

SECTION 17.0200 GENERAL PROVISIONS

17.0201 JURISDICTION

The jurisdiction of this Ordinance shall include all lands and waters within the corporate limits of the Village of Sussex.

17.0202 COMPLIANCE

No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located.

17.0203 MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance and obtain all required permits. State agencies are required to comply if Section 13.48(13) of the Wisconsin Statutes applies. The construction/reconstruction, maintenance/repair of state highways and bridges by the Wisconsin Department of Transportation are exempt from compliance when Section 30.12(4)(a) of the Wisconsin Statutes applies.

17.0204 VILLAGE REFERENCES

Throughout this chapter, unless the context clearly indicates otherwise, Village shall mean Village of Sussex, Plan Commission shall mean the Village of Sussex Plan Commission, Village Board shall mean the Village of Sussex Village Board, Architectural Review Board shall mean the Village of Sussex Architectural Review Board, Zoning Board of Appeals shall mean the Village of Sussex Zoning Board of Appeals, Administrator shall mean the Village of Sussex Administrator and his or her designee(s).

17.0205 ADMINISTRATION AND ENFORCEMENT OF CODE

The Village is hereby designated as the administrative and enforcement officer(s) for the provisions of this Ordinance. The duty of the Administrator shall be to interpret and administer this Ordinance and to issue, after on-site inspection, all permits required by this Ordinance. The Administrator shall further:

- A. Maintain records of all permits issued, inspections made, work approved, and other official actions.
- B. Record the Lowest Floor Elevations of all structures erected, moved, altered, or improved in the floodland districts.
- C. Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- D. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.
- E. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the Village Attorney.
- F. Assist the Village Attorney in the prosecution of Ordinance violations.
- G. Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by the Administrator to ensure compliance with this Ordinance. If, however, the Administrator is refused entry after

presentation of their identification, the Administrator may procure a special inspection warrant in accordance with Section 66.0119 of the Wisconsin Statutes.

- H. Prohibit the use or erection of any structure, land or water until the Administrator has inspected and approved such use or erection.
- I. Request assistance and cooperation from the Village Police Department and Village Attorney as deemed necessary.
- J. Attend all meetings of the Plan Commission and the Zoning Board of Appeals.

17.0206

BUILDING PERMIT REQUIRED

No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after the owner or his agent has secured a building permit from the Building Inspector, unless otherwise exempted pursuant to Section 17.0206 of this Ordinance. Applications for building permit shall be made in duplicate to the Administrator on forms furnished by the Administrator and shall include the following where applicable:

- A. Name and Addresses of the applicant, owner of the site, architect, professional engineer, and contractor.
- B. Description of the Subject Site by lot, block and recorded subdivision, or metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- C. Plat of Survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations to Village datum, uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and drive-ways; existing highway access restrictions; and existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site.

When it is proposed to construct an addition to an existing structure, or construct an accessory structure, the Building Inspector may accept a location sketch drawn to scale in lieu of a plat of survey. The location sketch shall contain all information and dimensions required on the plat of survey.

The Building Inspector may waive the requirement for elevations on either a plat of survey or a location sketch when the development is neither located within or adjacent to a floodplain or wetland.

- D. Proposed Sewage Disposal Plan if municipal sewerage service is not available. This plan shall include a copy of the permit issued by the Waukesha County Health Department for the installation of an onsite soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal. The Village Engineer shall certify that satisfactory, adequate, and safe sewage disposal is possible on the site as shown in the private sewage disposal plan.
- E. Proposed Water Supply Plan if municipal water service is not available. This plan shall be in accordance with Chapter NR-812 of the Wisconsin Administrative Code and shall be approved by the Village Engineer who shall certify in writing that an adequate and safe supply of water will be provided.

- F. Additional information as may be required by the Plan Commission or Administrator.
- G. A Building Permit shall be granted or denied in writing by the Building Inspector within 30 days. The permit shall expire within six (6) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

17.0207 OCCUPANCY PERMIT REQUIRED

- A. No Vacant Land shall be occupied or used; and no building or premises shall be erected, altered, or moved, or create change in use; and no nonconforming use shall be maintained, renewed, changed, or extended until an occupancy permit shall have been issued by the Building Inspector. Such permit shall show that the building or premises or part thereof is in compliance with the provisions of this Ordinance. Such permit shall be applied for at the time of occupancy of any land and/or building.
- B. No Land within the Floodland Districts shall be developed, occupied or used, and no structure hereafter erected, altered, or moved shall be occupied until the applicant submits to the Building Inspector a certification by a registered professional engineer or land surveyor that he floodplain regulations set forth in this Ordinance have been fully complied with. Such certification shall include the elevations of the lowest opening and the lowest floor of any structure erected on the site.
- C. No Building located in a business or industrial zone and used for business or industrial purposes shall be occupied by a new tenant or a new owner or shall have the use changed without the issuance of a new occupancy permit by the Building Inspector. Such permit shall show that the building or premises or part thereof is in compliance with the provisions of the Zoning Ordinance, Uniform Dwelling Code, Electrical Code, Fire Prevention Code and the Plumbing Code of the Village and State of Wisconsin. Such occupancy permit for the occupation of a previously existing building by a new tenant or use shall be applied for at the time of any remodeling of the building or prior to the occupancy for the new use or by the new owner. Application for an occupancy permit shall be made in the same manner as for a building permit pursuant to Section 17.0205 of this Ordinance.

17.0208 CONDITIONAL USE PERMIT REQUIRED
See Section 17.0500.

17.0209 SIGN PERMIT REQUIRED
See Section 17.0800

17.0210 LAND DISTURBING PERMIT REQUIRED
See Chapter 14 of the Municipal Code of the Village.

17.0211 OTHER PERMITS
It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, or local agency. This includes, but is not limited to, a water use permit pursuant to Chapter 30 of the Wisconsin Statutes or a wetland fill permit pursuant to Section 404 of the Clean Water Act.

17.0212 SITE RESTRICTIONS
No land shall be used or structure erected where the land is unsuitable for such use or

structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Administrator, in applying the provisions of this section, shall in writing recite the particular facts upon which the Administrator base the Administrator's conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if the applicant so desires. Thereafter the Plan Commission may affirm, modify, or withdraw the determination of unsuitability. In addition:

- A. All Lots, except those located within the B-4 Central Mixed Use District, shall abut upon a public street, and each lot shall have a minimum frontage of 30 feet. The Plan Commission, at its discretion, may require that lots located within the B-4 Central Mixed Use District not abut upon a public street, or not have a minimum frontage of 30 feet, provided that such lots shall have appropriate access, as determined by the Plan Commission, to serve to implement the Sussex Downtown Design and Development Plan.
- B. All Principal Structures shall be located on a lot; and only one principal structure shall be located, erected, or moved onto a lot in single-family and two-family residential districts. The Plan Commission may permit more than one structure per lot in other districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements, or parking requirements, or require a minimum separation distance between principal structures.
- C. No Building Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- D. Lots Abutting More Restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.
- E. Buffering. The Plan Commission may require the construction of a buffer between dissimilar zoning districts or dissimilar uses to screen the dissimilar activities from view. The buffer may consist of a landscaped buffer yard, a landscaped berm, a screening fence or wall, or a combination of buffering/screening elements. The specific design shall be subject to review and approval of the Architectural Review Board and the Plan Commission. Any landscape design shall provide attractive visual screening within two (2) years of establishment and thereafter be maintained during all seasons. Any architectural wall or fence design shall provide an attractive view and design from adjacent properties and right of way.

17.0213

USE RESTRICTIONS

The following use restrictions and regulations shall apply:

- A. Permitted Uses: Only those permitted uses specified for a district, their essential services, and the following uses shall be permitted in that district.
- B. Accessory Uses and structures are permitted in accordance with Section 17.0704 of this ordinance in any district but not until their principal structure is present or

under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry except home occupations and professional home offices as defined in this Ordinance.

- C. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Plan Commission in accordance with Section 17.0500 of this Ordinance. Any development within 500 feet of the existing or proposed rights-of-way of freeways, expressways, and interstate and controlled access traffic ways and within 1,500 feet of their existing or proposed interchange or turning lane rights-of-way shall be deemed to be conditional uses. Such development shall be specifically reviewed and approved by the Plan Commission as provided in Section 17.0500 of this Ordinance.
- D. Legal Non-Conforming Uses are considered as special uses that at one time were legally approved and met the standards of the code, but now for various reasons no longer conform to the code. Some of these uses may be granted Legal Non-Conforming Conditional Use status to allow for the expansion and/or modification of said use.
- E. Auxiliary Uses are uses in accordance with Section 17.0710 of this ordinance that an approved permitted or conditional use desires to add to their operations for a limited time and a limited scope, but would not necessarily be a permitted or conditional use of its own accord. The Plan Commission shall give great weight to the protection of public safety and welfare when considering the appropriateness or auxiliary uses.

17.0214

SHORELAND REGULATIONS.

In addition to any other applicable use, site, or sanitary restrictions and regulations, the following regulations shall apply to all shorelands, as defined in Section 17.1502 of this Ordinance.

- A. Tree Cutting and Shrubbery Clearing. Tree cutting and shrubbery clearing within 100 feet of the ordinary high water mark of all navigable waters is prohibited except for home site development; park site development; access roads; path and trail construction; timber stand improvement; customary trimming; dead tree removal; and managed timber harvesting under a State District Forester's Plan. Such tree cutting and shrubbery clearing shall not involve the clear cutting of more than 30 feet in any 100 feet, as measured along the ordinary high water mark, and shall be so regulated as to prevent erosion and sedimentation, preserve and improve scenic qualities, and during foliage substantially screen any development from stream or lake users. Paths and trails shall not exceed ten (10) feet in width and shall be so designed and constructed as to result in the least removal and disruption of shoreland cover and the minimum impairment of natural beauty.

A shoreland that was annexed by the Village after May 7, 1982, and prior to annexation was subject to a county shoreland zoning ordinance shall be subject to the following additional provisions:

1. Any person who owns shoreland property that contains vegetation shall maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending 35 feet inland from the ordinary high-water mark of the navigable water, except as provided in (2).
2. If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove such vegetation, except that if the owner removes all of the

- vegetation as described herein within the vegetative buffer zone, the owner shall reestablish vegetation within the vegetative buffer zone.
3. A person who is required to maintain or establish a vegetative buffer zone under (1) or (2) shall be allowed to remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no greater than 30 feet wide for every 100 feet of shoreline frontage and that extends no more than 35 feet inland from the ordinary high-water mark.
 4. For the purposes of this section, vegetative buffer zone is defined as land that extends from the ordinary high-water mark to 35 feet inland.
- B. Earth Movements, such as construction, altering or enlargement of waterways, removal of stream or lake bed materials, channel clearing, dredging, lagooning, grading, topsoil removal, filling, road cutting, ditching, and soil and water conservation structures are conditional uses in accordance with Section 17.0500 of this Ordinance in addition to any permit required from the state agency having jurisdiction under Sections 30.11, 30.12, 30.19, 30.195, and 30.20 of the Wisconsin Statutes.
- C. Shoreyard Setback. Areas within shorelands as defined by this ordinance shall be subject to the following:
1. Within the shoreland area, no structure, except navigational aids, piers and boat launching facilities, shall be closer than 50 feet to the ordinary highwater mark of a navigable body of water unless a smaller setback is approved by the Plan Commission. A shoreland that was annexed by the Village after May 7, 1982, and prior to annexation was subject to a county shoreland zoning ordinance shall be subject to the following additional provisions:
 - (a) A shoreland setback area of at least 50 feet from the ordinary high-water mark, except as provided in (ii).
 - (b) Construction or placement of a principal building within the shoreland setback area established under (i) shall be allowed if all of the following apply:
 - (1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.
 - (2) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.
 2. For purposes of this section structures shall include fences, ice fishing shanties, accessory structures other than boathouses, minor structures, and retaining walls not approved by the Wisconsin Department of Natural Resources (DNR).
 3. For purposes of this section, principal building means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.
- D. Tillage, Grazing, livestock watering and feeding, and application of fertilizers shall be prohibited unless conducted in accordance with applicable County, State and Federal laws and regulations and unless conducted in such a manner as to safeguard the health, safety and welfare of individuals, animal and aquatic life, in the surrounding environment.

- E. Surface Water Withdrawal and Diversion, or discharges for irrigation, processing, cooling or other purposes are conditional uses in accordance with Section 17.0500 of this Ordinance. The Plan Commission shall then advise the state agency having jurisdiction under Section 30.18 and Chapter 281 Subchapter II of the Wisconsin Statutes of its findings, prior to the issuance of the required state permits.
- F. Crop Production on lands with an erosion factor of three or more is prohibited and such lands shall be planted to permanent vegetation.
- G. Shoreland regulations do not apply to lands adjacent to an artificially constructed drainage ditch, pond, or storm water retention basin if the drainage ditch, pond, or retention basin is not hydrologically connected to a natural navigable water body,

17.0215

REDUCTION OR JOINT USE

No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.