

INTRODUCTION

1. **TITLE.**

This ordinance shall be known, cited and referred to as the TOWN OF DELAFIELD Zoning Ordinance except as referred to herein, where it shall be known as the "ordinance" or "chapter."

2. **AUTHORITY.**

This ordinance is enacted pursuant to the authority granted by the State of Wisconsin Statutes, including, but not limited to, §§ 60.61, 61.35, 62.23(7), 87.30, Chapter 236 and Chapter 703. Specific statutory references are provided within the body of this chapter solely as a means of assisting the reader. Such references are not to be considered as all inclusive and shall in no manner be construed so as to limit the application or interpretation of this chapter.

3. **PREFACE.**

With recognition of the ever broadening scope of zoning regulations, the changing attitudes of individuals and the courts, and the new problems being presented by changing patterns of land development, this chapter has been developed to provide as modern and effective a tool as possible to help guide the proper growth and development of the community. It has also been designed to simplify and clarify both the text and its practical application.

In accomplishing these purposes it has been necessary to take a fresh look at the traditional pattern of zoning ordinance format and regulatory technique in relation to contemporary conditions. To a great extent this involved a fresh look at the basic zoning purposes themselves, though the fundamental principles of uniformity, comprehensiveness, non-discrimination and relation to the public health, safety and welfare have been preserved.

While it is the hope of the Town Board and Plan Commission that this chapter represents a definite step towards more effective land development control, it cannot be presumed to represent the final chapter. By the very fact that it is designed to be contemporary, it should not be allowed to become static, but shall be continually reappraised in the light of experience and changing conditions.

Though zoning is of necessity becoming more detailed and precise, and the municipality, the property owner and the courts are recognizing the necessity for exercising more restrictive control over land development, this chapter has been designed to provide a maximum amount of flexibility in adjusting to the variations of individual situations.

The chapter is divided into four basic parts:

1. Interpretation
2. General Regulations
3. Establishment of Districts
4. Administration and Enforcement

The first part sets out the introduction and definitions involved in the chapter.

The second part consists of the basic enabling provisions stated in the necessary legal terminology to apply the specific provisions of zoning control to a given district.

The third part of provisions then establishes the various districts and in simple outline form lists the appropriate specific application of these general regulations to each district. In addition, all conditional uses and the specific restrictions applicable thereto are grouped together in this section for convenience. The term "conditional use" is felt to be a more accurate descriptive than "special exception" because those uses are permitted literally "subject to certain conditions." As such a grant is in effect, an extension of the original planning-legislative determination, the Plan Commission is designated as the proper recommending body in such case, subject to final determination by the governing body itself. The Board of Appeals thereby remains strictly a quasi-judiciary "appeal" or "adjustment" body and its function does not become confused with the planning-legislative function. Additionally, the third group also consists of accessory uses, legal nonconforming uses, structures and lots, signs, and traffic, parking and access.

The fourth part consists of the necessary provisions for administration, enforcement, amendment and validation of the chapter.

It is intended that in the practical application of the chapter, one should be able to quickly determine the exact requirements applicable to a given solution. The outline form of the requirements for each district is brief and free from complications of lengthy and involved terminology. The proper interpretation, method of application and exceptions to the specific requirements are combined in the second group of general provisions under clearly labeled captions. As a result, both the enforcement officer and the applicant should find this chapter simple to use and less subject to misinterpretation or difference in the interpretation even though the chapter is comprehensive in its scope.

4. **PURPOSE.**

- A. The provisions of this chapter pursuant to the provisions of §§ 60.61 and 62.23, Wis. Stats., shall be held to the minimum requirements adopted to regulate and restrict the height and size of buildings; to classify, regulate and restrict the location and use of buildings and the use of land according to their specific characteristics; to regulate and restrict the density of population and the percentage of use of lot area, to regulate and determine the areas of open spaces surrounding buildings; to divide the Town into districts of such number, shape and area as may be deemed best suited to carry out the provisions of the chapter; to provide for the administration and enforcement of such provisions; and to prescribe penalties for the violation of the provisions hereof.
- B. This chapter is designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage the protection of groundwater resources; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to preserve burial sites as defined in s.157.70(1), Wis. Stats., to facilitate the creation of a convenience, attractive and harmonic community; to preserve and protect the natural environment and open space; to preserve the community's

history, heritage and rural character and to ensure that development occurs at a pace consistent with the Town's financial capability to provide municipal services.

- C. Specifically, this chapter is adopted for the purpose of protecting the public health, safety, morals, comfort, convenience and general welfare of the Town.

5. **SEPARABILITY.**

It is hereby declared to be the intention of the Town Board that the provisions of this ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any portion of this ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.
- C. If any requirement or limitation which is attached to an authorization given under this ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation.

6. **ABROGATION.**

It is not intended that this ordinance abrogate or interfere with any constitutionally protected right.

7. **APPLICATION.**

- A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare and shall be liberally construed in favor of the Town.
- B. Where property is affected by the regulations imposed by any provision of this chapter and by other governmental regulations, the regulations which are more restrictive or which impose higher standards or requirements shall prevail. Regardless of any other provision of this ordinance, no land shall be developed or used, and no structure erected or maintained in violation of any state or federal regulations.
- C. No structure shall be constructed, erected, modified, converted, enlarged, reconstructed, altered, placed, occupied, reoccupied or maintained, and no land shall be used, modified, occupied, reoccupied or maintained for any purpose nor in any manner which is not in conformity with the provisions of this chapter.
- D. Except as provided in this chapter, under provisions for legal nonconforming uses, structures and lots, no land, building, structure, development or premises shall be

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hereinafter used or occupied and no applicable permit granted that does not conform to the requirements of this chapter.

- E. In cases of mixed-occupancy or mixed-use, the regulations for each land use shall apply to the portion of the land, building or structure so used.

**8. JURISDICTION.**

This ordinance is applicable to all territory located within the corporate limits of the Town of Delafield.

**9. REENACTMENT AND REPEAL.**

- A. This ordinance, in part, carries forward by reenactment some of the provisions of the regulations governing zoning and related matters, being previously known collectively as the "Zoning Ordinance," Chapter 17 of the Code of Ordinance for the Town of Delafield, adopted prior to the effective date of this ordinance. It is not the intention of this ordinance to repeal, but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced, unless explicitly surrendered by specific provisions of this ordinance or altered by the Official Zoning Map.
- B. All provisions of Chapter 17 of the Town of Delafield Code of Ordinances which are not reenacted herein are hereby repealed.
- C. The adoption of this ordinance shall not adversely affect the Town's right to prosecute any violation of the predecessor Zoning Ordinance provided the violation occurred while that Ordinance was in effect.

**10. EFFECTIVE DATE.**

All plans approved under previous zoning regulation shall be valid and may be used to obtain permits for a period of not more than one year after the effective date of this ordinance. This ordinance shall become effective upon passage, after approval of Waukesha County, and posting according to law.