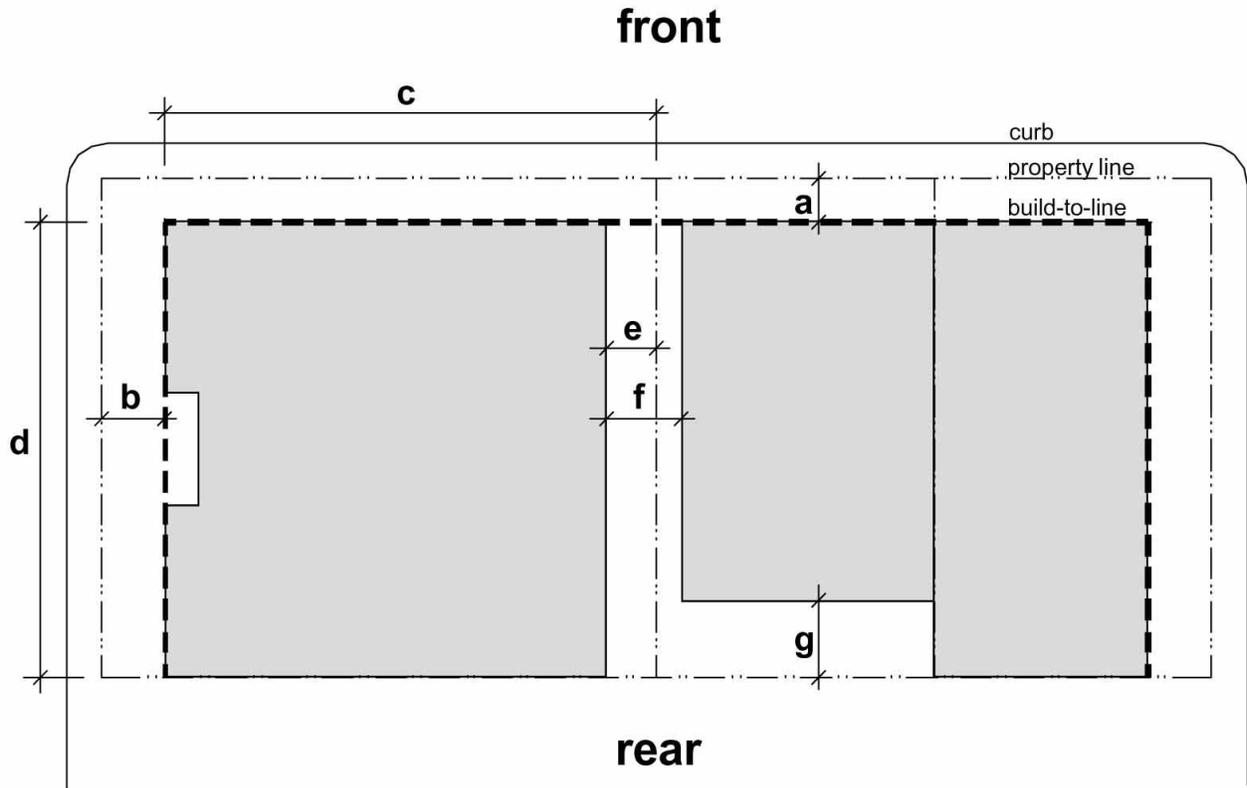
Access to surface lots and service areas: There shall be no more than 24 feet of driveway for every 120 feet of block length. Driveways shall be no wider than 24 feet as they cross the public walk.

B. Build to and Set Back Lines

Intent: Enclosure of space by buildings is the underlying principle of all urban places. The urban quality and pedestrian experience of a street are reinforced by the definition of the public realm. Buildings at the street edge define the public realm.

Standard: A percentage of the building facade must be located at the build-to-line on each street. The remainder of the building facade may be set back further. The build-to-line applies to the facade from street level up to the maximum building height (Section C). Exemptions include building entries less than 4 feet deep and 16 feet wide and indentations and openings that do not exceed 1 foot in depth perpendicular to the facade.

Corner lots may combine open frontage allowed on both streets to provide a public space that opens to one of the streets.



- a** The location of the Build to Line on Silver Spring Drive is based on the minimum setback line as required by the Village of Whitefish Bay Setback Map. The Build to Line is parallel to or equal to the minimum setback line. The Build to Line can be no closer to the property line than the minimum set back line, and no greater than one foot behind the minimum set back line. The typical minimum setback on Silver Spring Drive is ten feet, thus the build to line could occur from ten and eleven feet from the property line.
- b** The location of the Build to Line on all public streets other than Silver Spring Drive is based on the minimum setback line as required by the Village of Whitefish Bay Setback Map. The Build to Line is parallel to the minimum setback line. The Build to Line can be no closer to the property line than the minimum set back line, and no greater than one foot behind the minimum set back line. The minimum setback on public streets other than Silver Spring Drive varies. For example, if the Setback map indicates an eight-foot minimum setback, the build to line could occur from eight to nine feet from the property line.

Section 16.099(5)(B)(c)

- c** Silver Spring Build-to-Line: The **façade** of buildings fronting Silver Spring Drive must

occupy a minimum of 90% of the build-to-line. Exceptions to the build-to-line may be considered for the creation of publicly accessible, pedestrian, landscaped spaces not exceeding 1/3 of the building's lot frontage.

d Other Build-to-Lines: The façade of buildings fronting public streets other than Silver Spring Drive must occupy a minimum of 75% of the build-to-line.

e Side setback on interior lots: Buildings are not required to be setback from interior lot lines except where the parcel abuts a residential district. If a commercial parcel abuts a residential district, then the setback is ten (10) feet. Building scale should also take into consideration the proximity of adjacent residential buildings. Upper stories shall be setback a minimum of five (5) feet unless all living and working spaces have at least one (1) window (of at least 1/10 the room area) on the street, alley, year yard or onto an interior or exterior court on the same lot. For the purpose of providing light and ventilation in this case, courts shall meet the following requirements:

- No inner court shall be less than fourteen (14) feet in width or less than 280 square feet in area for courts two (2) stories in height or less.
- No inner lot line court shall be less than eight (8) feet in width or less than 100 square feet in area for courts two (2) stories or less in height.
- No outer court shall be less than ten (10) feet wide and thirty (30) feet in length for a court two (2) stories or less in height, and for any additional length, the width of such court shall be increased at the rate of one (1) foot in six (6) feet.

f Distance between buildings: A minimum distance of ten (10) feet is required between any building and a single or two-family residential building. A minimum distance of ten (10) feet is required between any building and an apartment building of three (3) or more residential units when residences are located on the ground floor.

g Rear and alley setback: A minimum distance of five (5) feet is required between any building and the rear lot line or any alley, except where adjacent to a residential district the setback is ten (10) feet. (Ord. 1692)

C. Building Composition - Height (Ord. 1699)

Intent: Building height is an integral part of reinforcing an urban space. The continuous extension of building heights brings continuity to the street. However, a site's highest and best use may call for a significant increase of floor area over and beyond historical development patterns. New development can address this apparent contradiction with a design approach that acknowledges continuity of context even as it meets the concerns of development economics.

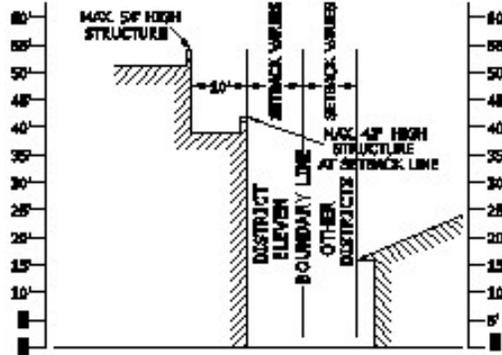
Standard: Buildings should be context sensitive, which will enhance distinctive skyline character and promote individual expression, but need not be built at the exact height as their neighbors.

Building height, including parapets and roof surfaces, but not including mechanical equipment, elevator shafts, chimneys, vents and stacks, and the like, shall not exceed 54 feet. When the side of a building is adjacent, in whole or in part, to other districts or

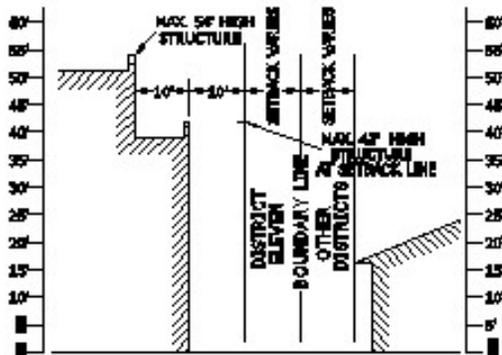
streets or alleys that abut other districts, an outside wall over 42 feet in height, including parapets and mechanical equipment, but not including minor roof surfaces, other minor structural elements, elevator shafts, chimneys, vents and stacks, and the like, must be at least 10 feet behind the face of the outermost wall below it (averages may be used for irregular surfaces). In all cases, the height of mechanical equipment, elevator shafts, chimneys, vents and stacks, and the like, shall be minimized, screened in an aesthetically appropriate manner, and hidden from street view as much as possible, and in no situation may these items exceed an additional five feet in height.

(See Diagram on following page-)

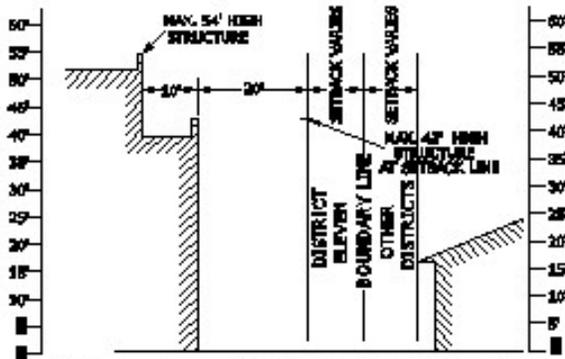
PLAN COMMISSION RECOMMENDATION



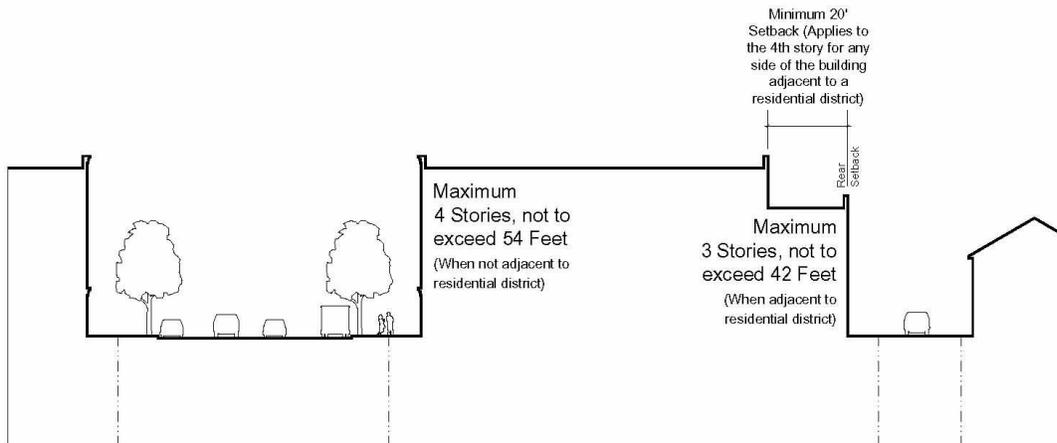
District Eleven Building Height Setback Example "D"
(When Adjacent to Other Districts, Residential District Shown)



District Eleven Building Height Setback Example "E"
(When Adjacent to Other Districts, Residential District Shown)



District Eleven Building Height Setback Example "F"
(When Adjacent to Other Districts, Residential District Shown)



D Building Composition - Base, Middle and Top

Building Height Diagram

Intent: Adopting a base middle and top compositional strategy not only ties the facade to a long tradition of architectural expression but provides a flexible method of relating the building to the pedestrian, at its base, to the surrounding architecture, (mid-section expression), and to the opportunity for unique formal identity in the skyline.



Building Composition- Base, Middle and Top Diagram

Standard: The building's street facades shall express a base, middle and top composition strategy.

Base: On village streets where social and business activities are compressed the base not only provides access, but by its image conveys purpose, attracting, engaging even inviting pedestrians to enter. This direct proximity to people requires that the base of the building be distinct and respond in a hospitable way supportive of human activities along the street. The building shall be articulated with a horizontal expression line establishing a base, a ground level zone distinct from the facade above.

Middle: The mid-section of the facade envelopes the building's functions above its base and forms a frame of reference for its top. Visual richness depends upon sky light creating variations of light and shadow on the facade and changing over time. The mid-section of the building shall form an expression line setting up the building's top and shall be articulated by surface variations of perceptible depth through windows, architectural elements, etc.

Top: The top of the building, the portion that meets the sky, is traditionally a zone of varied if not exuberant architectural expression of form, ornament and/or intricacy. The mid-section of the building shall be terminated in a way that punctuates the top zone and gives distinction to the whole building. Even modernist buildings shall in some architecturally consistent way respond to this architectural tenet.

E Building Composition - Proportion

Intent: Proportion is the numeric ratio of two opposing dimensions of a form or space such as height/width. The use of proportion is intended to provide a sense of visual harmony among elements of a building. A well-proportioned building has component parts, (windows for example), that have the same proportion as the other parts, (structural bays, panels, facades zones, etc.). A pattern of components with a greater height than width creates a preferable vertical proportion consistent with taller building massing that is historically prevalent in the City.

Standard: The building's massing and resulting surfaces shall demonstrate consistent proportional harmonies, (simple ratios), that shall be, by way of extension, used in the development of the facade's composition and details.



Building Composition- Proportion Diagram

F Entrance location

Intent: Every building parcel is located along one or more streets. Buildings in this traditional urban pattern have fronts and backs. The fronts face the street and allow for public access. The backs often occur along alleys that provide for service access.

Standard: Entrances to ground floor uses shall be along main street facades. Buildings on corners can have entry locations on both streets giving priority to Silver Spring Drive. Vehicular access drives are not permitted on Silver Spring Drive except by a finding of the Planning Commission that a that a particular vehicular access drive is desirable for efficient and safe use of the property it serves and the proposed vehicular driveway does not unreasonably hinder or adversely effect efficient and safe vehicular and pedestrian movement to and from adjacent properties. (Ord. 1753)

Rear public entries adjacent to public parking and other public areas shall be treated with the same degree of architectural quality and prominence as main entries.

G Transparency (Ord. 1688)

Intent: Transparency at the street level enlivens the street environment, providing interest and activity along the sidewalk and at night providing a secondary, more intimate, source of lighting.



Standard applies to this zone, which is at least six feet in height

Maximum sill height two feet six inches on Silver Spring Drive (three feet on other streets).

Standard: The required percentage of first floor glazing must be clear glass that transmits at least 65% of visible daylight, at least 6 feet in height with sills not more than 2 feet-6 inches above the interior floor level on Silver Spring Drive (3 feet on other streets). Structural elements of the glazing system (6 inches or less in width) shall be counted toward requirements. When viewed from the public way through glazing, the interior space must be visible to a depth of twelve (12) feet.

Required glazing percentage as permitted by Street Type:

Silver Spring Drive: At least 75% of building frontage except when substituted by display cases (which may comprise no more than 50% of the required glazing).

Side Streets: At least 50% of building frontage except when substituted by glazing alternatives.

Alleys: No transparency requirements.

Ground Floor Residential: No transparency requirements.

Glazing alternatives:

- Other first floor windows outside of required area that otherwise meet standards: Counted at half rate.

- Display cases located within the required area.
- Architectural details within the required area such as surface relief, decorative brickwork, material patterning, distinctive elements, etc.

H Materials

Intent: Building materials are critical in establishing the character and cultural aesthetic of the public realm. Buildings require appropriate and respectful attention in the materials selected for facades.

Standard: Ground floor street façade treatments, aside from doors and windows, shall consist of at least 80% durable masonry.

The following materials are discouraged and shall be limited to no more than 20% of street facades (including ground and upper floors):

- All concrete masonry units
- Corrugated sheet metal
- Exposed aggregate pre cast concrete
- EIFS (Exterior Insulation and Finish System)

The following materials are prohibited on all street facades:

- Finished foam plastic
- Particle Board
- Siding
- Shingles

I Landscape and Screening

Intent: Most parking and service areas are intrusive and detract from the overall image of a building and street. Though necessary functions, they do little to contribute to the aesthetics and experience of passing by the building.

Standard: Landscaping shall be used to screen the perimeter of surface parking, structured parking (where other ground floor activities are not present), and service areas where visible from the street.

Existing surface lots must follow the standards when improvements exceed striping, patching, or sealing.

Surface Parking: Surface lots shall provide continuous base shrubs along a decorative masonry and/or metal garden wall (at least 4 feet in height), curbing to prevent soil and ground cover from spilling onto the sidewalk, and trees planted at a minimum of 25 feet on center with a minimum height of seven (7) feet at time of planting. The crown of the trees and garden wall shall create a continuous street edge. Landscaping at eye level shall remain mostly transparent.

Service Areas: Landscaping shall be a minimum height of 7 feet and completely obscure service areas (trash receptacles, mechanical equipment, and similar functions) from view from the public right-of-way. Landscaping can consist of plant material and/or decorative garden walls and fencing. Trash service areas shall come into compliance with the screening requirements within 27 months of adoption of this section. (Ord. 1694)

Structured Parking: Provide either continuous base shrubs, curbing to prevent soil and ground cover from spilling onto the sidewalk and trees planted at a minimum of fifteen (15) feet on center with a minimum height of seven (7) feet at time of planting or follow transparency standard.

J Lighting

Intent: Well-placed lighting at appropriate levels on the building facade, in display windows, on signage, on the underside of overhead weather protection, on and around street furniture, in landscaped areas and off-street parking lots promotes a sense of security, visual interest and intimacy during nighttime hours.

Standard: Architectural lighting attached to the building **façade** shall be configured to avoid glare by concealing or baffling the light source and reflecting the light off surfaces, (or grazing surfaces) to emphasize form and texture. Lighting should not include flashing lights or flashing signage.

The architectural lighting design strategy shall avoid dull uniform lighting configurations by incorporating multiple light sources that create visually interesting pools of light and point lighting that accent architectural features.

Lighting of off-street parking areas must be accomplished with down lighting (where the majority of the luminaries is shielded from view) no higher than 15 feet above grade.

The maintained horizontal luminance within the district shall not exceed an average of 1.0 foot-candle. Where adjacent to a residential district, the maximum illumination level is 0.5 foot-candles at the property line.

Horizontal luminance is defined as the measurement of brightness from a light source, measured in foot-candles, which is taken through a light meter's sensor at a horizontal position.

Applicant shall submit a lighting plan that indicates the location of all exterior lights, lighting specifications and associated lighting levels as applicable to the above standards.

These standards do not address illumination levels or fixture height that may be required by the Village of Whitefish Bay for adequate lighting of public street rights-of-way.

K Mechanical Equipment

Intent: Mechanical equipment is increasingly important in current building practice but unless architecturally designed to be publicly expressed it detracts significantly from the quality of urban environments. Setting the equipment back from the street facade is the first step and may be all that is needed.

Standard: The building's mechanical equipment shall be concealed from street view by parapets or screened in a way that is visually consistent with the building's design aesthetic. Appropriate sound dampening measures shall also be taken when planning for mechanical equipment.

L Ground Floor Setback Zone

Intent: The Setback Zone is defined as the area between the building **façade** and the property line. Elements in this zone can contribute to the character, scale and visual richness of the street.

i. Hoods and Canopies

Hood and canopy projections shall be permitted above entry doorways of any building. The width of hoods and canopies, measured parallel to the building face, shall not exceed the width of the entrance doorway(s) by more than four feet. The overall thickness of a hood or canopy shall not exceed 4 feet. There shall be at least 8 feet in the clear between any point of the hood or canopy and the sidewalk grade below and can not extend past the property line.

ii. Awnings

Awning projections shall have a maximum projection of 6 feet and no closer than 2 feet to the curb line. There shall be at least 8 feet of clearance between any point of the frame and the sidewalk grade below, and at least 7 feet 3 inches between all awning material and the sidewalk grade below. Retractable awnings are allowed, provided they meet all other design standards.

iii. Signage

Signage may project not more than 4 feet beyond the building facade. There must be a clearance of at least 8 feet between any part of the sign and the sidewalk grade below. No portion of a projecting sign may exceed 16 feet above sidewalk grade.

iv. Architectural Elements

Architectural elements may extend no more than three feet into the setback zone. The following are examples of such architectural elements:

- Main cornices
- Cornices of windows, porches, and false mansard type structures
- Belt courses, lintels, sills, architraves, pediments over windows
- Pediments, nonstructural columns or pilasters
- Rustications (masonry projections) and quoins
- Base courses

v. Street Furnishings

The animation of public spaces in the setback zone occurs when occasions to linger are introduced. Street furniture is permitted to the extent that pedestrian circulation is not blocked. Street furnishings must be able to withstand weather conditions; graffiti and public use and remain in good repair.

M Upper Floors Setback (Ord. 1699)

This zone is defined to be within the height of the middle and top of the building but extending out into the setback zone. Elements in this zone are encouraged. Successful integration of these elements contributes to visual interest in a way that is consistent with the architecture of the building. In addition, architectural features shall be included that will help avoid a “tunnel” look on the street and alley sides of a building.

i. Balconies and Bay Windows

Balconies and bay windows are facade enrichment elements. The underside of the balconies or bay windows must be finished with materials similar in quality to the main building façade.

Balconies and Bay windows must be at least 10 feet above the sidewalk grade below. Balconies and Bay Windows may project not more than 3 feet into the setback area. All parts of the window must be at least 10 feet above the sidewalk grade below.

ii. Architectural Elements

Architectural elements (including Balconies and Bay Windows) may extend no more than three feet into the setback zone. The following are traditional architectural terms and elements, but also apply to contemporary counterparts are examples of such architectural elements:

- Main cornices
- Cornices of windows, porches, and false mansard type structures
- Belt courses, lintels, sills, architraves, pediments over windows
- Pediments, nonstructural columns or pilasters
- Rustications (masonry projections) and quoins
- Base courses

N Conformance Requirements

- (1) Conformance with all zoning and design standards shall be required where a structure is rehabilitated or remodeled to the extent that the cost of the changes constitute 50% or more of the fair market value of the property derived from the most recent property tax bill at the time the permits are issued.

(6) Parking Standards

(A) COMMERCIAL OFF-STREET PARKING REQUIRED - (Ord. 1691

- i) Off-Street On-Site Parking shall be required in District 11. The number of parking spaces required shall be the number of spaces as determined by the criterion set forth in Section 6.065 (3)(a) of the Municipal Code and subject to the adjustment provisions as set forth in Section 16.099 (6)(A)(v). In the case of uses that are not specified in Section 16.099 (6)(A), the number of spaces specified for similar uses shall apply.
- (ii) The requirements of this Section are applicable in the following instances:
 - (1) A new building is being erected,
 - (2) A building is being remodeled or altered externally or internally, which results in an increase in the demand for parking as determined by Section 6.065 (3)(a).
 - (3) A new conditional use is applied for.
 - (4) A land parcel is being created or changed.
- (iii) Parking spaces for the physically disabled shall meet the requirements of Section 346.50, 346.503 and 346.505 of the Wisconsin Statutes.
- (iv) The criterion for determining parking requirements shall be based upon the proposed uses. In the event of interior remodeling or alteration where the proposed use is not definitely known, the last previous use will be deemed to be the new use. In the event of a new building or exterior remodeling or alteration where the proposed use is not definitely known, the use will be presumed to be that with the greatest parking requirements.
- (v) Adjustments to required parking.

The purpose of this section is to allow adjustments to the minimum number of parking spaces required to avoid constructing unneeded and excessive off-street parking facilities. Reducing the amount of excess off-street parking facilities is intended to provide for more cost-efficient site development, to eliminate constructing more impervious surface than

necessary, to minimize storm water runoff, to avoid construction of unnecessarily large storm water facilities, and to provide more landscape areas and open space on commercial sites. To achieve these purposes, the Plan Commission may reduce the minimum number of required off-street parking spaces in specific cases as described in this section. Sections a through d below are the factors that shall be used as a basis to adjust parking requirements in District 11:

- a) Historical conditions. If the Plan Commission determines that the amount of existing on-site parking is adequate for the current use given historical conditions, the additional parking requirement for a new or expanded use may be only the difference between the requirements for the existing and the new or expanded use.
- b) Evidence that actual parking demands will be less than code requirements. The petitioner shall submit written documentation to the satisfaction of the Plan Commission that the use will require less parking than code requirements.
- c) Availability of shared or off-site parking. The petitioner shall submit written documentation to the satisfaction of the Plan Commission that shared or off-street parking spaces are available to satisfy the parking demand. Acceptable written documentation includes contracts, joint lease agreements, purchase agreements or other documentation that shows such shared or off-site parking can be accomplished, and cannot be eliminated or reduced without the Village's approval for such period of time deemed appropriate by the Plan Commission.
- d) Use of alternative transportation. The Plan Commission may reduce parking requirements upon demonstration that effective alternative transportation to the automobile will occur. Alternative may include, but is not limited to, bus transit, walking, car pool/ride sharing and bicycling.

(B) RESIDENTIAL OFF-STREET PARKING REQUIRED

Parking space for not less than one and a half automobiles for each residential unit in any apartment building, condominium building or combination building shall be provided in a detached building, parking area, or basement garage, plus one space per 10 units for guest parking. Such parking shall either be on-site or in reasonable proximity as determined by the Plan Commission.

A detached building, parking area or any combination thereof shall occupy not to exceed fifty (50) percent of the actual rear yard area and shall have side and rear setbacks of not less than three feet except where the detached building is adjacent to an alley, in which case the rear setback shall be not less than five feet. Such detached building shall not exceed twelve (12) feet in height.

(7) Miscellaneous Provisions

A. Repealed (Ord. 1724)

B. Display of goods between setback lines prohibited.

In District 11 it shall be unlawful to place or expose for sale any goods, merchandise or advertising matter anywhere between the setback lines on each side of the street.

16.10 **MEASURE OF PERMISSIBLE LOT OCCUPANCY**

- I. Where permissible, lot occupancy by buildings is regulated by this chapter by-
 - (a) Stipulated minimum setbacks and court area, and
 - (b) Maximum percentage of lot occupancy, the less restrictive of the two determinations shall govern.

16.11 PROHIBITED USES

I. "IN ENTIRE VILLAGE".

In addition to the uses prohibited by other provisions of this Code, no building or premises in this Village shall be used for the following purposes: (Ord. 1424-amended)

- (a) Automobile wrecking, automobile dismantling, selling of used automobile parts, or used car lot.
- (b) Building materials, storage yard or sales outlet.
- (c) Contractor's plant or storage yard.
- (d) Dog, cat or other animal hospital, clinic or office; pet shop; animal shelter or kennel.
- (e) Live poultry or fowl market or poultry killing.
- (f) Manufacturing of any kind, including metal fabrication and machine shops.
- (g) Electric substations, except those used for municipal street lighting purposes.
- (h) The storage or parking of trucks, except in a building lawfully erected for such purposes.
- (i) Self service beverage dispensing stations (except as a department or service of a larger retail establishment where such department or service is not the predominant use or service rendered by such establishment).
- (j) Storage of iron, bottles, rags, or junk (except for materials temporarily stored for recycling in a municipal recycling program) or the storage of any materials except those used for retail sales or office use at the site.
- (k) The keeping of non-domestic animals.
- (l) Trailer lot.
- (m) Trucking contractor's garage or storage yard.
- (n) Warehouses and distributing stations.
- (o) Wholesale stores.
- (p) Sanitariums, hospitals and convalescent homes, whether profit or non-profit.
- (q) Self service laundry and dry cleaning establishments.
- (r) Bowling alleys, billiard parlors, archery ranges, dance halls, miniature golf

courses and golf driving ranges.

(s) Coin operated amusement devices and amusement centers.

(t) Parking, leaving or storing of any partially dismantled, inoperable, rusted, wrecked, junked or unlicensed motor vehicle, or motor vehicle with expired license plates on any premises, except that this section shall not apply to a motor vehicle kept in a garage, or a motor vehicle in custody of the Village.

(u) Magazine stand.

(2) POULTRY, RABBITS, ETC., PROHIBITED.

It shall be unlawful to erect, alter or maintain any coop, pen or cote for poultry, pigeons, guinea pigs, rabbits or any other rodents anywhere in the Village of Whitefish Bay within 200 feet of any building used for residence purposes, except that any Village resident may maintain, as a pet within his home, not more than two guinea pigs, hamsters, or rabbits, providing this does not constitute a nuisance.

(3) PUBLIC GARAGES, FILLING STATIONS AND GREASING STATIONS.

No public garage, gasoline filling station or greasing station shall be erected within 500 feet of-

(a) Any school grounds.

(b) Any real estate owned or used by any religious corporation for religious purposes.

(c) Any existing public garage, gasoline filling stations or greasing station.

(4) EXCEPTIONS.

The provisions of subsection (3) shall not operate to prevent, at any time prior to January 1, 1951, the construction or maintenance of a gasoline filling station or greasing station located on premises which were used as a public gasoline filling station independent of any garage operated in connection therewith at any time since the first day of January, 1924, but shall prevent the construction or maintenance of a gasoline filling station or greasing station located on such premises after January 1, 1951, notwithstanding the provisions of Section 16.12 of this code.

(5) ADDITIONAL EXCEPTION.

The provisions of subsection (3) shall not operate to prevent the construction prior to September 1, 1939, and its maintenance thereafter of a public garage, gasoline filling station and greasing station on premises lawfully used for any of such purposes prior to the construction of a church within 500 feet thereof.

(6) PARKING OF AUTOMOBILES ON PRIVATE PROPERTY.

No person shall park or cause to be parked any motor vehicle on any lot or any parcel of ground of which he is not the owner, lessee, or a member, officer, agent or employee of the owner or lessee, and no person shall lease any lot or parcel of land for the parking of automobiles unless he also occupies the same for residence purposes, except as follows "On -":

(a) Public Parking Lots.

In zoning districts 4 (16.07), 4A (16.075), 6 (16.09), 7 (16.095), 8 (16.096) and 9 (16.097), where off street parking is permitted, required and authorized subject to the regulations of section 16.095 of this code.

(b) Filling Station Premises.

Where the owner or lessee located in a business or apartment district shall use or devote the filling station premises for public parking after written application has been made to the Village Clerk-Treasurer and a license issued hereunder obtained. The Village Clerk-Treasurer, upon receipt of an application for a filling station premises parking permit, shall notify the Village Manager of such application, and the latter shall inspect or cause to be inspected such premises to determine whether it complies

with the requirements and regulations of this code and the laws applicable thereto. The Village Manager shall furnish to the Village Board in writing the information derived from such investigation accompanied by a recommendation as to whether a license should be granted or refused. Upon the approval of the application by the Village Board, the Clerk-Treasurer shall issue a license to the applicant which shall remain in force until the first day of January next after a granting thereof, unless sooner revoked.

The license fee shall be as specified in Sec. 15.10 of the WFB Municipal Code. No license shall be granted to any applicant unless the described premises conform to the following requirements and regulations: (Ord. 1279)

1. Filling station premises shall be adequately drained.
2. There shall be no parking nearer than five feet from any building located on the premises, or nearer than ten feet from a building located on adjoining premises, or closer than six feet to any public sidewalk.
3. Where night parking is permitted on such premises, the same shall at all times be adequately lighted, and it shall be the duty of the owner, lessee or operator thereof to prevent any unnecessary blowing of automobile horns or other noise or disturbances tending to annoy the neighborhood.
4. Parking of trailers or vehicles with or without motive power, designed for carrying property or passengers shall be prohibited at all times while the

same are being used or occupied in any manner by any person or persons for living quarters.

Section 16.11 (6) (b) (5)

5. The Village Board may at any time suspend or revoke any license granted hereunder for failure to comply with the provisions of this ordinance or upon conviction for the violation of any of its terms or provisions.

6. The maximum number of motor vehicles which may be parked between the hours of midnight to 7:00 A.M. on any open area, excluding the required setback areas indicated in subsection (2) hereof, shall not exceed one motor vehicle per 360 square feet.

(7) PARKING OF MOBILE HOMES.

(a) An automobile or mobile home is defined as any structure intended or capable of being used for human habitation, mounted on wheels and intended or capable of being moved from place to place.

(b) It shall be unlawful to park or cause or permit to be parked any mobile home on any lot or parcel of ground in this Village, except that such mobile home may be parked by the owner or lessee of any dwelling or apartment on the lot upon which such dwelling or apartment is located, or by a bona fide guest of such owner or lessee for a period not exceeding seventy-two (72) hours in any calendar month; permits for periods of time longer than the seventy-two hour period above specified may be issued by the Village Clerk-Treasurer upon order of the Village Board.

(8) BUILDINGS TO FRONT ON STREET.

(a) Each building, other than an accessory building, shall front directly on a public street with no other building of any kind between any part of such building and any abutting street.

(b) In the event that a building, other than an accessory building, shall front directly on a private road with no other building of any kind between any part of such building and the private road on the effective date of this Ordinance and at all time thereafter, said building shall be deemed to comply with subsection (a).

(c) Dwellings and accessory buildings fronting or abutting on a private road shall not have the setback distance from said private road reduced from the actual setback distance existing on the effective date of this Ordinance. (Ord.1227)

(9) SKATEBOARD RAMPS.

(a) Definition: A skateboard ramp is an outdoor structure designed and principally intended to permit persons on skateboards to move continuously from one side to the other.

Section 16.11 (9) (b)

(b) It shall be unlawful to construct, erect, place or maintain a skateboard ramp on any property within the Village which ramp exceeds 6 feet in height.

(c) It shall be unlawful to construct, erect, place or maintain a skateboard ramp on any property within the Village which is not portable or detachable.

(d) It shall be unlawful to charge or to receive any consideration for the use of a skateboard ramp, or to use or operate a skateboard ramp in any commercial manner. (Ord. 1362)

16.12 **NONCONFORMING USES. (Ord. 1777)**

- (1) A legal nonconforming structure existing at the time of the adoption or pertinent amendment of the Zoning Ordinance may be continued although such structure does not conform with the provisions of the Ordinance. The nonconformity of such nonconforming structure may not be expanded except as set forth herein. A nonconforming structure may be restored to the size, location and use that it had immediately before it was damaged or destroyed provided such damage or destruction occurred on or after March 2, 2006 and provided the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation. A restored nonconforming structure may be larger than the size it was immediately before damage or destruction under this Ordinance if the structure must be larger to satisfy State or Federal law or regulations. Nonconforming structures may be subject to routine maintenance, repairs, renovation, or remodeling in any event.
- (2) The lawful nonconforming use of a property where such use existed at the time of the adoption or pertinent amendment of the Zoning Ordinance may be continued although such use does not conform with the provisions of the Ordinance. If such nonconforming use is discontinued for a period of twelve (12) months, any use of the property thereafter shall conform with the Ordinance.
- (3) The existence of a nonconforming lot may be maintained under this Ordinance but where practicable should be eliminated in the event of any division of contiguous property owned by the same owner.
- (4) Under this section the following definitions shall apply:
- (a) A “nonconforming structure” is a building, structure, or premises that was established prior to the Zoning Ordinance or complied with at the time it was established but which, because of the adoption of the Ordinance or subsequent changes to the Ordinance, no longer fully complies with the Ordinance.
- (b) A “nonconforming use” is a use of property that commenced prior to the Zoning Ordinance or was allowed under the Zoning Ordinance at the time the use was established but which, because of the adoption of the Ordinance or because of subsequent changes in the Ordinance, is no longer a permitted use.
- Section 16.12 (4) (c)
- (c) A “nonconforming lot” is one that was established prior to the Zoning Ordinance or , at the time of its establishment, met the minimum lots size and dimension

requirements for the zone in which it is located but which, because of the adoption of the Ordinance or because of subsequent changes to the minimum lot size and dimensions applicable to that zone, is now smaller than that minimum lot size or lacks other required dimensions.

(d) "Commencement" or "establishment" of a nonconforming structure use or lot occurs at the time of actual commencement or establishment thereof, not of preparations therefore. Although prior to the enactment or amendment of this Ordinance, expenses have been incurred or work has been done in the making of plans and specifications for, or in the construction of any building or structure whose erection, alteration, enlargement or completion is prohibited according to the terms hereof, or although any such work has been done or such expense incurred in connection with a use which is prohibited, according to the terms hereof, the doing of such work or the incurring of such expense shall not be deemed the commencement of a nonconforming structure or use which would permit the continuation of same under the terms of this section.

(5) The Board of Appeals may grant special exceptions from the requirements of this subsection pursuant to Section 16.20(3).

16.13 FRONT AND SIDE SETBACK. (ORD. 1425)

(1) In all districts except District 6, for all buildings constructed after June 4, 1990, the length of the front yard upon each lot, hereinafter designated as the front setback, shall be at least:

- (1) the distance equal to the average existing front yards of the two adjacent properties (except for corner lots) or
- (2) equal to the distance designated for such respective lot upon a front setback map and the map legend and rule on said map contained, whichever said distance is greater.

In District 6, the length of the front yard upon each lot, hereinafter designated as the front setback, shall be at least equal to the distance designated for such respective lot upon a front setback map and the map legend and rule of said map contained. The width (measured perpendicular to the side lot line) of the side yard abutting upon a public highway of each lot, hereinafter designated as the side setback, shall be at least equal to the distance designated for each respective lot upon the side setback map and map legend and rule on said map contained. Each of said maps is dated February 2,

1931 and is identified by the signatures of the then president and clerk of this village and filed in the office of the Village Clerk-Treasurer, and amended on October 1, 1961.

No accessory building, gasoline pump, compressed air outlet or similar contrivance shall be construed or maintained in any front or side yard except in compliance with Section 16.23 of this

Code, and no building, garage or accessory building shall be constructed or maintained within the established setback area as provided herein. If any building, garage or accessory building is constructed in Districts 1, 2, 3, or 4 to front on the long side of a platted lot, at least twice the side setback indicated on such side setback map on the long side of said lot as platted shall be maintained as the front setback, and the side setback shall be at least equal to the front setback indicated on such front setback map on the short side of said lot as platted. (Ord. 1425) & (Ord. 1724)

- (3) Where no setback distance is designated on the said FRONT SETBACK MAP, for buildings fronting on private roads, the front setback and front yard shall be the yard area nearest the private road, and this distance shall not be reduced from the actual distance existing on the effective date of this ordinance. (Ord. 1227)
- (4) **The Village setback map, pursuant to § 16.13 of the Municipal Code is hereby** amended with regard to Tax Key No. 165.0334 to establish front yard setbacks for that property along Santa Monica Boulevard and East Beaumont Avenue to permit the construction and maintenance of structures no more than three (3') feet in height above grade within no less than eight (8') feet of the right-of-way and to permit the construction and maintenance of structures in excess of three (3') feet in height above grade to be constructed and maintained no less than fifteen (15') feet from the right-of-way. (Ord. 1734)
- (5) Notwithstanding the prohibitions of the Zoning Code with regard to front yard setback, little free libraries may be established and maintained in the front yard setback zone of all Village Districts subject to the following requirements:
 - (a) The primary structure may be no more than three (3) feet wide by three feet deep by three (3) feet tall and must be mounted on a single post. The overall height of the structure shall not exceed six (6) feet including the post;
 - (b) No portion of a Little Free Library primary structure or post may be located in the public right-of-way or on public property without the consent of the appropriate State, County, or Village authority. (Ord 1811)
 - (c) There shall be no more than one (1) little free library per side of linear block of street within the Village;
 - (d) Little free libraries shall be installed and maintained in a neat and orderly fashion and so as to maintain their structural integrity and safety of the public;
 - (e) Little free libraries shall not constitute a public nuisance;
 - (f) Little free libraries shall not obstruct the vision, of pedestrians, motorists, or bicyclists in a way that risks public health or safety;
 - (g) Little free libraries shall not impede drainage, snow removal or other public works or utility functions, operations, or maintenance; and
 - (h) The Village Manager shall have the authority to order the removal of little free libraries that fail to comply with any of the terms of this Ordinance for a period

greater than thirty (30) days after notice.

(i) Little free libraries are defined as small enclosures used solely as a means of the free exchange of literary material, and recorded performing arts. (Ord. 1792)

16.14 **SETBACK ADJACENT TO ALLEYS.**

No garage, accessory building, gasoline pump, compressed air outlet or similar contrivance, excepting a fence, shall be constructed within five feet of any lot line which is an alley line.

16.15 **MAINTENANCE OF AREAS.**

The lot or yard areas of buildings existing February 2, 1931, shall not be diminished below the requirements of this code, and such required areas and the areas by this code required for buildings thereafter erected shall not be included as part of the required area of any building hereafter erected.

Section 16.16

16.16 **ALTERATIONS.**

No building shall be enlarged, moved or altered so as to violate any of the requirements of this code.

16.17 **EXCEPTIONS.**

(1) The requirements of this code, except those relating to front and rear setbacks, percentage of lot occupancy by buildings and accessory buildings, and the requirements that the lot shall front on a duly platted or dedicated public street of said village, and shall extend from such street to the shore of Lake Michigan, shall not prevent the erection of a single family dwelling on any lot in District I, having a top land lot area less than 9600 square feet, or having an average width from north to south of less than eighty (80) feet, but of at least fifty (50) feet, in single ownership, separate and distinct from any abutting property on January 1, 1931, and that the public health, safety and general welfare of said District I is not impaired by such erection, which fact shall be determined by the Board of Appeals.

(2) The requirements of this code, except those relating to front, side and rear setbacks, and percentage of lot occupancy of buildings and accessory buildings, shall not prevent the erection of a single family dwelling on any parcel of land in Districts 2, 3, 4, 5 and 6 provided that such parcel of land was held of record in single ownership separate and distinct from any abutting property on August 4, 1927, and provided that the Board of Appeals shall determine that the health, safety and general welfare of the neighborhood and of the district in which said lot is located is not impaired by the erection of such single family dwelling.

(3) The requirements of this code except those relating to front and rear setback and percentage of lot occupancy by buildings and accessory buildings shall not prevent the erection of a duplex or double house on any parcel of land in Districts 3, 5 or 6, less than 7200 square feet in

area, but having two side yards, each at least five feet in width and restricted by covenant or other restriction duly recorded in the office of the Register of Deeds of Milwaukee County, Wisconsin prior to August 4, 1927, exclusively to duplexes or double houses respectively, provided, however, that the health, safety and general welfare of the district in which said lot is located is not impaired by such erection, which fact shall be determined by the Board of Appeals.

16.18 SIGN CODE OF THE VILLAGE OF WHITEFISH BAY.

- A. Purpose
- B. Definitions
- C. Signs not requiring a permit
- D. Signs permitted by district, requiring a permit
- E. Special Signs (banners and pennants)
- F. Prohibited signs
- G. General design conditions
- H. Construction, installation, maintenance
 - I. Permits, applications, fees, issuance and denial, appeals, indemnification, insurance, remedies
- J. Legal non-conforming signs
- K. Miscellaneous Provisions

A. Purpose

The purpose of this ordinance is to create the legal framework to regulate, administer and enforce sign advertising and display within the limits of the Village of Whitefish Bay. This ordinance recognizes the need to protect the safety and welfare of the public and the need for well-maintained and attractive sign displays within the community, and the need for adequate business identification, advertising and communication.

This code authorizes the use of signs visible from public rights-of-way, provided the signs are:

- I. Compatible with the zoning regulations.
- 2. Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety.
- 3. Legible, readable and visible in the circumstances in which they are used.
- 4. Respectful of the reasonable rights of other advertisers whose messages are displayed.

No sign shall be erected or maintained except as provided in this section. If any sign is erected or maintained other than as provided in this section, both the owner of the property on which the sign is located and the person erecting or maintaining the sign shall be deemed to have violated the provisions of this sections and be subject to penalty as provided in Section 16.30 of this Code. (Ord. 1488)

B. Definitions-

1. Abandoned Sign - A sign which no longer correctly advertises a bonafide business, lessor, owner, product or activity conducted, or product available on the premises where the sign is displayed, or a sign for which the applicable fees have not been paid or which has not been maintained in accordance with H.2. (c) and which is hazardous.
2. Advertising Vehicles - Any vehicle or trailer on a public right-of-way property or on private properties so as to be seen from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business activity located on the same or nearby property or any other premises.
3. Area of Copy - The entire area within a single, continuous perimeter composed of squares or rectangles which enclose the extreme limits of advertising message, announcement, or decoration of a wall sign.
4. Area of Sign - The area of the face(s) of the sign within a perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the signs may be placed. If the sign consists of more than one section or module, all areas will be totaled. Any irregular shaped sign area shall be computed using the actual sign-face surface. In the case of wall signs, the area of copy will be used.
5. Barber Pole - A barber pole attached to any outside wall of a building, extending not more than sixteen (16) inches beyond such wall and not beyond the lot line, and free of supports or connections resting upon the sidewalk or ground.
6. Block - The distance between two street intersections.
7. Building Facia - That portion of a building which is parallel or nearly parallel to the abutting roadway and zoned as the front wall of the building.
8. Canopy Sign - Any sign attached to or constructed within, or under a

canopy or marquee. For the purpose of this ordinance, canopy sign shall be controlled by the rules governing projecting signs.

Section 16.18 (B)(9)

9. Changeable Message Sign (Prohibited) - A sign such as a manual, electronic or electric controlled sign, message center or reader board, whether electronic, electric or manual, where copy changes. No sign may be, or include as part of it, a changeable message sign except that a time and temperature sign and manually changed marquee are permissible.
10. Construction sign or Contractor's sign - A sign, ground or flat which advertises the project name, services, name(s), address(es) and telephone number(s) of the contractor(s), developer, architect, and/or engineer performing work on the premise.
11. Direction Sign - Any sign which serves to designate the location or direction of any place or area.
12. Directory Sign - A sign within a multi-occupancy building, not exceeding twenty-four (24) square feet in area and stating only the name, type of business and location within the building.
13. Double faced Sign - A sign with copy on two parallel faces that are back to back, facing opposite directions.
14. Dwelling Unit - The quarters within a structure housing a family as defined in Section 16.02 (II) hereof.
15. Electric Sign - Any sign containing internal electrical wiring which is attached or intended to be attached to an electrical energy source.
16. Electronic Message Sign - a changeable message sign whose message is electrically activated, such as with light bulbs, mechanical flip discs, or fiber-optics. See definition for changeable message sign.
17. Flashing Sign - Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source.
18. Grade (Established) - The elevation of the top of street curb as fixed by ordinance, nearest to the sign to which reference is made.
19. Ground Sign - A sign erected on one or more free-standing supports or uprights and not attached to any building. The area of a ground sign is the total area of sign.

20. Height of Sign - The vertical distance measured from the established grade to the highest point of such sign.

Section 16.18 (B)(21)

21. Illuminated Sign - A wall sign, projecting sign or ground sign which, contains no electrical circuit is constructed of incombustible material throughout, and for which fittings and materials used in the construction, connection and operation are in accordance with the Wisconsin State Electrical Code and the ordinances of this Village.

22. Legal Non-Conforming Sign - A sign that did meet code regulations when it was originally installed prior to the adoption of this ordinance.

23. Marquee - A structure projecting over the entrance of a theater, hotel, or restaurant advertising events or services on the premise, on which copy is manually changed. For the purpose of this ordinance, marquees shall be controlled by the rules governing projecting signs.

24. Nonconforming Sign - A sign that does not meet code regulations.

25. Portable Sign - Any sign not permanently attached to the ground or a building.

26. Off Premise Sign - A sign which advertises goods, products, facilities or services not necessarily on the premises where the sign is located, or directs persons to a different location from where the sign is located (includes billboards).

27. On-Premise Sign - Any sign identifying or advertising a business, person, activity, goods, products or services located on a premise where the sign is located (includes billboards).

28. Projecting Sign - A sign normally double faced, which is attached to and projects more than eight (8) inches from a structure or building facade. The area of a projecting sign is the total area of the sign.

29. Right-of-way - The area dedicated for public access and use, including the street or alley, parkway and sidewalk areas between property lines.

30. Roof Sign - A sign erected upon, against or above a roof.

31. Sandwich Sign - A hinged or unhinged A-frame portable sign which is generally temporary in nature and placed to be visible from the "right of way." (Ord. 1747)

32. Shopping or Office Center Identification Sign - A sign, ground or projecting, or flat which advertises the name of the complex of retail or office business(es) located on premise.

Section 16.18 (B)(33)

33. Sign - Any emblem, painting, banner, pennant, placard, design, identification, description, illustration or device, illuminated or non-illuminated, to advertise, identify, convey information or direct attention to solicitation, including any permanently installed or situation merchandise. For the purpose of removal, signs shall also include all sign structures.

34. Sign Contractor - Any person, partnership or corporation engaged in whole or in part of the erection or maintenance of signs, excluding the business which the sign advertises.

35. Sign Structure - Any device or material which supports, has supported, or is capable of supporting a sign in a stationary position, including decorative covers.

36. Swing Sign - A sign installed on an arm or mast or spar that is not, in addition permanently fastened to an adjacent wall or upright pole.

37. Wall Sign - A sign attached to and within eight (8) inches of the wall or a building with the face in a parallel plane to the plane of the building wall. This includes signs painted directly on a wall.

38. Window Sign - A sign installed at, applied to, or painted directly on a window for purposes of viewing from outside the premises.

39. Awnings - In Business Districts awnings with signs consisting of one line of copy upon the border of the awnings not exceeding eight (8) inches in height and six (6) feet in length.

C. Signs Not Requiring a Permit

The following sign are permitted within the Village without a permit providing the referred to conditions are complied with:

I. Contractors Signs - One contractor sign per construction site, not exceeding six (6) square feet in area, at the site of construction, except for a contractor sign for a new building at least two stories in height on a parcel of at least one-quarter acre where a contractor sign can be up to 4 feet by 8 feet. Such sign shall be removed upon completion of construction. (Ord. 1726)

2. Directional and instructional non-electric signs, which provide instruction or direction, are located entirely on a property to which they pertain, do not exceed three (3) square feet in area and do not advertise a business. This includes, but is not limited to, such signs as those identifying restrooms, telephone, parking areas, entrances and exits.

Section 16.18 (C)(3)

3. Government Signs - Government signs for control of traffic and other regulatory purposes, danger signs, railroad crossing signs, and signs of public utilities indicating danger, and aids to service or safety which are erected by or on the order of a public officer in the performance of his public duty.

4. House Numbers and Name Plates - House numbers and name plates not exceeding two square feet in area for each residential, commercial or industrial building.

5. Interior Signs - Signs located within the interior of any building or structure which are not visible from the public right-of-way. This does not, however, exempt such signs from the structural, electrical, or material specifications of this ordinance.

6. Memorial Signs and Plaques - Memorial signs or tablets, names of buildings and date of erection not more than four (4) square feet in area which are cut into masonry surface or inlaid so as to be part of a building or when composed of bronze or other noncombustible material.

7. No Trespassing or No Dumping Signs - No trespassing and no dumping signs not to exceed one and one-half (1 1/2) square feet in area per sign.

8. Public Notices - Official notices posted by public officers or employees in the performance of their duties.

9. Public Signs - Signs as specifically authorized for a public purpose required by any law, statute, ordinance.

10. Political and Campaign Signs - Signs containing a political message, provided that said signs are subject to the following regulations: (Ord. 1488)

(a) Said signs may be placed during the "election campaign period" as defined in Wis. Stats. 12.04, and sections amendatory thereto.

(b) No sign may be placed in a street right-of-way, such prohibitions being necessary to ensure traffic and pedestrian safety.

11. Real Estate Signs - One real estate sale sign on any lot or parcel,

provided such sign is located entirely within the property to which the sign applies and is not directly illuminated. Such sign shall advertise only the premises upon which the sign is located, for sale or rent, and the name, address and telephone number of the owner or agent and shall be constructed in a neat and workmanlike manner and in compliance with the following:

Section 16.18 (C)(11a)

(a) In one and two family residential districts, Districts I to 3 inclusive, such signs shall not exceed six square feet in area and shall be removed within fifteen (15) days after the sale, rental, or lease has been accomplished.

(b) In all other districts such signs shall not exceed sixteen (16) square feet in area and shall be erected back of the front lot line and inside of the side setback lines of such property, except a larger sign up to 4 feet by 8 feet is allowed for new buildings at least two stories in height on a parcel of at least one-quarter acre. Sign shall be removed with fifteen (15) days after the sale, rental, or lease has been accomplished. (Ord. 1727)

12. Temporary Window Signs - In business districts, the inside surface of any window may be used for attachment of temporary signs. The total area of such signs, in addition to permanent interior and exterior window signs, however, shall not exceed 25% of the surface of each window to which the sign is attached, shall not be placed on door windows or other windows needed to be clear for pedestrian safety, and provided such signs are posted for a period not to exceed sixty (60) days.

13. Non-Illuminated Emblems, Symbols, or Insignia of any national, political subdivision, profit or non-profit organization, religious symbols, commemorative plaques of recognized historic agencies, not exceeding four (4) square feet in area.

14. Temporary Signs - Temporary signs not exceeding sixteen (16) square feet in area pertaining to drives or events of civic, philanthropic, educational, religious organizations, provided such signs are posted not more than ten (10) days before said event and removed within ten (10) days after the event.

15. Vehicular Signs - Signs on a truck, bus, trailer or other vehicle, while operating in the normal course of business, which is not primarily the display of signs.

16. Neighborhood Identification Signs - In any zoning district, a sign, masonry wall, landscaping, or other similar material and feature combined to form a display for neighborhood or subdivision identification provided that the legend of such sign or display shall consist only of the neighborhood or subdivision name and logo.

17. Rummage/Garage and Estate Sales Signs - Signs constructed in a neat and workmanlike manner, located on private real property, and only on the days of the sale which is advertised.

18. Placement by Village of banners on Village owned light poles - banners placed by the Village on Village owned light poles to promote institutional or community activities, public interest, or Village economic well being, whether

Section 16.18 (C)(18)

owned, installed and maintained by the Village or installed and maintained by the Village pursuant to written agreement with an owner of said banners other than the Village. Owners of banners other than the Village shall request that the Village place and maintain their banners by submitting an application to the Building Inspector on a form prescribed by the Village Board. The Village hereby retains its absolute discretion to determine whether or not to enter into any agreement to install and maintain banners with any owner of such banners other than the Village. The terms of any such agreement shall place sole discretion in the Village for the type and length of display of said banners, ensure harmony with the general neighborhood, and provide that costs may be charged to any banner owner other than the Village.

19. Sandwich Signs are not regulated under this Section or any other Section of the Zoning Code, but instead are subject to the requirements of Section 7-14 of the Municipal Code. (Ord. 1747)

D. Signs Requiring a Permit:

The following signs are permitted within the respective zoning districts as follows, providing a permit is obtained and the referred to conditions are complied with.

I. Single and Two Family Residential Districts, Districts I to 3 inclusive.

(a) Any signs requiring a permit are prohibited.

2. Churches, Public buildings and grounds District 4 Clubs and Lodges, District 4A.

- (a) Signs for authorized and legal non-conforming uses.
 - (i) Permitted Signs: Wall signs and directional signs.
 - (ii) Wall Sign Restrictions: Total area of wall signs shall not exceed one quarter (1/4) square foot per lineal foot of building facia.
 - (iii) Bulletin Board Restrictions: Total area of bulletin boards shall not exceed twenty-four square feet in area and shall be used for church, school, club, lodge or village purposes only. There shall be not more than one such bulletin board for each street frontage of the building, said board shall not be over 8 feet high, and shall be located on private property and in accordance with Section 9.02 (4) (d) of the Whitefish Bay Municipal Code.

Section 16.18 (D)(2)(a)(iv)

- (iv) Signs and Bulletin Boards may be illuminated.

3. Apartment District, District 5.

- (a) Business identification signs for authorized and legal non-conforming uses.
 - (i) Permitted Signs: Wall signs, directional signs, ground signs.
 - (ii) Area Restrictions: Sixteen (16) square feet for ground signs and the total area of wall signs is not to exceed one quarter (1/4) square foot per lineal foot of building facia.
 - (iii) Height Restrictions: Ground signs are not to exceed a height of ten (10) feet.
 - (iv) Signs may be illuminated.

4. Business, District 6 -

For business establishments which directly abut on and have direct access to a street or public parking lot at ground level, with no part of the building, between, nor on another floor level.

(a) The provisions of Section 16.18(D)(8), except Section 6.18(D)(8)(f) regarding monument ground signs, shall apply to District 6. In the event of any conflict regarding multi-tenant buildings Section 16.18(d)(5) shall control. (Ord. 1752)

(b) Only one sign may be erected or maintained for a business establishment unless:

(i) The business establishment has frontage on two or more intersecting streets, and such streets abut property zoned either in District 6 or District 7, in which case a second sign, flat, ground or projecting, may be erected or maintained on one of the secondary street frontages, providing it does not exceed twenty-four square feet in total area.

(ii) The business establishment has frontage on two or more intersecting streets or on property zoned within District 7 and such streets or property zoned within District 7 is abutted by property zoned within Districts 1, 1A, 2, 3, 5, 8, or 9 in which case a second sign, flat and unilluminated may be erected or maintained on one of the

Section 16.18 (D)(4)(b)(ii)
secondary frontages or property zoned in District 7 providing it does not exceed twenty-four (24) square feet in total area.

5. Business District 6 - Multi-Tenant Buildings

Where a business establishment, professional or business office establishment has no direct frontage abutting on a street or public parking lot at ground level.

(a) Signs for authorized and legal non-conforming uses.

(i) Permitted Signs: Window Signs.

(ii) Area Restrictions: 25% of the surface of each window to which the sign is attached.

(iii) Directory Signs.

(iv) Shopping or Office Center Identification Signs:
See D.4 (a)(b)

6. Automobile Parking, District 7

No sign shall be erected or maintained within District 7 except a sign which designates only the ownership, operator, use, purpose, fee

condition or restrictions relating to such parking lot, which does not exceed twenty-four (24) square feet in area and ten (10) feet in height and is located in a landscaped area.

7. Special Use District, District 8.

Planned Development District, District 9

Signs, if any, shall be controlled by the provisions in the plan for the development, approved by the Planning Commission and Village Board, but shall not exceed the limitation restrictions on signs for the surrounding geographical area.

8. Silver Spring Drive Business, District 11

This section applies to business establishments that directly abut or have access to a street or public parking lot at ground level. This section also applies to businesses on another floor or level.

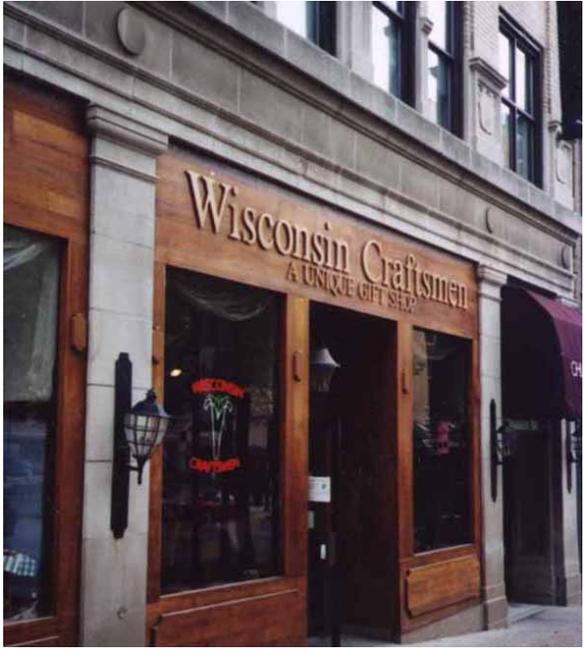
The total area of signage shall not exceed three-fourths of one square foot per lineal foot of front building fascia for each business on the ground floor and one-quarter of one square foot per lineal foot for each business above the ground floor. For each façade, one Wall, Projecting, Canopy, Monument Ground, Projecting Ground, Theatre Marquee, or Barber Pole Sign is allowed. For businesses on a level other than the ground floor only

Section 16.18 (D)(8)

Wall and permanent Window Signs are allowed. Single tenant buildings with over two hundred feet of frontage on Silver Spring Drive may have a Wall Sign on Silver Spring Drive in addition to all other signs under this Section provided the building is otherwise in compliance with this Section and total signage on Silver Spring Drive does not exceed one hundred and fifty square feet. (Ord. 1747)

(a) Wall Signs

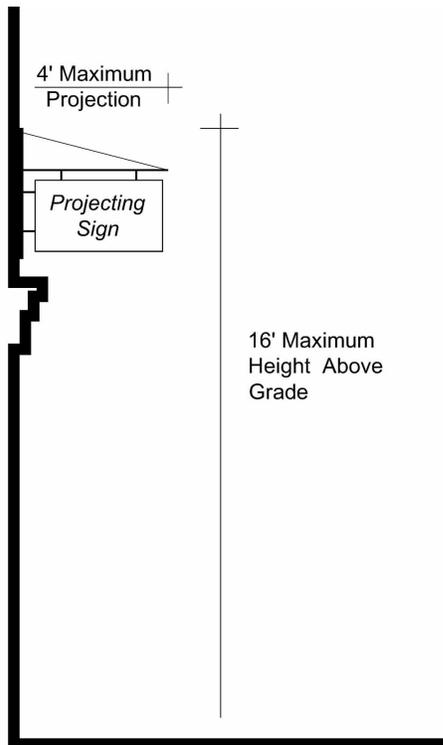
Individual letters and symbols may be internally illuminated, but the overall background (if any) shall not be. Sign must be attached to a flat, opaque wall surface (not directly painted onto the wall) and may not extend more than 8 inches from the wall surface of the building. Wall signs shall not exceed a total area of 100 square feet. A wall sign may be segmented to accommodate architectural features as approved by the Building Inspector. (Ord 1728)



(b) Projecting Signs

Individual letters or symbols may be internally illuminated. Individual letters or symbols shall be attached to a panel not more than twelve (12) inches thick. The area of the sign is calculated using the sum of all sides. No portion of a projecting sign may exceed 16 feet above sidewalk grade.

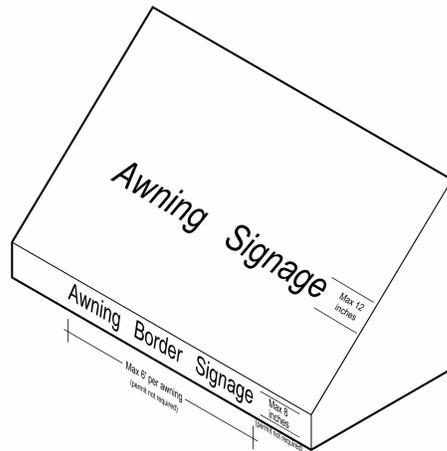
The lower portion of projecting signs shall be a minimum of 9 feet above sidewalk grade and may only extend a maximum projection of 4 feet from the building to which they are attached. Projecting signs shall not exceed a total area of 50 square feet.



(c) Awning Signs

Individual letters or symbols shall be applied to or integral with an opaque, non-translucent material covering an awning structure. Signage shall be no more than twelve (12) inches in height and may be illuminated only from above by a general building lighting source.

Awning border lettering may extend up to seventy-five percent of the length of the awning. The lettering on top of an awning may extend up to seventy-five percent of the length of the awning. Awning signing shall require a permit. (Ord. 1747)



(d) Canopy Signs

Canopy signs must consist of individual letters or symbols, which may be internally illuminated. The sign may also include a panel integral to the canopy structure to which the letters or symbols are attached. The panel shall be not more than 12 inches thick.



(e) Window Signs

Permanent window signs must consist of only individual letters and symbols painted or placed on the glazed portion of the window. Temporary window signs consist of advertising on a flexible material placed inside the glazed portion of the window. The maximum signage display area is 25% of the glazed area of each window.

Window signs covering less than twenty-five percent of the glassed area of each window and not otherwise prohibited shall not be regulated under this Section and shall not require a permit. (Ord. 1747)

Restaurants may post menus, hours, and food and beverage specials in bulletin board style on a single sign or case not to exceed eighteen inches by 30 inches and mounted flush on the building. (Ord. 1747)

(f) Monument Ground Signs

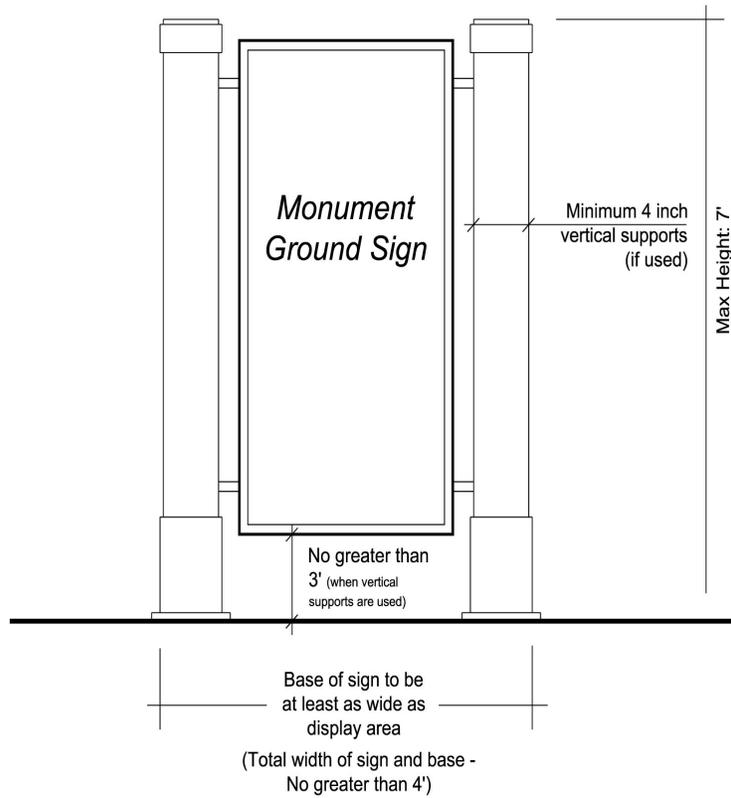
Individual letters or symbols may be internally illuminated, the base shall be as least as wide as the display area, and the design and materials of permanent signs shall be consistent with the building.

If the sign is mounted on vertical supports, the bottom of the display area must be no greater than three feet above sidewalk grade.

The width of vertical supports shall be no less than four inches at any point.

The maximum height for monument ground signs is ten (10) feet above sidewalk grade. The maximum width for monument ground signs is four (4) feet. The area of the sign is calculated using the sum of all sides.

Monument Ground signs shall not exceed a total area of 50 square feet.



(g)Projecti
ng Ground
Signs
10 feet

Projecting
Ground
signs are
defined as
ground
signs with
a single
vertical
support
element
with
signage
projecting
in one
direction.

Individual
letters or

symbols may be internally illuminated; the design and materials of projecting ground signs shall be consistent with the building.

The width of vertical support member shall be no less than four inches at any point.

Signage shall project no further than three (3) feet from the vertical support member.

Projecting ground signs shall only be located in non-pedestrian circulation areas.

The maximum height for projecting ground signs is ten (10) feet

Section 16.18 (D)(8)(g)

above sidewalk grade. The area of the sign is calculated using the sum of all sides. Projecting ground signs shall not exceed a total area of 50 square feet.

(h) Theater Marquees

Theater Marquees existing prior to May 3, 2004 are permitted.

(i) Barber poles

A barber pole may only be attached to any outside wall of a building, extending not more than sixteen (16) inches beyond such wall and not beyond the lot line, and free of supports or connections resting upon the sidewalk or ground.

E. Special Signs

I. Banners and other promotion devices.

- (a) Off-street banners or pennants will be allowed as special promotion in Districts 4,4A,6,8, and 9 for a total period not to exceed fifteen (15) days

Section 16.18 (8)(E)(1)(a)

and will be allowed in Districts I,IA,2,3, and 5 in conjunction with an open house or model home demonstration conducted by a realtor for up to five (5) days before the opening of such a demonstration or five days after and not to exceed a total period of fifteen (15) days.

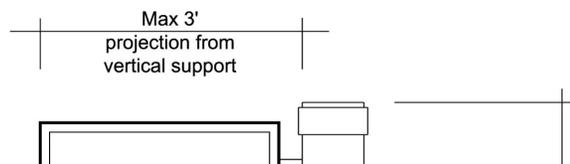
- (b) Each commercial business may display one banner or pennant as a special promotion in District 11 for a total period not to exceed seven (7) days. Each business may display such banner or pennant no more than four times in any 12-month period (not to exceed a total of 28 days in any 12-month period). The total area of a banner shall not exceed twenty-four (24) square feet.

- (c) Over the street special event banners not exceeding 150 square feet in area will be permissible over a street or carriage way by special permit from the Building Inspector upon his approval of the installation specifications for a specified period, after approval by the Village Board and on proof of insurance.

- (d) Banners and Pennants shall not be illuminated.

F. Prohibited Signs

All signs not specifically authorized by this ordinance are prohibited and particularly the following:



1. Abandoned Signs.

2. Moving Signs-

Signs with physically moving components visible from the public right-of-way except for approved Barber poles.

3. Floodlighted Signs-

Reflection illuminated signs whose light source is positioned so that 25% or more of its light intensity is visible from a public right-of-way by vehicular operators or whose light source is visible from residential property.

4. Unclassified Signs-
Signs which:

(a) Bear or contain statements, words or pictures of obscene, pornographic or immoral subjects.

Section 16.18 (8)(f)(4b)

(b) Signs which are an imitation of, or resemble in shape, size, copy or color of an official traffic sign or signal.

5. Home Occupation Signs-

Signs associated with a home occupation as defined in the Zoning Ordinance.

6. Signs prohibited by definition:

Advertising Vehicles
Changeable Message Sign
Electronic Message Sign
Flashing Sign
Portable Sign
Off-Premise Sign
Roof Sign
Sandwich Sign
Swinging Sign

7. Searchlights

8. Balloons- Two (2) feet in diameter and larger.

9. Off-street banners in place for more than fifteen (15) days.

10. Signs in the public right-of-way. (Ord. 1488)

G. General Design Conditions

These standards shall apply to all signs within the Village except those in District 11.

1. A ground sign, any part of which is closer than 15 feet to the right-of-way shall have a minimum vertical distance of 10 feet between the bottom of the sign and the established grade or shall not exceed 3 feet in height.

2. Any ground sign or projecting sign within 80 feet of a street intersection or 25 feet of a driveway, measured from the intersection of the center lines of the intersecting streets right-of-way, shall have either a minimum vertical distance of 10 feet between the bottom of the sign and the established grade or shall not exceed 3 feet in height.

Section 16.18 (8)(G)(3)

3. All other projecting signs and any canopy sign shall have a minimum vertical distance between the bottom of the sign and the established grade at the right-of-way line nearest to the sign of nine (9) feet.

4. Any ground sign or projecting sign shall not exceed fifty (50) square feet in total area.

5. Projecting signs may extend not further than five (5) feet from the building to which they are attached.

6. No sign may extend into the right-of-way.

7. The gross area of permanent window signs shall not exceed 25% of the gross window area of any given building facia.

8. Any sign location that is accessible to vehicles shall have a minimum vertical clearance of 16 feet (See National Electrical Code 600.10 (B),

9. No sign shall directly face a Residential District, Districts 1, 1A, 2, 3.

10. No illuminated sign shall directly face or project into a street where a part of the street within the block in which the sign is situated is abutted by property zoned within Districts 1, 1A, 2, 3 or 7.

H. Construction, Installation, Maintenance

I. Construction Specifications-

(a) All signs shall comply with the provisions of the Village of Whitefish Bay Building Code and the National Electrical Code (Current Edition) in addition to the construction standards hereinafter set forth.

(b) All ground sign structures shall be self-supporting structures and securely attached to sufficient foundations.

(c) Electric service to all signs shall be concealed.

(d) All signs except those attached flat against the wall of a building shall be constructed to withstand wind loads as follows, with correct engineering adjustments for the height of the sign above grade.

(i) For solid signs, 30 pounds per square foot on the largest face of the sign and structure.

Section 16.18 (8)(H)(1ii)

(ii) For skeleton signs, 30 pounds per square foot of the total face cover of the letters and other sign surfaces, or 10 pounds per square foot of the gross area of the sign as determined by the overall dimensions of the sign, whichever is greater.

(e) No sign shall be suspended by chains or other devices that will allow the sign to swing in the wind. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections.

(f) Supports and braces shall be an integral part of the sign design. Angle irons, chains, or wires used for supports or braces shall be hidden from public view to the extent technically feasible.

(g) All commercially produced signs shall be marked with the manufacturer's name in a size which is easily visible from the ground. All electric signs shall also include: for incandescent lamp signs, the number of lamp holders; for electric discharge lamp signs, the input amperes at full load and the input voltage.

(h) No sign, or any part of such sign, or any anchor, brace or guy rod shall be attached, fastened or anchored to any fire escape, fire ladder or stand pipe; nor be erected or maintained so as to cover or obstruct any door, doorway, or window of any building so as to hinder

or prevent ingress or egress through such doorway or window or so as to prevent or hinder the raising or placing of ladders against such buildings by the Fire Department of the Village as necessity therefore may require. No sign shall be erected or maintained which covers any required window area or exit door. No sign shall be located to conflict with the provisions of Section 9.02 (4)(d) of the Whitefish Bay Municipal Code.

2. Installation and Maintenance

(a) All signs shall be installed in a workmanlike manner using equipment which is adequate and safe for the task. The Ordinance recognizes that one of the greatest perils to public safety is improper performance of sign contractors in the use of inadequate equipment. As such, the Building Inspector may also cite the sign contractor for a violation of this ordinance if he fails to use proper equipment in the maintenance of signs.

(b) Electrical Signs - This ordinance recognizes that electric signs are controlled under the special equipment provisions of the National Electric Code and the Village of Whitefish Bay Electrical Ordinance. It also

Section 16.18 (8)(h)(2b)

recognizes that electric sign contractors have developed a specialized trade for high voltage discharge electrical sign installation and maintenance to properly install and service high voltage electric signs. Electric sign contractors and their employees are hereon authorized to perform the following specific tasks:

(i) Install exterior electric signs, ballasts, or high voltage transformers to sockets or outline lighting tubes, and to connect said signs to primary branch circuit, if said circuit already exists outside of the building.

(ii) Install interior electric signs, but not to connect said signs to the primary branch circuit.

(iii) Maintain and replace only electric components within the sign, on its surface, or between the sign and building for exterior signs. This ordinance prohibits the electric sign contractor or its employees from performing work on electric signs in contradiction to the National Electrical Code or the Village of Whitefish Bay Electrical Ordinance.

(c) Every sign, including but not limited to those signs for which

permits are required, shall be maintained in a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting (except when a weathered or natural surface is intended), repainting, cleaning and other acts required for the maintenance of said sign.

(d) The Building Inspector shall require compliance with all standards of this ordinance. If the sign is not modified to comply with safety standards outlined in this ordinance, the Building Inspector shall require its removal in accordance with this ordinance.

I. Permits, Applications, Fees, Issuance and Denial, Appeals, Indemnification, Insurance, Remedies.

I. Permits Required.

In those instances where a permit is required hereunder for the particular sign it shall be unlawful for any person to erect, construct, enlarge or change copy of a sign or cause the same to be done in the Village of Whitefish Bay without first obtaining such sign permit for each such sign from the Building Inspector. Permits shall not be required for repainting, cleaning, and other normal maintenance and repair of the sign and sign structure.

Section 16.18 (8)(I)(2)

2. Application for a Permit.

Application for a permit shall be filed with the Building Inspector upon forms provided by the Building Inspector and shall contain the following information:

(a) The name, address and telephone number of the sign owner, the property owner where the sign is or will be located, and the sign contractor of the proposed sign.

(b) Clear and legible scale drawings with description and nominal dimensions of the proposed sign, the construction, size, dimensions and kind of materials to be used in such structure.

(c) A site plan showing the buildings on the premises upon which the structure is to be erected and maintained together with location, size, and types of existing signs on the premises where the proposed sign is to be located.

(d) Calculations or evidence showing that the structure and design meets the requirements of this ordinance for wind pressure load.

(e) Evidence of liability, Insurance Policy or Bond as required herein.

(f) Photos of subject property and sign site.

(g) Such other information as the Building Inspector may require to show full compliance with this and all other applicable ordinances of the Village of Whitefish Bay.

(h) Signature of the applicant.

(i) Payment for all required fees.

3. Permit Fees (Ord 1419-amended)

An application for permit shall be filed with the Building Inspector together with a permit fee for each sign in accordance with the following schedule:

(a) Wall and Window Signs	-Non-illuminated	\$0.55/sq. ft.
	-Illuminated	1.00/sq. ft.
(b) Projecting Signs	-Non-illuminated	2.00/sq. ft.
	-Illuminated	2.50/sq. ft.
(c) Ground Signs	-Non-illuminated	2.50/sq. ft.
	-Illuminated	5.50/sq. ft.
(d) Barber Poles		5.50 each

provided however, that the minimum fee for a permit exclusive of any electrical permit, shall be \$30.00 for any sign. All illuminated signs also require a separate electrical permit.

4. Annual Special Permit and Inspection Fees

(a) The annual inspection fee for an approved illuminated sign shall be \$25.00. Such annual inspection fee shall be payable on the first day of April following erection.

5. Permit Issuance and Denial

The Building Inspector shall issue a permit for the erection, structural alteration, enlargement, or relocation of a sign within the Village of Whitefish Bay when the permit application is properly made, all appropriate fees have been paid, the sign complies with the appropriate ordinances and regulations of the Village of Whitefish

Bay, and subject to the approval of the Architectural Review Commission, as being in keeping with the character of the area and not creating or promoting glare, garishness, aesthetic poor taste or other depreciating factors. If the sign permit is denied by the Building Inspector, he shall give written notice of the denial to the applicant, together with a brief statement of the reasons for the denial, along with the return of all permit fees.

Replacement awning and wall signs which change the written text of the sign or logo of the business without changing the colors, look, style, or materials of the sign, may be approved by the Building Inspector at his or her discretion without submitting such awning or sign to the Architectural Review Commission for approval. (Ord. 1752)

6. Sign Permit Appeal

(a) In the event any of the requirements herein contained cause undue, unnecessary, or unique hardship on any person, firm or corporation, a variance from requirements may be applied for to the Board of Appeals. An application for variance must be made within ten days after receipt of notice that the permit is being denied and no less than fifteen calendar days before a scheduled Board of Appeals meeting. In the event that the appeal is not made in writing to the Appeals Board within such ten day period, a variance may not be granted. The Board of Appeals shall act on any variance request within 60 days of receipt of the variance application. The Building Inspector

Section 16.18 (8)(I)(6)

shall comply with and enforce the Zoning Board of Appeals decision.

(b) The Building Inspector's failure to either formally grant or deny a sign permit within fifteen (15) days of the date of which the application was filed, shall be deemed a denial and a basis for appeal for the Zoning Board of Appeals.

7. Indemnification for Sign Installation and Maintenance

All persons engaged in the business of installing or maintaining signs within the Village of Whitefish Bay which involves in whole or in part, the erection, alteration, relocation, maintenance of a sign or other sign work in, over, or immediately adjacent to a public right-of-way or where public property is to be used or encroached upon by the sign contractor, shall by making application for sign permit undertake to hold harmless and indemnify the Village of Whitefish Bay, its officers, agents, employees, from any and all claims of negligence resulting from the erection, alteration, relocation, maintenance of this sign or

any other sign work insofar as this ordinance has not specifically directed the placement of the sign.

8. Insurance

Each sign contractor shall file with the Building Inspector a Certificate of Insurance indicating the applicant holds a public liability and property damage insurance policy with bodily injury limits of at least \$300,000 per occurrence, and \$300,000 aggregate, and property damage limits of at least \$100,000 per occurrence, and \$100,000 aggregate.

9. Remedies

Violation or failure to comply with the provisions of this ordinance shall be and hereby is declared to be unlawful.

(a) Any abandoned, deteriorated or dilapidated signs, or any sign erected, altered, moved or structurally modified without a permit or altered with a permit but in violation with the provisions of this ordinance shall be removed at the owner's expense or brought into compliance within 30 days of written notification by the Building Inspector. If deemed hazardous by the Building Inspector such sign shall be removed or brought into compliance within 48 hours of written notification. If the violation is failure to obtain a permit, a permit fee shall be required and the permit fee shall be five times normal fees. In the event that the owner does not remove the sign or bring the sign into compliance, the Building Inspector may order removal, the expenses of which will be assessed to the tax roll of the property on which the non-complying sign is located.

Section 16.18 (9)(b)

(b) This section shall not preclude the Village of Whitefish Bay from maintaining any appropriate action to prevent or remove a violation of this ordinance.

(b) The Building Inspector or Police Department may remove any sign which is erected within the public right-of-way and which is in violation of this ordinance.

J. Non-Conforming Signs.

I. Notification of Non-Conformance-

After enactment of this ordinance the Building Inspector shall survey the Village of Whitefish Bay to inventory all signs. Upon

determination that a sign is non-conforming, the Building Inspector shall notify in writing the user or owner of the property on which the sign is located of the following:

- (a) The sign's non-conformity.
- (b) Whether the sign is eligible for characterization as a legal non-conforming or is unlawful.

2. Signs Eligible for Characterization as Legal Non-Conforming-

Any sign located within the Village of Whitefish Bay on the date of adoption of this ordinance, or located in an area annexed to the Village of Whitefish Bay, hereafter, which does not conform with the provisions of this ordinance (with the exception of signs in district 11, which shall in any event lose legal non-conforming status 5 years after the adoption of any requirement applying specifically to district 11, or the issuance of a new conditional use permit to the occupant) is eligible for characterization as a legal non-conforming sign and is permitted, providing it also meets the following requirements:

- (a) A proper sign permit was issued for the sign prior to the date of adoption of this ordinance.
- (b) If no permit was required under applicable ordinance for the sign in question and the sign was in all respects in compliance with applicable ordinances on the date of adoption of this ordinance.

3. Loss of Legal Non-Conforming Status-

A sign loses its legal non-conforming status if one or more of the following occurs:

Section 16.18 (8)(J)(3a)

- (a) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this ordinance than it was before alteration.
- (b) The sign is relocated.
- (c) The sign fails to conform to the ordinance regarding maintenance and repair, is abandoned, or is dangerous or defective.
- (d) The copy on the sign is changed, except for marquees.

On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this ordinance, a new permit

shall be secured, therefore, or the sign shall be removed.

4. Legal Non-Conforming Sign Maintenance and Repair-

Nothing in this ordinance shall relieve the owner or user of a legal non-conforming sign or the owner of the property in which the sign is located from the provisions of this ordinance regarding safety, maintenance, and repair of signs.

5. Insurance-

The owner or user of a legal non-conforming sign part of which is located in the public right-of-way shall file with the Building Inspector a liability insurance policy with minimum limits as established in paragraph 16.18 (l) (8) of this ordinance, within thirty (30) days of notification of legal non-conforming status by the Building Inspector.

k. Repealed - (Ord. 1724)

16.19 ENFORCEMENT.

The provisions of this code shall be enforced by the Building Inspector of the Village. Appeals from the decision of the Building Inspector may be made to the Board of Appeals as provided for by law.

16.20 BOARD OF APPEALS; POWERS; DUTIES.

1. The Board of Zoning Appeals shall adopt rules governing its proceedings and may, from time to time, amend and repeal such rules, all, however, subject to the approval of the Village Board. No decision of the Board shall be filed until signed by the Chairman or acting Chairman of the Board. The place of filing decisions of the Board shall be in the office of the Village Manager. With each original decision so filed there shall be furnished to the Village Manager nine (9) copies of such decision, who shall deliver by mail or otherwise a copy of such decision to the Building Inspector and to each member of the Village Board within two days after the filing of the original thereof.

2. Filing fee-

An appeal by an applicant for a variance to the Whitefish Bay Board of Appeals from the Building Inspector's denial of a permit shall be accompanied by a non-refundable fee of \$250.00.

3. Special Exceptions.

(a) The Board of Appeals, pursuant to Wis. Stats. 62.23(7)(e) and after appropriate notice and hearing, may grant a special exception to a requirement imposed by the Zoning Code, when the section of the Zoning Code which imposes such requirement expressly allows for special exceptions.

(b) The applicant shall have the burden of proof to present evidence sufficient to support the findings required under subsection (c).

(c) Pursuant to subsection (a), a special exception may be granted only upon a finding, by not fewer than four members of the Board of Appeals, that:

1. compliance with the requirement will:

a. be unreasonably burdensome to the applicant; or,

b. unreasonably and negatively impact upon the applicant's use of the property.

2. the special exception, including any conditions imposed under subsection (d), will:

a. be consistent with the existing character of

the neighborhood;

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties; and

c. be in harmony with the general purpose and intent of the ordinance prescribing the requirement.

(d) In making its determinations under subsection (b), the Board of Appeals may consider factors such as: characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks; existing and future use of property; useful life of improvements at issue; disability of an occupant; aesthetics; degree of non-compliance with the requirement allowed by the special exception; proximity to and character of surrounding properties; zoning of the area in which property is located and neighboring areas; and the purpose and intent of the Zoning Code subsection imposing the requirement.

(e) Any special exception granted under the authority of subsection (a) may contain conditions that the Board of Appeals deem necessary, including, but not limited to, conditions that:

1. prescribe the duration of the special exception to be:

a. permanent, thereby remaining permanently with the property;

b. a specified length of time; or,

c. the time period during which the property is owned or occupied by a particular person;

2. require the performance of additional actions related to the mitigation or enhancement of impacts resulting from the special exception; or,

3. prescribe a limitation on the action effectively authorized by the special exception, even though such a limitation does not otherwise appear in the requirement from which the special exception is sought.

16.21

REGULATIONS OF EXTERIOR DESIGN OF STRUCTURES.

(1) ARCHITECTURAL REVIEW COMMISSION- An Architectural Review Commission is hereby created and shall consist of the following: (Ord. 1421)

- a. The Village Manager or Assistant Engineer who shall be non-voting Executive Secretary of the Board.
- b. Seven citizen members, residing in the Village, appointed by the President and confirmed by the Village Board.
- c. Four alternate members, appointed annually by the President and confirmed by the Village Board. (Ord. 1704)
- d. The designation of the Chairman shall be made by the Village President and confirmed by the Village Board.

Citizen members shall be appointed for three year terms, except that upon initial appointment, two citizen members shall be appointed for a term to expire on April 30, 1971; two citizen members for a term to expire April 30, 1972, and two citizen members for a term to expire April 30, 1973. Commencing in 2005, the Village President shall by appointment endeavor to ensure that at least two licensed architects sit on the Architectural Review Commission. Furthermore, the Village President shall endeavor to include on the Architectural Review Commission additional architects or design professionals or those who have other construction or real estate experience. (Ord. 1685)

A majority of the voting members of such board shall constitute a quorum. The Commission shall keep a record of its proceedings, shall adopt rules and regulations governing its proceedings, and shall record the vote of each member of the findings of fact and its determination that a permit shall or shall not be issued as provided for in subsection (4). In case of the absence or disability of either the Chairman or Executive Secretary of the Board, the Commission may elect any member as acting Chairman or Acting Executive Secretary who shall act for the Chairman or Executive Secretary, as the case may be, during such absence or disability. (Ord. 1150)

(2) PURPOSE OF ARCHITECTURAL REVIEW COMMISSION.

The purpose of the Architectural Review Commission is to ensure that all construction and structures within the Village meet minimum standards of architectural quality, consistency, aesthetic design, and finish. The Architectural Review Commission shall maintain as its goal the perpetuation of the Village character and atmosphere, preservation of existing property values, and enhancement of the desirability of the Village as a residential community. (Ord. 1685)

(3) BUILDING INSPECTOR: DUTIES

- a. All building permit applications, plans and plot plans, or other permit applications, hereinafter referred to as "application papers" which provide for the construction of a new building, an addition to an existing building, or major

exterior alterations to a one or two-family dwelling, apartment, business, school, church, and similar building and attached accessory structures thereto, or the erection or alteration of a radio or TV antenna tower or satellite earth station; or provide for any other structure which in the opinion of the Building Inspector may have a depreciating effect on the neighborhood where said structure is proposed to be placed; or provide for the moving of any building into or within the Village of Whitefish Bay; shall be referred to the Architectural Review Commission or in District 11, to the Community Development Authority for approval, modification or denial of a permit at the next regularly scheduled "ARC" meeting.

No building permit application may be submitted in District 11 unless the subject of the application first receives preliminary exterior design approval from the Community Development Authority on oral recommendation from a quorum of the Architectural Review Commission present at a Community Development Authority meeting. In the event of a permit application in District 11, the Community Development Authority shall have all the same powers and duties, both substantive and procedural, as the Architectural Review Commission.

b. Permit applications providing for interior alterations, minor exterior alterations, detached accessory buildings and structures which in the opinion of the Building Inspector will not have a depreciating effect on the neighborhood, and which comply in all other respects to the Village Code shall be approved and a permit issued by the Building Inspector.

(4) NOTICE AND PROCEDURE BEFORE ARCHITECTURAL REVIEW COMMISSION.

a. The filing deadline for a complete timely building permit application to be placed on the agenda of an ARC meeting shall be ten (10) calendar days preceding the regularly scheduled ARC meeting.

b. Applications will be placed on the agenda on a first come, first served basis for the first 10 applications received. The Agenda order of the cases will be determined by the Building Inspector. Additional applications timely received may be held over to the next regularly scheduled meeting.

c. In the event that a timely application is not scheduled to be heard at the next following regularly scheduled meeting, the applicant shall be notified within three (3) business days of filing.

d. The ARC shall meet in the Committee Room of the Village Hall in accordance with a schedule adopted in November each year by the ARC.

e. If the application is for new construction or an addition creating new square footage, the Building Inspector shall provide the applicant with a yard sign intended to notify the general public of the pending application. No hearing shall be held until the applicant certifies that the sign has been displayed in a conspicuous place in the front yard of the property for a period of at least five (5) days. (ORD. 1797)

(5) REQUIRED MATERIALS FOR SUBMISSION. (Ord. 1797)

The Architectural Review Commission shall adopt a checklist with all requirements for applications for a building permit approval.

- a) At its discretion, the Architectural Review Commission may require additional materials including, but not limited to, engineering reports, a grading plan, a landscaping and tree preservation and planting plan, site profiles, extended surveys including neighboring properties, extended elevations including neighboring structures, product information materials, story sticks describing products and materials to be used, and material samples (for additions).

(6) HEARING BEFORE THE ARCHITECTURAL REVIEW COMMISSION.

Each member of the Architectural Review Commission shall view the premises and neighborhood, if unfamiliar therewith, or view pictures or a videotape before and/or during the hearing. At the hearing the Architectural Review Commission shall examine the application papers, hear all applicants and all other persons who wish to be heard, may adjourn from time to time, and shall, within seventy-two (72) hours (Saturdays, Sundays and holidays excluded) after the close of the hearing, pursuant to a majority vote of the members of the Architectural Review Commission present at such meeting, file written findings of fact for all single and two-family residential permits, that the spirit and the letter of the Zoning Code are or are not satisfied, and that such permit shall or shall not be issued; for all other permits that the exterior design and appearance of such structure is or is not incompatible with or so similar to the exterior design and appearance of structures constructed or in course of construction in the neighborhood of said proposed structure, as to not be in harmony with the general character and to cause material depreciation generally to property in said neighborhood, and its determination that such permit shall or shall not be issued. Such findings and determination shall be in writing and signed on behalf of the Architectural Review Commission by its Chairman and Executive Secretary. The Executive Secretary shall file a copy of such findings and determination, certified by him, with the Building Inspector and shall mail a similarly certified copy to each applicant for such permit. Thereupon, the Building Inspector shall issue or refuse to issue such permit in accordance with the determination of the Architectural Review Commission.

The Architectural Review Commission shall file a statement of findings of facts upon which the majority rely in support of the Architectural Review Commission's decision and a permit shall be issued or not issued accordingly. The Executive Secretary shall file a copy of the findings and determinations certified by him or her with the Building Inspector and shall mail a similar certified copy to the applicant for such permit. Thereupon, the Building Inspector shall issue or refuse to issue such permit in accordance with the determination of the Architectural Review Commission. (Ord. 1685)

A permit for construction must be obtained within 180 days of the Architectural Review Commission approval, by the applicant listed on the permit application. If the applicant fails to obtain a permit within 180 days of approval, the applicant will be required to re-apply for Architectural Review Commission approval. (Ord. 1707)

Section 16.22

16.22 OCCUPANCY AND CONDITIONAL USE PERMITS

(1) PERMITS REQUIRED. (Ord. 1730)

No building, structure or premises, or any part thereof, now existing or hereafter erected in Zoning Districts 4 (Churches, Public Buildings and Grounds), and 4a (Clubs and Lodges) shall be occupied or used unless or until an occupancy permit has been issued by the Building Inspector as provided for herein.

No building, structure or premises, or any part thereof, now existing or hereafter erected in Zoning District 6 (Business) shall be occupied unless or until an occupancy permit (for uses enumerated under Section 16.09 (1) (a), (b), (c), (d) or (e) or a conditional use permit (for conditional uses under Section 16.09 (1) (f) and Section 16.091) has been issued by the Building Inspector as provided for herein.

No building structure or premises, or any part thereof, now existing or hereafter erected in Zoning District 11 (Silver Spring Business) shall be occupied unless or until a conditional use permit (as enumerated under 16.099 (3) has been issued by the building inspector as provided for herein.

(2) CHANGE IN OCCUPANCY OR USE REQUIRES PERMIT.

No change in the occupancy or use of any building, structure or premises of any part thereof in Districts 4, 4A, 8 and 9 shall be made unless or until a new occupancy permit has been issued by the Building Inspector. (Ord. 1730)

No change in the occupancy or use of any building, structure or premises or any part thereof in Districts 6 and 11 shall be made unless or until a new conditional use permits has been issued by the Building Inspector. (Ord. 1730)

Occupancy shall mean the owner or tenant who occupies or is in possession of the building, structure or premises. Use means the purpose for which a building, structure or premises is used or intended to be used. (Ord. 1730)

(3) BUILDING INSPECTOR SHALL ISSUE.

The Building Inspector shall issue an occupancy permit after an application therefore has been filed in his office by the owner, his agent or tenant if, after inspection, the Building Inspector finds that such building, structure or premises or any part thereof complies with all of the regulations of this Code and all other requirements of the law or ordinances applicable to the proposed occupancy. Such occupancy permit shall indicate the use of the building, structure or premises or any part thereof.

The Building Inspector shall issue a conditional use permit after approval by the Plan Commission if, after inspection, the Building Inspector finds that such building, structure, premises and operation complies with all conditions and restrictions as required by the Plan Commission, all of the regulations of the Code and all other requirements of the law or ordinances applicable to the proposed use and occupancy. Such conditional use permit shall indicate the use of the building, structure or premises or any part thereof and any conditions or restrictions applicable thereto.

(4) PERMIT SHALL BE AVAILABLE.

The occupancy permit or conditional use permit shall be readily available for inspection by the Building Inspector.

(5) USE AND OCCUPANCY TO REMAIN UNCHANGED.

The occupancy permit or conditional use permit shall be valid as long as the building, structure or premises and the use and occupancy thereof remains unchanged, subject to the provisions of Section 16.091 K, L and M relating to conditional uses.

(6) NOT TRANSFERABLE.

An occupancy permit or conditional use permit is not transferable and shall be valid only for the business, building, structure or premises named therein.

(7) APPLICATION.

Application for an occupancy permit or conditional use permit shall be made in writing upon a form provided by the Building Inspector.

(8) PARTS OF RESIDENTIAL BUILDING EXEMPT.

Parts of buildings, structures or premises used solely for residential purposes shall be exempt from the provisions of this section.

16.23 FENCES, WINDBREAKS, WALLS, AND BERMS. (Ord 1599)

(l) Definitions for the purpose of this Section, in addition to those definitions set forth in Section 16.02, are the following:

(a) Fence. A structure of posts, rails, pickets, wires or the like.

(b) Windbreak. A structure or device other than a tree, bush, shrub or natural planting used to deflect or stop air currents.

(c) Wall. A structure of stone, brick or other solid substance intended to separate or enclose a lot or given area of land.

(e) Snow fence. A fence which is designed and in place for the purpose of alleviating drifting snow.

(f) Berm. An elevated area of ground.

(2) (a) No fence, wall, windbreak, or berm, opaque or non-opaque, shall be erected or maintained on any lot or parcel of land in this Village except in compliance with the requirements of this Section. (Ord. 1599)

(b) Snow fences are permitted for the period from December 1 until March 31 of the following year, but are prohibited from April 1 until November 30. Snow fences shall conform with all of the requirements of this Section. Provided, however, that snow fencing installed by any governmental body shall be exempt from the provisions of this Section.

(c) No fence shall be erected or maintained which is electrified.

(d) No fence shall be erected or maintained which contains unknuckled ends or barbed wire within the Village. Provided, however, that this Subsection shall not apply to fencing erected and maintained by governmental bodies for the protection of governmental property.

(3) Fences, walls, windbreaks, and berms located within 35 feet of the intersecting curb lines of streets, or within 10 feet of the intersection of any alley with a sidewalk are subject to the regulations of Section 9.02 (4)(d) of this Code. (Ord. 1599)

(4) Height Regulations: The height of fences, walls, windbreaks and berms shall comply with the following standards: (Ord. 1717)

a. Front Yard: The overall height of fences, walls, windbreaks and berms shall not exceed 44 inches in height. The structure of the fences, wall, windbreak or berm shall not exceed 42 inches.

Section 16.23 (4)(b)

b. Side Yard: The overall height of fences, walls, windbreaks and berms shall not

exceed 50 inches. The structure of the fences, walls, windbreaks or berms shall not exceed 48 inches. In the event the principal structure has a building ell of 6 feet or greater projecting towards the rear lot line, the overall height of the fence, wall, windbreak or berm may be increased to 74 inches with the structure of the fence, wall, windbreak or berm not to exceed 72 inches. The height increase may begin at the building ell and extend towards the rear lot line. Fences located in the side yard may otherwise measure 74 inches (structure not to exceed 72 inches) in height where the adjacent property has the ability pursuant to this Ordinance to install a rear yard fence of 74 inches in height (structure not to exceed 72 inches) in the adjacent location.

c. Rear Yard: The overall height of fences, walls, windbreaks and berms shall not exceed 74 inches. The structure of fences, walls, windbreaks and berms shall not exceed 72 inches, except in those instances where the rear yard is that of a corner lot and such rear yard abuts the front yard of an adjacent lot, in which case the height of that part of the rear yard fence within the side setback distance of such corner lot as established on the Village setback map shall conform to front yard restrictions.

d. Fences on lots in District 4 shall not exceed an overall height of 44 inches in front yards, 50 inches in side yards, and 74 inches in the rear yard unless constructed of chain link or similar type.

e. Ornamental posts less than 4½ feet apart shall be considered an integral part of the fence and subject to the height limitations herein.

The Board of Appeals may grant special exceptions from the requirements of this subsection pursuant to Section 16.20 (3). (Ord 1611)

(5) Measurement. In applying the height limitation, measurements shall be made from the adjacent ground on either side of the fence to the uppermost integral part of the fence. Fence posts and pillars, which are separated by 4½ feet or more, and support posts for gates may extend above the required height limitation by 6 inches or the width of the post or pillar, whichever is greater. The maximum height extension of a post or pillar shall be 18 inches. Fences shall be placed a minimum of 18 inches from the edge of a retaining wall. Grade may not be built up to produce a higher fence than allowed by code. (Ord. 1717)

(6) Construction. Fences, walls and windbreaks shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fences shall be constructed of wood or other wood simulated natural appearing materials, wrought iron or other metal materials generally employed to obtain an aesthetically pleasing appearance. (Ord. 1717)

(7) Non-conforming fences, walls, windbreaks, and berms. All fences, walls and windbreaks which exist on December 19, 1966 (the time of adoption of the original ordinance affecting fences, walls and windbreaks), and do not conform to the ordinance, may be maintained, but no alteration, modification or improvement of such non-conforming fence, wall or windbreak shall be permitted unless, as a result of such alteration, modification or improvement, such non-conforming use shall be made to comply with this ordinance. (Ord. 1599)

Section 16.23 (7)

All berms which exist on June 4, 1990 (the time of the adoption of this ordinance) and do not conform to the ordinance, may be maintained, but no alteration, modification or improvement of such non-conforming berm shall be permitted unless as a result of such alteration, modification or

improvement, such non-conforming use shall be made to comply with this ordinance.

(8) Permit. Prior to placement of any fence, wall, windbreak or berm, the responsible party shall make application to the Building Inspector for a permit, furnishing all necessary information, and shall not begin construction of any fence, wall, windbreak or berm until approval has been made and a permit therefore is issued. The fee for the permit is on the adopted fee schedule as approved by the Village Board. (Ord. 1717)

(9) Penalty. Any person, firm or corporation who or which violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provisions of this Section of the Code shall be fined in accordance with the provisions of Section 17.04 of this Code.

16.24 RADIO OR TV ANTENNA TOWERS AND SATELLITE EARTH STATIONS.

(Ord. 1434)

(1) Location:

No radio or TV antenna tower may be erected or installed within the front yard or side yard. Satellite earth stations may be erected in the rear yard only; however, if the applicant provides specific engineering and technical data showing that placement in the rear yard would unreasonably limit or prevent reception of satellite delivered signals by receive-only antennas or impose excessive costs of installation, then a satellite earth dish may be erected in the side yard or on the roof or porch of a building or structure. In no event may a satellite earth station be erected in a front yard.

In any event, the rear setback and the side setback of any radio or TV antenna tower or satellite earth station shall be that for the principal structure within the respective zoning district. The exact location of the antenna tower or satellite earth station shall be subject to approval by the Architectural Review Commission; however, the Architectural Review Commission shall impose no limitation or restriction which unreasonably limits or prevents reception of satellite delivered signals by receive-only satellite earth dishes or imposes excessive costs of installation.

(2) Height Restrictions:

No radio or TV tower shall exceed a height of twenty feet (20') above the roof line of the building on the property upon which the antenna is located or sixty feet (60') above the ground measured at ground level, whichever is the minimum. No ground-mounted satellite earth station shall exceed the height of thirteen feet (13') above the ground measured at grade level; this height restriction shall, however, not be applicable if the applicant provides specific engineering and technical data showing that said height restriction would unreasonably limit or prevent reception of satellite delivered signals by receive-only antennas or impose excessive costs of installation.

(3) Electrical Code Requirements.

Radio or TV antenna towers and satellite earth stations shall be erected and installed in accordance with the Wisconsin State Electrical Code, National Electrical Safety Code and the instructions of the manufacturer, in cases of conflict the stricter requirements shall govern.

(4) Satellite Earth Stations.

No satellite earth station shall have a diameter in excess of ten feet (10'). Satellite earth stations shall be of mesh construction, and the color thereof shall be such as to blend with surroundings. The restrictions of diameter, construction and color shall, however, not be applicable if the applicant provides specific engineering and technical data showing that said limitations would unreasonably limit or prevent reception of satellite delivered signals by receive-only antennas or impose excessive costs of installation.

(5) Portable Units.

No portable or trailer-mounted satellite earth station shall be allowed, except for temporary

installation for on-site testing and demonstration purposes for periods not exceeding two (2) days.

(6) Screening.

Any satellite earth station shall be screened from view at ground level, including the use of landscaping and plantings which provide for year-round screening, such screening to be approved by the Architectural Review Commission. The restriction of landscaping and screening shall, however, not be applicable if the applicant provides specific engineering and technical data showing that said landscaping or screening would unreasonable limit or prevent reception of satellite delivered signals by receive-only antennas or impose excessive costs of installation.

(7) Permit Required.

No radio or TV antenna tower or satellite earth station shall be erected and installed, unless a permit therefor shall first be obtained by the owner or his agent from the Electrical Inspector.

(8) Unsafe Conditions.

A condition of a radio or TV antenna tower or satellite earth station which may result in danger to life or property or which is in need of maintenance and repair, as determined by the Electrical Inspector, shall be corrected within five (5) days from the date of written notice thereof given to the owner or operator of such radio or TV antenna tower or satellite earth station. Failure to correct said condition within five (5) days shall be a violation of this section. If said condition is not corrected within such time, the owner or operator shall be subject to the penalty as hereinafter prescribed.

(9) Subsection (3), (5), (7) and (8) of this section shall apply to all zoning districts. Subsections (1), (2), (4) and (6) of this section shall apply to zoning districts 1,2,3,5,6 and 8. In zoning districts 4, 4a and 9, the erection or installation of a radio or TV antenna tower or satellite earth station shall be subject to approval by the Architectural Review Commission. The Architectural Review Commission shall consider health, safety or aesthetic objectives, and may, but is not required to, use subsections (1), (2), (4) and (6) as guidelines, except that in no event shall such radio or TV antenna or satellite earth station be located within a front yard setback. (Ord. I383 - 12/87)

(10) This section, other than subsections (3) and (7) shall not be applicable to any municipally-owned facilities which are determined by the Village Board to be required for reasons of public health, safety and welfare. (Ord. I428 - 9/90)

16.25 HISTORIC PRESERVATION (Ord. 1686)

(1) Purpose and Intent. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the Village. The purpose of this section is to:

(a) Effect and accomplish the protection, enhancement, and preservation of such improvements and sites which represent or reflect elements of the Village's cultural, social, economic, political and architectural history.

(b) Safeguard the Village's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures and sites.

(c) Stabilize and improve property values, and enhance the visual and aesthetic character of the Village.

(d) Protect and enhance the Village's attraction to residents, tourists and visitors, and serve as a support and stimulus to business.

(2) Definitions. The following definitions shall apply to this Section:

(a) "Architectural Review Commission" means the Architectural Review Commission of the Village of Whitefish Bay.

(b) "Certificate of Appropriateness" means the certificate issued by the Architectural Review Commission or Community Development Authority approving alteration, rehabilitation, construction, reconstruction or demolition of an Historic Structure or Historic Site.

(c) "Commission" means the Historic Preservation Commission created under this Section.

(d) "CDA" means the Community Development Authority of the Village of Whitefish Bay.

(e) "Demolition" means the razing or other intentional destruction of greater than fifty percent (50%) of the value (as determined by the Village Assessor), volume, mass, or footprint of any single structure.

(f) "Historic Site" means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which an historic event has occurred, and which has, with an Owner's consent, been designated as an Historic Site under this Section, or an improvement, parcel, or part thereof, on which is situated an Historic Structure and any abutting improvement, parcel, or part thereof, used as and constituting part of the premises on which the Historic Structure is situated.

Section 16.25 (2) (g)

(g) "Historic Structure" means any improvement which has a special

character or special historic interest or value as part of the development, heritage or cultural characteristics of the Village, state or nation and which has, with an owner's consent, been designated as an Historic Structure pursuant to the provisions of this chapter.

(h) "Improvement" means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

(i) "Plan Commission" means the Plan Commission of the Village of Whitefish Bay.

(3) Historic Preservation Commission Composition. An Historic Preservation Commission is hereby created, consisting of seven (7) members, to serve in three (3) year staggered terms, with an acknowledged interest in historic preservation. If available in the community, one member should be a registered architect; one should be an historian; one should be a licensed real estate broker; one should be a member of the Whitefish Bay Historical Society; one shall be a Village Trustee and the remainder shall be citizen members. The Village President shall appoint the commissioners subject to confirmation by Village Board.

(4) Historic Structure and Historic Site Designation Criteria

(a) For purposes of this Section, an Historic Structure, or Historic Site, designation may be placed on any natural or improved site, including any building, improvement or structure located thereon, or any area of particular historic significance to the Village such as historic structures, or sites, which:

- i. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
- ii. Are identified with historic personages or with important events in national, state or local history; or
- iii. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
- iv. Are representative of the notable work of a master builder, designer or architect who influenced his or her age; or
- v. Have yielded, or may be likely to yield, information important to prehistory or history.

Section 16.25 (4)(b)

(b) The Commission shall adopt specific operating guidelines for Historic Structure, and Historic Site designation providing such are in conformance with the provisions of the Municipal Code and approved by the Village Board.

(5) Powers and Duties of the Architectural Review Commission, CDA, Commission, Plan

Commission, and Village Board.

(a) Designation. The Commission shall have the authority to designate Historic Structures, and Historic Sites within the Village limits. All such designations shall be made based on the criteria in this section. No designation process may proceed without the submittal to the Commission of a written consent to designation from any owner of such site or structure. Once designated, such Historic Structures, and Sites shall be subject to all of the provisions of this Section.

(b) Regulation of Construction, Reconstruction, Alteration and Demolition

1. The Architectural Review Commission shall review all applications for certificates of appropriateness for all properties in the Village not subject to CDA jurisdiction with regard to design review and building permits. Where the CDA has such jurisdiction, the CDA shall review all applications for a certificate of appropriateness. No owner or person in charge of an Historic Structure, or Historic Site shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property to demolish such property unless a Certificate of Appropriateness has been granted by the Architectural Review Commission (or CDA where appropriate). Unless the Architectural Review Commission (or CDA where appropriate) has granted such certificate, the building inspector shall not issue a permit for any such work on a property unless and until a Certificate of Appropriateness is issued for the work. There shall be no requirement for a Certificate of Appropriateness, nor shall the requirements of this Section **apply, to any action under Section 66.0413 Wis. Stat. to raze or** rehabilitate the property or otherwise act pursuant to that statutory section.

i. All construction, alteration, or demolition with regard to an Historic Structure shall comply with the Building Code and Design Guidelines of the Municipal Code. In the event of conflicts between this section and the Design Guidelines, this section shall control.

Section 16.25 (5)(b)(2)

2. Upon filing of any application for a Certificate of Appropriateness for activities other than demolition, the Architectural Review Commission (or CDA where appropriate) shall approve the application unless any of the following conditions exist:

i. In the case of a designated Historic Structure or Historic Site, the proposed work (other than demolition) would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done and

available options to satisfy the requirements of this subparagraph do not constitute an undue burden on the applicant;

ii. In the case of the construction of a new improvement upon an Historic Site, the exterior of such improvement would adversely affect or not harmonize with the external appearance of neighboring improvements on such site and available options to satisfy the requirements of this subparagraph do not constitute an undue burden on the applicant;

3. The Architectural Review Commission (or CDA where appropriate) shall not issue a Certificate of Appropriateness for demolition unless the applicant has shown that it has made good faith efforts for a period of at least sixty (60) days to secure a buyer who agrees to, or otherwise secures a means to, preserve, relocate, reuse, or otherwise rehabilitate the Historic Site or Structure utilizing a reasonable level of resources available to the owner or buyer. The Architectural Review Commission (or CDA where appropriate) may impose such additional restrictions or requirements in the demolition permit as it deems reasonably necessary, including, but not limited to: the imposition of waiting or negotiation periods of up to sixty (60) days, the requirement of additional efforts to preserve or sell the property for periods of up to sixty (60) days, the salvage or recycling of historic artifacts, the donation or sale of all or portions of the Historic Site or Structure for removal, or the measurement, recording, and photographing of the structure so as to make an historic record.
4. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the Village. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of a Certificate of Appropriateness required for the proposed work.
5. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves
Section 16.25 (5)(b)(5)
repairs to existing features of an Historic Structure or Site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the Historic Structure or Site and does not require the issuance of a building permit.
6. In addition, in determining whether to issue a Certificate of Appropriateness for activities other than demolition, the Architectural Review Commission (or CDA where appropriate) shall consider and may give decisive weight to any or all of the following standards:
 - i. A property should be used for its historic purpose or be placed in a new use that requires minimal change to the defining

characteristics of the building and its site and environment.

- ii. The historic character of a property should be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property should be avoided.
- iii. Each property should be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, should not be undertaken.
- iv. Most properties change over time. Those changes that have acquired historic significance in their own right should be retained and preserved.
- v. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property should be preserved.
- vi. Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features should be substantiated by documentary, physical, or pictorial evidence.
- vii. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials should not be used. The surface cleaning of structures, if appropriate,

Section 16.25 ((5)(b)(6vii)

should be undertaken using the gentlest means possible.

- viii. Significant archeological resources affected by a project should be protected and preserved. If such resources must be disturbed, mitigation measures should be undertaken.
- ix. New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property. The new work shall not be differentiated from the old and should be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- x. New additions and adjacent or related new construction should be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its

environment would be unimpaired.

7. The Architectural Review Commission (or CDA where appropriate) shall make its decision regarding a Certificate of Appropriateness within thirty (30) days of the filing of the application. If the Architectural Review Commission (or CDA where appropriate) denies a Certificate of Appropriateness, the Architectural Review Commission (or CDA where appropriate) shall, with the cooperation of the applicant, work with the applicant in an attempt to issue a Certificate of Appropriateness within the terms of this Section. Failure of the Architectural Review Commission (or CDA where appropriate) to act on the application within thirty (30) days shall constitute an approval of the application entitling the applicant to proceed under the terms of the application for a Certificate of Appropriateness.

(c) Appeals

1. Demolition Permits. Any aggrieved person, including the owner or applicant, may appeal a decision regarding a Certificate of Appropriateness for demolition to the Village Board within thirty (30) days. The Village Board shall render its decision based on the record and any additional evidence presented to it by the aggrieved person and the owner or applicant.
2. All Other Permits. Any aggrieved person, including the owner or applicant may appeal such decision to the Board of Appeals within thirty (30) days.

Section 16.25 (5)(c)(2d)

(d) Recognition of Historic Structures, and Sites. At such time as an Historic Structure or Site has been properly designated, the Commission, in cooperation with the property owner, may cause to be prepared and erected on such property, utilizing funds as made available by the Village, a suitable plaque declaring that such property is an Historic Structure.

(6) Procedures.

(a) Designation of Historic Structures and Historic Sites

1. The Commission may, after notice and public hearing, designate or rescind (in whole or in part) Historic Structures or Historic Sites after application of the criteria in Section (4) above. No Historic Site or Historic Structure may be designated, without consent from an owner of the Site or Structure to such designation. At least thirty (30) days prior to such hearing, the Commission shall publish a Class I notice pursuant to Wisconsin statutes and shall notify the owner(s) of record, as listed in the office of the Village Assessor.
2. The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and hear such witnesses and review records as might be presented. The Commission

may conduct an independent investigation into the proposed designation or rescission. After the public hearing, the Commission may designate or rescind (in whole or in part) the property or properties as either an Historic Structure or Historic Site. If the Commission fails to take action within ninety (90) days of the first meeting at which nomination of the Structure or Site appears on the Commission's agenda, such nomination will be deemed rejected in full. After any designation or rescission has been made by the Commission, notification shall be sent to the property owner or owners. Notification shall also be given to the Building Inspector, Village Clerk, and Village Assessor. The Commission shall cause the designation or rescission to be recorded, at Village expense, at the County Register of Deeds office.

3. Any aggrieved person, including the owner or applicant, may appeal a decision regarding Historic Structure or Site designation to the Village Board within thirty (30) days. The Village Board shall consider the record and may hear additional evidence at its discretion. The Village Board shall render its decision within ninety (90) days of the appeal. Failure to take action within ninety (90) days shall constitute affirmance of the Commission's decision. Any designation shall not take effect until completion of the appeal.

Section 16.25 (7)

(7) Interim Control. No building permit shall be issued by the building inspector for alteration, construction, demolition, or removal of a nominated Historic Structure or Historic Site, the date of the meeting of the Commission at which nomination for historic designation of the structure or site is first presented as an agenda item until the final disposition of nomination by the actions or failure to act of the Commission or the Village Board unless such alteration, removal or demolition authorized by formal resolution of the Village Board as necessary for public health, welfare or safety or pursuant to Section 66.0413 Wis. Stats.

(8) Educational Function of Commission. It shall be the responsibility of the Commission to gather information regarding funding, tax treatment and legal and contractual methods of historic preservation and to endeavor to keep the Architectural Review Commission and CDA apprised of current information regarding those subjects.

(9) Severability. If any provision of this section or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

(10) Repealed - (Ord. 1724)

Section 16.29

16.29 WIRELESS TELECOMMUNICATION MOBILE SERVICE FACILITIES

- A. Purpose.** This Section is intended to regulate Mobile Service Facilities to the fullest extent allowed by Wis. Stats. § 66.0404 and other applicable laws. Nothing herein is intended to regulate or authorize the regulation of Mobile Service Facilities in a

manner that is preempted or prohibited by Wis. Stats. § 66.0404 or other applicable laws.

B. Definitions. All terms used herein shall have the meaning set forth in Wis. Stats. § 66.0404(1) unless otherwise defined in this Ordinance:

1. “Antenna” means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.
2. “Application” means an application for a Permit under this Section to engage in either:
 - a. The siting and construction of a new Mobile Service Support Structure and facilities;
 - b. A Class 1 Collocation, involving the Substantial Modification of an Existing Support Structure or Mobile Service Facilities; or
 - c. A Class 2 Collocation.
3. “Building Permit” means a Permit issued by the Village that authorizes an Applicant to conduct construction activity that is consistent with Village Building Code.
4. “Class 1 Collocation” means the placement of a new Mobile Service Facility on an Existing Structure such that the owner of the facility does not construct a free standing Support Structure for the facility but does engage in Substantial Modification.
5. “Class 2 Collocation” means the placement of a new Mobile Service Facility on an Existing Structure such that the owner of the facility does not construct a free standing Support Structure for the facility or engage in Substantial Modification.
6. “Collocation” means Class 1 or Class 2 Collocation or both.
7. “Distributed” means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides Mobile Service within a geographic area or structure.
8. “Equipment Compound” means an area surrounding or adjacent to the base of an Existing Structure within which is located Mobile Service facilities.

9. "Existing Structure" means a support structure that has existed in its current form for at least two (2) years before a request for permission to place Mobile Service Facilities on a support structure is filed with Village, and which was not otherwise modified in the past to accommodate the placement of Mobile Service Facilities.
10. "Mobile Service" has the meaning given in 47 USC 153 (33). "Mobile Service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:
 - a. Both one-way and two-way radio communication services;
 - b. A Mobile Service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and
 - c. Any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.
11. "Mobile Service Facility" means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide Mobile Service to a discrete geographic area, but does not include the underlying Support Structure.
12. "Mobile Service Provider" means a person who provides mobile service.
13. "Mobile Service Support Structure" means a freestanding structure that is designed to support a Mobile Service Facility.
14. "Permit" means a Permit, other than a Building Permit, or approval issued by the Village or other governmental unit which authorizes any of the following activities by an Applicant:
 - a. A Class 1 Collocation;
 - b. A Class 2 Collocation; or
 - c. The construction of a Mobile Service Support Structure.

15. "Political Subdivision" means a city, village, town, or county.

16. "Public Utility" has the meaning given in Wisconsin Statutes.

17. "Substantial Modification" means the modification of a Mobile Service Support Structure, including the mounting of an antenna on such a structure, that does any of the following:

- a. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet;
- b. For structures with an overall height of more than 200 feet, increases the overall height of the structure by ten percent or more;
- c. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation; or
- d. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

18. "Support Structure" means an existing or new structure that supports or can support a Mobile Service Facility, including a Mobile Service Support Structure, Utility Pole, water tower, building, or other structure.

19. "Utility Pole" means a structure owned or operated by an alternative telecommunications utility, as defined in Wisconsin Statutes; public utility, as defined in Wisconsin Statutes; telecommunications utility, as defined in Wisconsin Statutes; Political Subdivision; or cooperative association organized under Wisconsin Statutes; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Wisconsin Statutes; for video service, as defined in Wisconsin Statutes; for electricity; or to provide light.

C. New Structures and Facilities and Substantial Modifications. The siting and construction of new Mobile Service Support Structures and Mobile Service Facilities, and Substantial Modifications of Existing Structures and facilities (Class 1 Collocation), shall be subject to the following requirements:

1. **Application process.** The Applicant shall submit a written Application which shall include all of the following information.

- a. The name and business address of, and the contact individual for, the Applicant;
- b. The location of the proposed or Existing Structure;
- c. The location of the proposed or existing Mobile Service Facility;
- d. A construction plan which describes proposed or Existing Structure, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the structure; and
- e. For all new structures and facilities, an explanation as to why the Applicant chose the proposed location, and why the Applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the Applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.

2. **Determination of completeness within ten days of submittal.** The Village Public Works Director shall review the Application and determine whether the Application is complete. If the Application includes all of the foregoing information, the Application shall be found to be complete. The Village Public Works Director shall notify the Applicant in writing within ten (10) days of receiving the Application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their Application as often as necessary until it is complete.

3. **Conditional Use Review Procedure.** Any new Support Structure or Substantial Modification of a wireless telecommunications Mobile Service Facility or Support Structure shall be a Conditional Use, subject to the procedures in Section 16.091 of the Municipal Code as limited by Wis. Stats. § 66.0404. In addition, the following procedures shall apply:

- a. **Public hearing.** Within a reasonable time after an Application and all required information has been filed, a public hearing shall be held by the Plan Commission pursuant to this Section . Within forty (40) days after the public hearing and all investigation, the Plan Commission shall make a decision, unless the time is extended by agreement with the Applicant.
- b. **Fee.** Any Application under this Sub-Section C shall be accompanied by a fee of three thousand dollars (\$3,000.00) or such other amount set from time-to-time by the Village Board to defray the cost of notification and holding of public hearing and Costs incurred by the Village in obtaining legal, planning,

engineering and other technical and professional advice in connection with the review and implementation of the Conditional Use. Such fee shall not exceed the limits established by Wis. Stats. § 66.0404(4)(d).

c. Requirements.

i. Conditional Use status shall not be granted to any new Support Structure or Substantial Modification of a Support Structure unless the Applicant provides certification from a licensed engineer that the Structure is located so that there is sufficient land owned or controlled by the Applicant around the Structure so that in the event of its collapse the distance in all directions equal to its height shall be comprised of property owned or controlled by the Applicant. Conditional Use Status may, however, be granted if an Applicant provides the Village with certification from a licensed engineer that the Structure is designed to collapse within a smaller area than the distance in all directions equal to its height but still within an area comprised of property owned or controlled by the Applicant, unless the Village provides the Applicant substantial evidence that the engineering certification is flawed.

ii. All facilities and structures shall meet applicable state and federal codes.

d. Determination. The Plan Commission shall make a decision on the Application within ninety (90) days of Village receipt of the complete Application unless the time is extended by agreement of the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Village records. If Conditional Use status is not granted, the reasons therefor will be included in such record. A grant of Conditional Use status, subsequent changes or additions thereto and terminations thereof shall be recorded as follows:

i. An official record of such Conditional Use shall be prepared by the Village Public Works Director on a form prescribed therefore which shall include the description of the use for which the grant is given and all conditions attached thereto as well as a copy of the action of the Village Board approving the grant. A copy of the completed form may be recorded by the Milwaukee County Register of Deeds as a covenant on the title for the premises for which the Conditional Use was granted.

e. Changes or Additions. Subsequent changes or additions to the approved plans or use shall first be submitted for approval to the Plan Commission and, if, in the opinion of the Village Public Works Director in his or her review of the revisions requested, such change or addition constitutes a Substantial Modification, a public hearing before the Plan Commission shall be required and notice thereof be given pursuant to this Section.

- f. **Conditions.** Conditions such as landscaping, architectural design, type of construction, floodproofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yard, or parking requirements, among other issues as deemed appropriate may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Section ; subject to the limitations of Wis. Stats. § 66.0404(4).
- g. **Reconsideration.** Applicants may, within ten (10) days of a Plan Commission decision on a Conditional Use under this Sub-Section C, request reconsideration by the Village Board which reconsideration will be considered as an agenda item on the next scheduled Village Board meeting, at which meeting the Village Board may uphold, reverse, or amend the Plan Commission's decision.

D. Non substantial Modifications (Class 2 Collocation).

- 1. **Application information.** If a proposed Modification is not a Substantial Modification (and thus a Class 2 Collocation) the Applicant shall submit a written Application that describes the Applicant's basis for concluding that the Modification is not Substantial, and all of the following information:
 - a. The name and business address of, and the contact individual for, the Applicant;
 - b. The location of the affected support structure; and
 - c. The location of the proposed facility.
- 2. **Completeness Determination Within Five Days.** The Village Public Works Director will determine whether the Application is complete. If the Application includes all of the foregoing information, the Application shall be found to be complete. The Village Public Works Director must notify the Applicant in writing within five (5) days of receiving the Application if it is found not to be complete, specifying in detail the required information that was incomplete. The Applicant may resubmit as often as necessary until it is complete.
- 3. **Fee.** Any Application for a Class 2 Collocation shall be accompanied by a fee of the lesser of the applicable Building Permit fee or five hundred dollars (\$500) (or such other amount as set from time-to-time by the Village Board to defray the cost of review). Costs incurred by the Village

in obtaining legal, planning, engineering and other technical and professional advice in connection with the review and implementation of the modifications may be charged to the Petitioner. Such costs and fees shall not exceed the limitations established by Wis. Stats. § 66.0404(4)(d).

4. **Determination.** The Village Public Works Director shall make a decision on the Application within a reasonable time after receipt of the completed Application, and not later than forty-five (45) days after receipt of the completed Application unless the time is extended by the Petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Village records. If modifications as requested are not approved by the Village Public Works Director, the reasons therefor will be provided to the Applicant in writing.
5. **Limitations Upon Authority.** The Village review and action in the matter shall be subject to the limitations imposed by Wis. Stats. § 66.0404(4), and such other laws as may apply which may include 47 USCA Section 1455.
6. **Reconsideration.** In addition to an aggrieved persons remedies before the Zoning Board of Appeals pursuant to Wis. Stats. Section 62.23(7)(e), the Applicant may within thirty (30) days request reconsideration in writing in which case the Village Board reserves the right to reconsider and amend, approve, or reverse the Village Public Works Director's decision.

16.30 PENALTY.

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Section 17.04 of this code, in addition to the specific penalties provided in this chapter. A. separate offense shall be deemed committed on each day on which a violation of this chapter occurs or continues.

16.31 SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DESIGN GUIDELINES. (Ord. 1685)

INTRODUCTION

These guidelines (hereinafter "Guidelines") are intended to help maintain the high quality of Whitefish Bay's neighborhoods by providing guidance for the design of new houses, additions and/or remodels in existing neighborhoods. These guidelines are intended to focus on the characteristics of neighborhood compatibility and to provide individual homeowners flexibility to build, expand or remodel to meet their own needs and objectives.

All new house construction, additions and remodel projects must conform to the development standards of the zoning districts in which they are located. The single-family and two-family design guidelines presented below are intended to go beyond the basic requirements of the Zoning Ordinance and, in greater detail, address issues specifically related to neighborhood character and compatibility. These guidelines apply in all neighborhoods but will perhaps be

particularly important in neighborhoods with established historic or architectural merit and for individual buildings with historic or architectural merit.

Applicability. The Guidelines apply to all new single-family and two-family structures on individual lots, including new subdivisions located within or adjacent to existing neighborhoods, and all additions and remodels requiring a building permit.

Application. These Guidelines are provided for the use of homeowners, builders, contractors, architects, designers, Village staff and Village decision makers.

Homeowners, builders, architects and other designers are encouraged to consult the Guidelines prior to designing new houses, additions or remodels for ideas and advice.

The Guidelines can be used as an informational resource by homeowners, builders and/or designers.

The Guidelines will be used by Village staff and decision makers as the criteria for making permit decisions.

Neighborhood residents should consult the Guidelines to understand the neighborhood compatibility concepts which will apply to new construction.

Definition. The following definition shall apply under these Guidelines:

1. **Design Area.** The Design Area of a property consists of six (6) parcels on both sides of the street in all linear directions from the subject property plus the parcels abutting the subject property, and subject to such further refinements as might be made by the Building Inspector to deal with unique circumstances such as curved streets, cul de sacs, subdivision or zoning district boundaries, and the like.

These Single-Family and Two-Family Residential Design Guidelines are organized in four Sections:

I. Neighborhood Patterns. The first section identifies those common building characteristics which are most apt to define a neighborhood's appeal and identity. Not all pattern themes will be present in every neighborhood.

II. Elements of Building Design. This section addresses design integrity within the individual building.

III. Relationships to Adjacent Properties. This section deals with the interfaces between new construction and adjacent existing single-family houses.

IV. References to Treatise. Reference to McAlister: A Field Guide to American Houses (Knopf 1984) (hereinafter "McAlister") is provided as a resource for homeowners and builders who wish to understand the architectural origins of houses and the representative elements of their style. All references to architectural style or elements in these Design Guidelines are to be interpreted and understood by reference to that book.

1 I. NEIGHBORHOOD PATTERNS

Because the major objective of these guidelines is to ensure that new homes, additions and remodels are appropriately compatible with the Design Area, compliance with the guidelines in this chapter is essential for the preservation of the neighborhood character, and consistency with them will be an important component of those projects which qualify for approval. While compatibility with neighboring structures is required, a proposed project should not be so similar in design, materials, style or exterior appearance to structures in the Design Area that excessive monotony is created. In the event of any conflict between these design guidelines and the Historic Properties Ordinance of the Municipal Code (§ 16.25), the Historic Properties Ordinance shall control.

A. SETBACKS (See Figure 1)

1. At a minimum, setbacks must conform to the standards of the applicable zoning district.
2. In addition, front setbacks should be compatible with existing front setbacks in the Design Area or on adjacent properties, whichever is less.
3. Side setbacks should generally be compatible with the side setbacks of adjacent properties if there is a Design Area pattern of larger side setbacks than is required by the zoning district.

Rear setbacks should generally be compatible with the rear setbacks of adjacent properties unless the Architectural Review Commission finds that the scale, massing, architectural design, and detail of the proposed structure are such as to mitigate to a substantial degree any negative impacts on light, air, views, and privacy of adjacent properties.

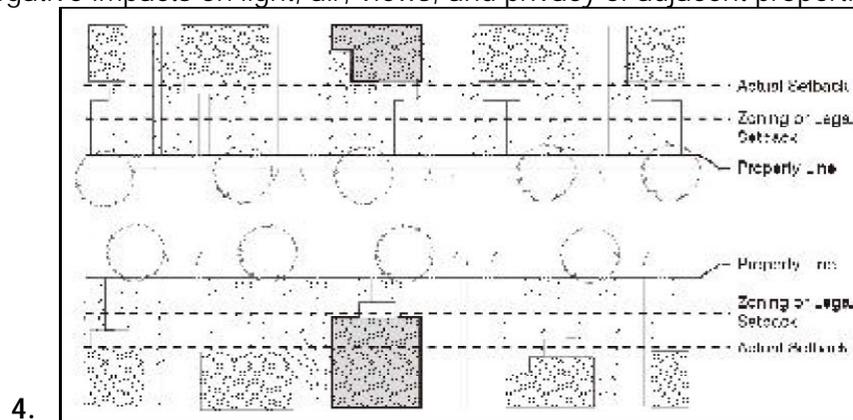


Figure 1. The new house at the bottom disrupts the established Design Area Front setback pattern. The new house at the top is consistent with the setback pattern.

B. HEIGHT

1. The height of new houses and additions should be limited to 25 feet in most Design Areas. Few Design Areas in Whitefish Bay have houses that are taller than 30 feet and even fewer have a significant pattern of such houses.
2. Heights of up to 35 feet, however, may be considered for sites where the architectural style of the house is a traditional one that is characteristically tall, (for example, Victorian, Gothic, etc.) and where any two of the following conditions are found:
 - a. The new house or addition is consistent with a Design Area of houses which are more than 25 feet tall.
 - b. The new house or addition is not out of scale relative to the homes in the design area with primary consideration given to the adjacent homes and the available remedial approaches as noted in Section III. (Ord. 1705)
 - c. The new construction is an addition which adds a minor amount of mass above 25 feet to a house which is already more than 25 feet tall, primarily for consistency with the architectural style, ceiling height or roof characteristics of the existing house.
 - d. The house has side setbacks of 25 feet and a minimum rear setback of 50 feet.

C. ENTRIES AND PORCHES

1. In Design Areas where there is a dominant pattern of front porches for existing houses:
 - a. New houses should have front porches, consistent with the style of the house.
 - b. Existing porches should be retained with remodels.
2. Main entries should be prominent and oriented to the street unless another pattern is well established in the Design Area.

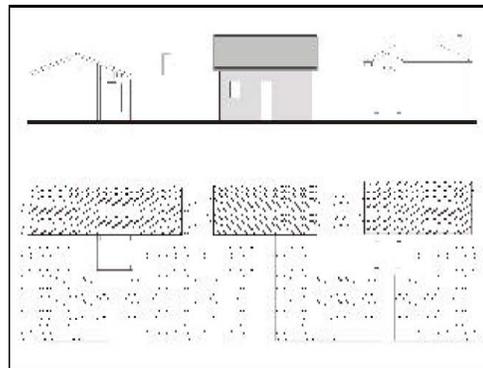
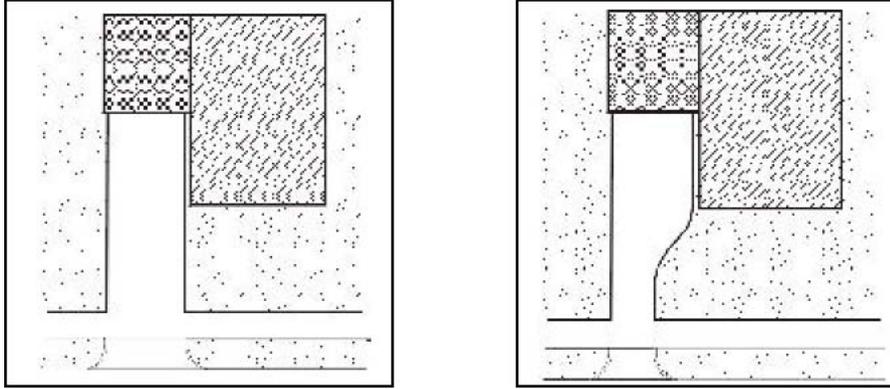


Figure 2. The house without any entry feature lacks the architectural interest and sense of welcome of the other houses.

D. GARAGES AND PARKING AREAS (See Figures 9 through 15)

1. Garages should be consistent with those in the Design Area and should **not be the dominant feature of the façade of a house.**
 - a. In Design Areas with an established pattern of detached garages located in the rear yard, new garages should also be located at the rear of the house. Garages on such blocks may be attached if they are located behind the house, or face the side yard with no garage **walls included in the front façade of the house. On properties with insufficient room due to setbacks the requirements of this section may be waived by special exception provided mitigating design elements are employed.**
 - b. In Design Areas with an established pattern of attached garages, unless the predominant pattern in the design area for any of the following requirements is to the contrary:
 - i. The front line of any garage should be set back from the majority of the front line of the structure a distance sufficient to reduce the relative overall scale of the garage as compared to the **house front façade and insure that the front house facade is the dominant feature when observed from the street.**
 - ii. Attached garages located at the front or side facades of the house should be no wider than one half the width of the total structure facade which includes the garage doors.
 - iii. In addition, in Design Areas where the predominant pattern is attached two or more car garages, new or expanded attached garages for three cars should be either turned sideways to the street, configured as two tandem spaces and one single space, or split or offset as two distinct garages, a two car garage and a one car garage.
 - iv. Attached garages on corner lots should be located to avoid driveway paving at or near the corner unless the paving forms an entry court of superior design.
 - v. No single vehicle entry door of an attached garage which faces the front yard shall in width exceed 30% of the width of the total combined residence and garage structure.
2. The least amount of paved surface necessary on a lot for driveways and parking is encouraged. Curb cuts, driveways and parking surfaces should be no more than the width of two cars except as follows:

- a. Paved areas may be flared to allow access to three car garages.
- b. Curb cuts or paved surface connection of up to three car widths per lot are permitted along alleys.



Figures 3 and 4. Avoid unnecessary driveway paving. Driveway pavement minimized.

II. SCALE, MASSING AND ELEMENTS OF HOUSE DESIGN

This Chapter addresses the scale, massing and design integrity of the individual building. While scale, massing and design integrity are important to the appearance of individual buildings, their importance in the context of these guidelines is equally related to the building’s impact and “fit” in its neighborhood or on its block. The guidelines in this Chapter will be applied most rigorously in Design Areas with distinct architectural character.

A. SCALE AND MASSING (See Figures 5 through 7)

1. The scale and massing of new houses and additions including proportions, roof lines, and slopes should be consistent with the general scale and shapes of adjacent houses. Where necessary the appearance of excessive scale may be minimized by employing one or more of the following techniques:
 - a. Limiting the building profile (see figure 5) of the new house or expanded house to an area generally consistent with the profiles of homes in the design area with primary consideration to the adjacent homes and the available remedial approaches as noted in Section III. (Ord. 1705)
 - b. Setting the second story back from the front and sides of the first story a distance sufficient to reduce the apparent overall scale of the building.
 - c. Significantly limiting the size of the second story relative to the first story, including any addition to the first story.

- d. Significantly increasing the front and/or side setbacks for the entire structure.
 - e. Sloping the new roof back from adjacent houses.
2. The scale and mass of any portion of a new house or addition facing a public street should be compatible with those of adjacent houses and/or with the predominant scale in the Design Area.
3. Scale and massing compatibility should include the elevation of floor plates (including certification by the owner of such proposed elevations relative to adjacent streets). For example, in Design Areas with houses set high on their foundations, new houses and additions should be set similarly high. In addition, compatibility of scale and massing should be maintained by:
- a. Avoiding flat roofs in Design Areas with a predominant pattern of peaked roofs unless the building profile area of the flat roofed structure is no larger than the profile areas of the adjacent houses.
 - b. If large blank surfaces are proposed, they should serve some compelling design purpose, and the design should incorporate mitigating features to enrich the appearance of the structure and provide a sense of scale at ground level that is inviting to the observer.



Figure 5. Middle building profile area is significantly larger than adjacent building profiles.

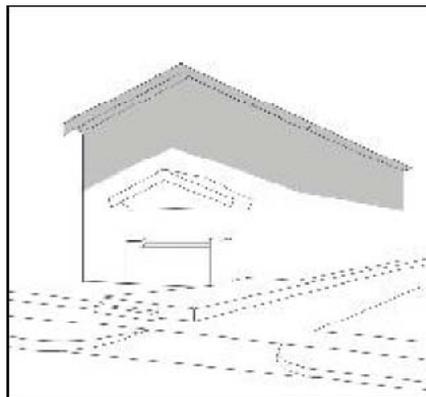


Figure 6. Large block second story overwhelms the original house and streetscape.

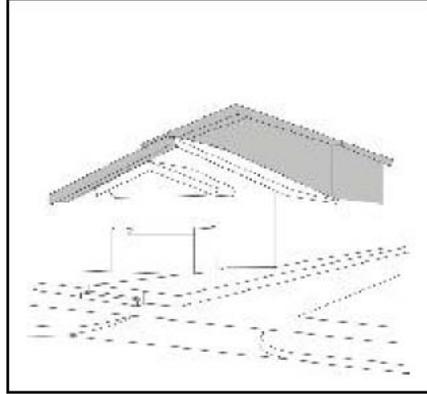


Figure 7. Smaller setback second story in scale with and preserves streetscape lines of the original house.

B. ARCHITECTURAL STYLE

1. Architectural styles of new houses and substantial remodels should be compatible with the architectural styles found in the Design Areas and for remodels consistent with the existing house (unless the existing architectural style is to be changed). Compatibility can be achieved with the use of any architectural style provided it employs building scale, massing, and roof lines, materials and building orientations that are commonly found in the Design Area.
2. For additions and remodels, the architectural design of the building elements listed below should be generally consistent with that of the existing dwelling, unless an objective of a remodel is to change the existing style to another one or to upgrade one or more of the building elements, for example to replace wood window frames with aluminum ones. (For definition and interpretation with regard to architectural styles and elements, reference is made to McAlister which is incorporated into these design guidelines by reference.) For new houses or houses with substantial remodels constituting a change in architectural style, individual building elements should be employed for architectural consistency. In general, the following building elements should be stylistically consistent for each building:
 - a. **Overall Style**

The overall style of each house should be consistent on all sides of the building as well as among all portions of the roof. Particular care should be taken that building elevations and roof elements visible from streets and other public or quasi-public spaces are stylistically consistent. Consistency should be determined by evaluating each of the building components below.
 - b. **Siding Materials**

Natural building materials are encouraged. Synthetic siding/trim materials will be considered based on quality and appearance.

Siding materials should be appropriate to the style and style era of the house. For example, materials developed after the establishment of a particular architectural style are not appropriate on buildings of that style unless the new material is a high quality and deliberate reproduction of the original material. The same siding material should be used on all building elevations unless multiple materials are a legitimate expression of the particular style.

c. **Roof Materials (Ord. 1705)**

Acceptable sloped roofing materials include:

- Cedar Shake
- Slate
- Fiberglass Shingles
- Concrete Shingles
- Tile
- Dimensional Asphalt Shingles
- Copper

Roof materials should be appropriate to the style of the house and (except for flat roofs or flat roof portions) should be the same product for the entire roof system. New materials designed for fire resistance are appropriate as long as they replicate the traditional material (e.g., composition or concrete products designed to look like wood shingles or shakes, non-copper metals designed to look like copper, synthetic products designed to look like slate or tile).

d. **Roof Lines and Roof Slopes**

Roof types and slopes should be generally the same over all parts of a single building. Exceptions are roof styles or architectural styles that traditionally involve varying slopes such as gambrel roofs, or, architectural styles that sometimes mix flat and sloped roofs, such as the Mediterranean style. In addition, gable and hip roof elements are often used in combinations and very small gable or shed roof elements used over dormers or to highlight or shield a prominent window or windows are generally appropriate.

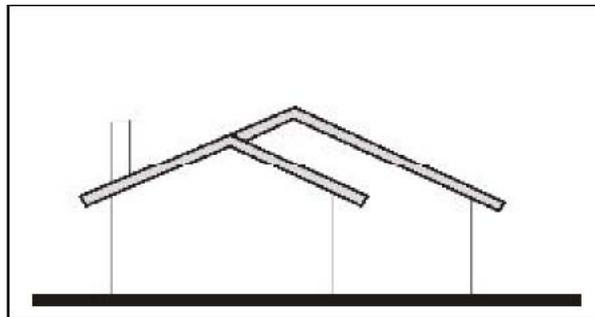


Figure 8. Roof elements should generally have the same slope.

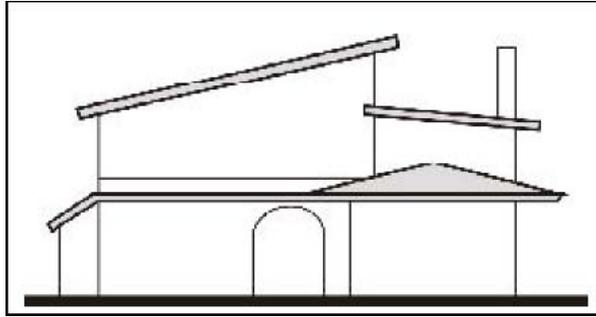


Figure 9. Roof elements with varied slopes result in a building that looks confused and unattractive.

e. **Window Styles and Frame Materials**

Window styles (double hung, casement, sliding, fixed, etc.) and frame materials (aluminum, wood, steel, etc.) are particularly important expressions of architectural style and should be compatible among all elevations of a building. Window styles may vary depending on the specific use or size of the window for some architectural styles. Window frame materials should not vary on a single building except in some limited cases where the frame material is being upgraded. See McAlister for examples of appropriate window styles and frame materials. Windows in garden rooms, greenhouses, and solariums may vary from the existing house in style and materials provided the style and size of windows on such structure are not significantly incompatible with the existing house.

f. **Window Sizes and Proportions**

Window sizes and proportions are also important expressions of architectural style and should be consistent with the architectural style of the house. For example, Victorian windows are typically tall and slender, Ranch Style windows are most often wider than they are high, International Style windows are often square, etc. While window sizes on a single house most often vary by the purpose of the room, several styles, e.g., Craftsman Bungalow and American Revival styles, typically include largely uniform window heights all around the building. Several styles also traditionally employ the same window repeated in groups of two, three or four as a fundamental expression of the style.

g. **Decorative Features**

Decorative features such as corbels, bargeboards, porch or balcony rails and columns, other columns and capitals, windowsills, carvings and any other decorative elements should be consistent as appropriate over the entire building. Some elements such as corbels, bargeboards and decorative window trim should be consistent on all parts of the house, while others such as porch and balcony rails may apply only to those individual structures, typically those located at or near the front of the house. For purposes of decorative features, consistency means the same materials, dimensions and design

elements. Decorative consistency is perhaps most critical for additions to houses with architectural styles which include decorative features as important elements of the style. Simple decoration added to a house previously without decorative features is not precluded.

It is important that exterior details such as shutters, corner boards, quoins, cupolas, wing walls, cornices and cornice returns, gable vents, fanlights, trim boards, lintels, sills, etc., be designed into the facades together with the other design features. These elements, where repeated, should be consistently applied throughout the project.

h. Chimneys

Masonry chimneys (or chimneys faced with real or artificial stone, brick, or stucco which is satisfactory to the Architectural Review Commission) will generally be required, even if the fireplaces themselves are not masonry. Consideration to frame chimneys will be given based on the context of the project. Frame chimneys not covered with real or artificial stone, brick, or stucco must be consistent with the architectural style of the structure and any existing structure, and to the maximum extent practicable should not be visible from the street.

i. Garages and Sheds (Ord. 1705)

Garages and sheds should be of an architectural style and detail to be consistent with the residence on the property.

III. RELATIONSHIPS TO ADJACENT PROPERTIES (See Figures 25 through 28)

This section contains additional guidelines in the form of recommendations intended as suggestions for application in the single- and two-family design review process to minimize the impact of new houses or additions on neighboring houses. Taking care to avoid noise, light, shade, privacy and aesthetic impacts on neighboring properties will always be appreciated and will often make the difference between support for and opposition to the new house or addition. While not mandatory design features, the guidelines presented in this section are highly desirable for incorporation into all new residential construction.

A. GUIDELINES

1. BALCONIES AND DECKS

- a. New balconies or decks located more than one foot above grade on new or existing houses should be built in accordance with these architectural guidelines and preferably no closer than 20 feet to adjacent rear property lines.

2. EXTERIOR LIGHTING

- a. Lighting should not be installed in such a manner or at such total capacity as to shine directly onto adjacent residential properties.
- b. To the extent practicable, the view of light sources should be shielded from adjacent residences.

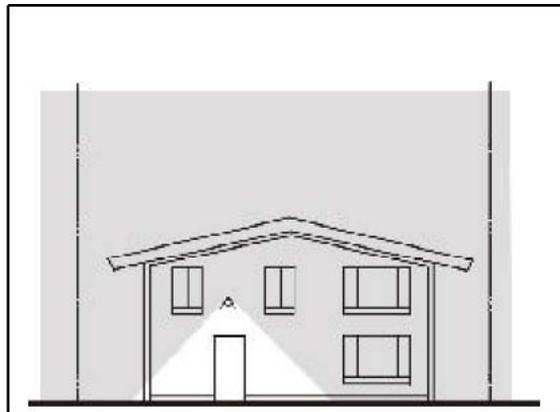


Figure 10. Light should be directed downward and light sources shielded from off-site view.

3. SITE PLAN

Siting of the project should not impair the lot's natural beauty or that of the neighborhood. It should respect the shape and physical attributes of the lot and of the neighborhood including drainage matters, mature trees, sun penetration and views as much as possible. These aspects should be taken into consideration with respect to the project's effects on neighboring properties. The Site Plan should attempt to address drainage, to eliminate or minimize the loss of mature trees and vegetation, and to minimize or reduce

alteration of natural topography.

4. AIR CONDITIONING EQUIPMENT

Air conditioning equipment can create noise that is irritating to neighbors. The location of such equipment should be designated to minimize noise impacts to adjacent properties.

B. REMEDIAL APPROACHES

If appropriate, the Architectural Review Commission may require remedial approaches to mitigate impacts on adjacent properties including, but not limited to, the following:

1. Setting second story balconies and decks back from property lines a distance greater than intended by the basic guideline above can help avoid direct views into adjacent residential windows, patios and rear yards.
2. New windows can be placed to avoid direct views into existing neighboring windows.
3. Views into neighboring buildings and yards can be further minimized by adding structural screens, such as trellises or wing walls, to interrupt those views.
4. Encouraging smaller building masses at the sides and rear of adjacent single family rear yards in order to help preserve privacy and sunlight access for the neighboring property.
5. Avoiding large second story windows overlooking adjacent rear yards can limit views into those rear yards.
6. Incorporating grading modifications and other techniques to avoid creating drainage problems for adjacent properties.
7. Avoiding destruction of mature trees and vegetation.

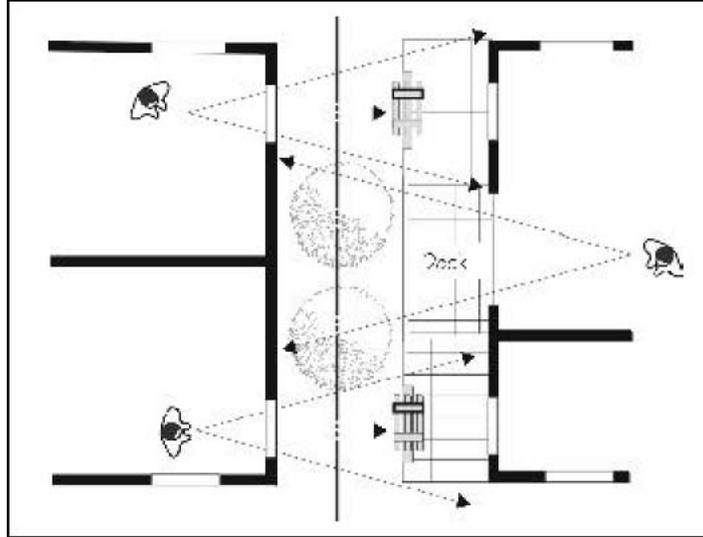


Figure 11. Offsetting window locations will help prevent views into adjacent houses.

IV. GENERAL (Ord. 1724)

ZONING CODE INDEX

16.01	Purposes and Interpretation
16.02	Definitions
16.03	Zoning Districts
16.04	District 1 - Lake Shore Residence District
16.045	District 1A - Single Family Residence District
16.05	District 2 - Single Family Residence District
16.06	District 3 - Two Family Residence District
16.07	District 4 - Churches, Public Buildings and Grounds
16.075	District 4A - Clubs and Lodges
16.08	District 5 - Apartment District
16.09	District 6 - Business District
16.091	Conditional Uses in the Business District
16.095	District 7 - Automobile Parking District
16.096	District 8 - Special Use District
16.097	District 9 - Planned Development District
16.098	District 10 - Flood Plain District
16.099	District 11 - Silver Spring Drive Business District
16.10	Measure of Permissible Lot Occupancy
16.11	Prohibited Uses
16.12	Nonconforming Uses
16.13	Front and Side Setback
16.14	Setback Adjacent to Alleys
16.15	Maintenance of Areas
16.16	Alterations
16.17	Exceptions
16.18	Sign Code of the Village of Whitefish Bay
16.19	Enforcement
16.20	Board of Appeals; Powers; Duties
16.21	Regulations of Exterior Design of Structures
16.22	Occupancy and Conditional Use Permits
16.23	Fences, Windbreaks, Walls, Hedges and Berms
16.24	Radio/TV Antenna Towers & Satellite Earth Stations
16.25	Historic Properties
16.29	Temporary Control of Issuance of Conditional Use Permits-Dist 6
16.30	Penalty
16.31	Single-Family and Two-Family Residential Design Guidelines