

SECTION 17.0700 MODIFICATIONS

17.0701 GENERAL

The Building Inspector, in reviewing building permits, may grant modifications to the terms of this Ordinance as provided herein. Modifications to requirements of this Ordinance may be granted by the Plan Commission for the purpose of complying with the requirements of Title II Public Services and Title III Public Accommodations and Commercial Facilities of the Americans with Disabilities Act. Such compliance may require the waiving of or modifications to setback and yard requirements; parking requirements; sign requirements; and site design and landscaping requirements. Modifications granted by the Plan Commission shall be limited to the minimum extent necessary to make structures and uses accessible and barrier free.

17.0702 HEIGHT

The district height limitations stipulated elsewhere in this Ordinance may be exceeded, but such modification shall be in accord with the following:

- A. Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues, and chimneys, are exempt from the height limitations of this Ordinance.
- B. Special Structures, such as elevator penthouses, grain elevators, automated storage and retrieval systems, radio and television receiving antennas, satellite dish antennas when mounted on the roof of a principal structure, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.
- C. Essential Services, utilities, water towers, and electric power and communication transmission lines are exempt from the height limitations of this Ordinance.
- D. Solar Collectors and wind energy conversion systems (windmills) shall not exceed a height equal to their distance from the nearest lot line.
- E. Communication Structures, such as radio and television transmission and relay towers, aerials, and radio and television receiving and transmitting antennas, not including satellite dish antennas, shall not exceed in height three (3) times their distance from the nearest lot line.
- F. Agricultural Structures, such as barns and silos, shall not exceed in height twice their distance from the nearest lot line.
- G. Public or Semipublic Facilities, such as schools, religious facility, hospitals, monuments, sanitariums, libraries, and governmental offices and stations, may be erected to a height of 60 feet provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.
- H. Mineral Extraction Buildings and Structures, as authorized as part of a mineral extraction operation under a permit issued pursuant to Section 17.0506 (A)(3)(b) of this ordinance.

17.0703 YARDS

The yard requirements stipulated elsewhere in this Ordinance may be modified as follows:

- A. Uncovered Stairs, landings, and fire escapes may project into any yard but shall

not exceed six (6) feet nor be closer than three (3) feet to any lot line.

- B. Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projection shall not exceed two (2) feet. In addition, in the B-4 district, subject to Plan Commission approval, such architectural projections may extend more than two (2) feet into the street yard if the Plan Commission finds that the proposed architectural projection is consistent with the building design elements and with the Downtown Design and Development Plan.
- C. Off-street Parking is permitted in all yards of all districts provided that commercial and industrial parking shall not be located closer than 25 feet to a residential district.
- D. Landscaping and vegetation are exempt from the yard requirements of this Ordinance, provided that such landscaping and vegetation shall not interfere with the vision clearance triangle as set forth in Section 17.0601 of this Ordinance.
- E. Essential Services, utilities, and electric power and communication transmission lines are exempt from the yard and distance requirements of this Ordinance.
- F. Mineral Extraction Operations, adjacent to property owned by railroads may project into any required yard under a permit issued pursuant to Section 17.0506(A) (3) (b) of this ordinance.
- G. The Plan Commission may waive the setback requirements from side and rear lot lines under a permit issued pursuant to Section 17.0506(A) (3) (b) of this ordinance when a quarry abuts another quarry and when appropriate cross easements have been executed.
- H. The Plan Commission may waive the setback requirements from side and rear lot lines for agricultural uses authorized under a permit issued pursuant to Section 17.0506(A) (3) (b) of this ordinance.

17.0704

ACCESSORY USE AND STRUCTURES REGULATIONS

Accessory uses and structures are permitted in any district as may be specified in the appropriate district regulations or herein. An accessory use structure building permit shall be required where specifically noted in this Section. Accessory uses and structures are permitted only after their principal structure is present or under construction. The use and/or location requirements stipulated elsewhere in this Ordinance may be modified for accessory uses as follows:

- A. Accessory Uses and Detached Accessory Structures shall be permitted in the rear yard only, unless otherwise specified. Accessory structures shall not occupy more than 20 percent of the rear yard in all districts except the business and manufacturing districts where such uses and structures shall not occupy more than 50 percent of the rear yard area. When permitted in the side or front yard, accessory structures shall not occupy more than 10 percent of the yard area.
 - 1. Accessory Garages upon the Issuance of a Building Permit. Accessory garages may be permitted only when there is not a garage attached to the principal structure. Accessory garages shall be located at least 10 feet from the principal structure; shall be placed on a concrete floor or pad; shall not exceed 625 square feet in footprint area, except in the B-4

district as described below, and except for garages accessory to certain historic homes as described below; shall be located not closer than five (5) feet to a lot line; and shall not exceed 15 feet in height. In the B-4 district, the Plan Commission may, at its discretion, permit an accessory garage that is larger than 625 square feet in footprint area when it determines that such a garage will allow sufficient open space, fits within the historical character of the downtown, includes substantial natural materials, is to be utilized for vehicle storage and/or storage of goods sold directly from the primary business on the property, that substantial landscaping surrounds the structure, that it has unique architectural design that adds to the historical character of the Central Business District and that it is being proposed as part of the restoration of a property which contains an existing historical building. As to residential lots that are larger than 40,000 square feet in size that are improved with existing historically significant homes, as determined by the Plan Commission, the Plan Commission may, at its discretion, permit an accessory garage that is larger than 625 square feet in footprint area when it determines that such a garage will allow sufficient open space, fits within the historical character of the neighborhood where it is located, includes substantial natural materials, is to be utilized for vehicle storage and/or storage of items used in relation to the residential use of the property, has substantial landscaping surrounding the structure, has unique architectural design that adds to the historical character of the district in which is it located and is being proposed as part of the restoration of the property, provided however that the property owner must first record a deed restriction against the lot in a form that is subject to the approval of the Administrator, to prohibit the garage structure from being used for commercial purposes, and to prevent the size of the lot from being reduced through land division procedures or any other manner. No more than one accessory garage shall be erected on a lot in an Rs-1, Rs-2, Rs-3, Rd-1, or Rd-2 districts. On larger lots, the Plan Commission may, at its discretion, permit more than one garage when it determines that more than one garage is necessary to the efficient development of the property and that sufficient, usable open space areas remain on the lot.

2. Accessory buildings, such as garden or utility sheds, playhouses, or gazebos, upon the issuance of a building permit. Accessory buildings shall be located at least 10 feet from the principal structure; shall be placed on a pad of concrete, asphalt, wood, or metal; shall not exceed 250 square feet in area; shall be located not closer than five (5) feet to a lot line; and shall not exceed 15 feet in height. Any accessory building housing a motor vehicle shall be placed on a concrete floor or pad. No more than one accessory building shall be erected on a lot in an Rs-1, Rs-2, Rs-3, Rd-1, or Rd-2 Residential District.

1. On larger lots, in any residential district, the Plan Commission may, at its discretion, permit more than one accessory structure or may permit a structure exceeding 250 square feet in area when it determines that more than one such structure or a larger structure is necessary to the efficient development of the property and that sufficient, usable open space areas remain on the lot. Any structure greater than 250 square feet must be on a concrete pad.
2. In the RS-4 district an accessory building shall not exceed 400 square feet, only one accessory building is allowed and the design

- on the building must be consistent with the principal structure.
3. In the B-4 district, subject to Plan Commission and Architectural Review Board approval, gazebos may be permitted in the side or front yard subject to a finding by both the Plan Commission and Architectural Review Board that the proposed gazebo is consistent with the décor of the property and an integral part of the property.
 4. In the M-1 district, subject to Plan Commission approval, gazebos may be permitted in the side or front yard subject to a finding by the Plan Commission the proposed gazebo is consistent with the décor of the property and an integral part of the property.

All other requirements, restrictions and regulations contained in this section, this Chapter, and the Code must be complied with.

3. Patios, constructed at or below yard grade, may be erected, without a building permit, adjacent to the principal structure, and shall be located not closer than three (3) feet to a lot line.
4. A stoop or and uncovered porch, constructed adjacent to the principal structure at a height between the doorway and the ground as a means of transitioning or as a small gathering area, may be erected, with a building permit in the front, side, or rear yard, but the structure must meet all building setbacks. Said stoop or uncovered porch shall not be larger than 100 square feet or have a width (as measured from the building towards the property line) of greater than eight (8) feet.
5. Decks located adjacent to a principal structure shall be located not closer to a lot line than the required side yard and rear yard requirements for the district in which they are located and shall require the issuance of a building permit. Freestanding decks or decks surrounding private swimming pools separated from the principal structure shall be located at least 10 feet from the principal structure and shall be regulated in the same manner as an accessory garage, tool shed, or gazebo.
6. Outdoor living areas, with structures require a building permit and shall be at least 15 feet to a rear yard line and a fixed cooking structure shall be at least 10 feet from principal structures and located on non-flammable materials like stone or brick.
7. Polystructures are prohibited in all zoning districts in the Village, unless permitted as a conditional use pursuant to Section 17.0500.
8. Tents used solely for recreational purposes, including but not limited to pup tents and party tents, are not subject to regulation as Polystructures provided that they are located on a lot for fewer than fifteen (15) consecutive days, and for fewer than thirty (30) total days in a calendar year. Tents located on a lot in excess of these numbers of days shall be classified by the Administrator as either an Auxiliary Use or a Polystructure, depending upon the particular tent and use thereof that is proposed, and shall be regulated as such. Tents shall be in rear or side yards only, unless set up for a less than 5 days for a special event. No building permit is required for tents.
9. Central air conditioning compressors are permitted with a building permit,

provided that such use shall be located at least three (3) feet from a lot line. Where it is determined that it is impractical to locate a central air conditioning compressor in the rear yard, the Building Inspector may permit placement in the street or side yard provided that the air conditioning compressor is screened from view.

10. Accessory pet kennels may be placed in the side yard of any residential district only if the respective side yard is adjacent for the side yard's entire length to a neighboring rear yard or in the rear yard of any residential district upon the issuance of a building permit provided that the kennel is located not closer than three (3) feet from a lot line; that the kennel is enclosed by a fence not less than four (4) feet nor more than six (6) feet in height; and that no pet kennel shall exceed 300 square feet in area. All pet kennels located in a side yard must be screened to prevent view from all streets and neighboring properties.
11. Children's swing sets, compost piles, and gardens are permitted without a building permit, provided that such uses shall be located at least three (3) feet from a lot line. One (1) accessory compost bin, constructed for the purpose and under the terms set forth in Section 11.10 of the Municipal Code of the Village may be placed in the rear yard in any residential district.
12. Swimming pools, as defined herein, are permitted in the A-1 district if accessory to a residential use, CR-1, CR-2 , TS-1, TS-2 Rs-1, Rs-2 , Rs-3, Rs-4, Rd-1, Rd-2, SF-RD-3 and Rm-1 districts upon the issuance of a building permit, and an electrical permit, provided that:
 - (a) All swimming pools shall be surrounded by a fence (that is not merely a planting or hedge) not less than four (4) feet nor more than six (6) feet in height designed to prevent unguarded entry to the swimming pool. Sidewalls of above-ground swimming pools which are at least four (4) feet high above ground all around the swimming pool may be used in lieu of a fence but only if entry to the swimming pool or swimming pool deck can only be made by a tip up ladder that prevents unsupervised access by young children.
 - (b) Access to swimming pools shall be controlled to prevent unguarded entry to the swimming pool. Access to in-ground swimming pools shall be controlled by a self-closing and self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner is not present at the swimming pool. For an above-ground swimming pool, if a tip-up ladder is used to prevent unsupervised access by young children, such tip-up ladder shall be kept up in a position that prevents access by young children at all times when the owner is not present at the swimming pool.
 - (c) The application for a building permit shall include a plat of survey drawn to scale showing the location of the swimming pool, the location of any fence, deck, patio and any accessory heating, pumping and filtering units that may be placed outside the swimming pool. The survey shall also show the lot lines of the lot, the location of the residence on the lot, the location of any other structure(s) on the lot.
 - (d) Swimming pools shall not be constructed directly under or over electric transmission lines or within 15 feet of such lines. All

electrical connections to a swimming pool shall be properly grounded so that no electrical current can be discharged into any part of the swimming pool or surrounding fence and in full compliance with all applicable aspects of the N.E.C. Chapter 680.

- (e) No water drained from swimming pools shall be discharged onto adjacent properties, without written consent of the adjacent property owner, or into a municipal sewerage system, or directly into a navigable body of water.
- (f) Equipment shall be provided by the owner for the disinfection of all swimming pool water. No gaseous chlorination shall be permitted.
- (g) Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance.
- (h) There shall be an unobstructed areaway around all swimming pools of at least three (3) feet in width.
- (i) No swimming pool shall be located closer than 10 feet to a principal building and the pool shall not be closer than 25 feet to a rear yard lot line in residential districts and 15 feet in the business districts, sideyard setbacks shall comply with the requirements for a building within each district.
- (j) No areaway surrounding a swimming pool shall be located closer than three (3) feet to a lot line.
- (k) Swimming pools are accessory structures, subject to all provisions of this Ordinance that regulate accessory structures. In the event of a conflict between the requirements of this Section 17.0704(A)(8) and any other requirements of this Ordinance, the more restrictive shall apply.
- (l) Swimming pools, together with other accessory structures regulated by Section 17.0704(A) of this ordinance, shall not occupy more than 50 percent of the rear yard area.
- (m) The swimming pool must be intended to be used solely by the occupants of the principal use of the property on which the swimming pool is intended to be located and their guests. Operation of a business, including but not limited to swimming lessons, is prohibited unless allowed by the district regulations for the district in which the swimming pool is located and all approvals required by this ordinance and other applicable laws are granted.
- (n) All applicable Village, County of Waukesha and State of Wisconsin codes, ordinances, regulations and rules must be strictly followed at all times, including but not limited to any setback requirements and sanitary and environmental regulations.

13. Relaxation/floating pools, as defined herein, are permitted in the A-1 district if accessory to a residential use, CR-1, CR-2, TS-1, TS-2, Rs-1, Rs-2, Rs-3, Rs-4, Rd-1, Rd-2, SF-RD-3, and Rm-1 districts without the issuance of a building permit, subject to issuance of an electrical permit, subject to the following:

- (a) Access to relaxation/floating pools shall be controlled to prevent unguarded entry to the relaxation/floating pool. This shall be done by completely covering the relaxation/floating pool in a manner that is secure and prevents unauthorized access, or by

any manner that would be required by this ordinance if this were a swimming pool.

- (b) No water drained from relaxation/ floating pools shall be discharged onto adjacent properties, without written consent of the adjacent property owner, or into a municipal sewerage system, or directly into a navigable body of water.
- (c) The relaxation/floating pool shall be located not closer than 25 feet to a rear yard lot line in residential districts and 15 feet in the business districts, sideyard setbacks shall comply with the requirements of a building within each district.
- (d) Relaxation/floating pools are accessory structures, subject to all provisions of this Ordinance that regulate accessory structures. In the event of a conflict between the requirements of this Section 17.0704(A) and any other requirements of this Ordinance, the more restrictive shall apply.
- (e) Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance.
- (f) Relaxation/floating pools, together with other accessory structures regulated by Section 17.0704(A) of this ordinance, shall not occupy more than 50 percent of the rear yard area.
- (g) The relaxation/floating pool must be intended to be used solely by the occupants of the principal use of the property on which the relaxation/floating pool is intended to be located and their guests. Operation of a business, including but not limited to swimming lessons, is prohibited unless allowed by the district regulations for the district in which the relaxation/floating pool is located and all approvals required by this ordinance and other applicable laws are granted.
- (h) Seasonal relaxation/floating pools are a subset of relaxation/floating pools, as defined herein, and are permitted in rear yards and must follow the other rules of Section 13. Seasonal means the pool is in operation only between May 1 and October 1 and stored inside a structure for the rest of the year. Additionally, 100 square feet or less seasonal relaxation/floating pools may be permitted in the side or street yard upon determination of the Village Administrator under specific unique circumstances as follows:
 - 1. Where a lot is determined due to steep grades, protected natural areas, or easements for it to be impracticable to place a seasonal relaxation/floating pool in the rear yard than it may be allowed in a side yard, or
 - 2. Where a triple frontage lot exists in the RS-4 Zoning District, which due to small lot sizes and increased density already have limited flexibility due to setback provisions a seasonal relaxation/floating pool may be in the side or street yard.Placement of a seasonal relaxation/floating pool in a side or street yard shall be placed as far away from the street/side yard lot line as possible, but no less than 5 feet from a side yard and no less than the building setback line for the street yard.
- (i) All applicable Village, County of Waukesha and State of Wisconsin codes, ordinances, regulations and rules must be strictly followed at all times, including but not limited to any

setback requirements and sanitary and environmental regulations.

- (14) Kiddie/Wading Pools as defined herein, are permitted in the A-1 district if accessory to a residential use, CR-1, CR-2, TS-1, TS-2, Rs-1, Rs-2, Rs-3, Rs-4, Rd-1, Rd-2, SF-RD-3 and Rm-1 districts without the issuance of a building permit, and are not subject to the regulations of this ordinance that apply to swimming pools and relaxation/floating pools.
- (15) Tennis and Volleyball Courts
- (a) Private tennis courts and private volley ball courts accessory to a residential use may be placed in the side yard or rear yard in any residential district provided that the use is located not closer than three (3) feet to any side or rear lot line; and provided that no lighting installed around a private recreation facility shall throw rays onto adjacent property. The Plan Commission may permit the construction of a fence around the court when it is determined that such a fence is needed for safety purposes or to prevent the court from being a nuisance to neighbors.
- (b) Private tennis courts and private volley ball courts accessory to a manufacturing or institutional use may be located in the side or rear yard of a manufacturing or institutional district provided that the use is located not closer than 10 feet to any side or rear lot line in a residential district; and provided that no lighting installed around an accessory recreation facility in a manufacturing or institutional district shall throw rays onto any adjacent property located in a residential district. The Plan Commission may permit the construction of a fence around the court when it is determined that such a fence is needed for safety purposes or to prevent the court from being a nuisance to neighbors.
- (c) Public tennis courts and public volley ball courts permitted as conditional uses pursuant to Section 17.0506(A)(2)(c) of this Ordinance may be located in the side or rear yard of a business district provided that the use is located not closer than 10 feet to any side or rear lot line abutting a residential district; and provided that no lighting installed around a public recreation facility shall throw rays onto any adjacent property located in a residential district. The Plan Commission may permit or require the construction of a fence around the court when it is determined that such a fence is needed for safety purposes or to prevent the court from being a nuisance to neighbors.
- (16) Fences are a permitted accessory use in any district and may be erected upon the issuance of a building permit provided that fences shall comply with the following requirements:
- (a) Barbed Wire Fences and electric fences are prohibited in the Village, except in the A-1 district. A-1 district fences are permitted up to the lot line and shall not exceed four (4) feet in height in the street yard or six (6) feet in height in the side yard or rear yard. All fences erected in a street yard of the A-1 district shall be "open fences" as defined in Section 17.1502 of this Ordinance.
- (b) Residential Fences are permitted up to the lot line in the side and rear yards of residential districts, but shall not exceed a height of six (6) feet, and shall not extend into the street yard. Residential fences may be "solid fences" as defined in Section 17.1502 of this

Ordinance. Residential fences shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property. A plat of survey shall be submitted with each fence permit application showing the location of the fence with relationship to the property line. If a joint fence is to be constructed on the property line, a joint permit application shall be filed by all parties having a proprietary interest in the fence.

(c) Ornamental Fences, as defined in Section 17.1502 of this Ordinance, are permitted in the street yard in any district, but shall not be erected in a street right-of-way and shall not exceed a height of 48 inches. Ornamental fences shall comply with the traffic visibility requirements set forth in Section 17.0601 of this Ordinance. Ornamental fences shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property. A plat of survey shall be submitted with each fence permit application showing the location of the fence with relationship to the property line. If a joint fence is to be constructed on the property line, a joint permit application shall be filed by all parties having a proprietary interest in the fence. Ornamental fences used to accent the front of a dwelling may be permitted in the front yard and may maintain 50 percent of its area open for the free passage of light and air rather than 75 percent as defined in Section 17.1502 of this Ordinance provided that such fence meets the setback requirement of the district in which it is located, occupies an area no larger than 15 feet by 15 feet, and is not more than 42 inches in height. Such accent fences typically frame a garden in front of a home and may be, but are not limited to, the picket fence type.

(d) Security Fences or screening fences are permitted up to the property lines in all districts except residential districts, but shall not exceed 10 feet in height and shall be "open fences" as defined in Section 17.1502 of this Ordinance when located in the street yard. The height restriction and "open fence" conditions may be adjusted by the Plan Commission as part of a conditional use approval for screening outdoor storage under Section 17.0506(A)(15)(e) and 17.0506(A)(15)(f). Security fences may include up to four strands of barbed wire on the top of the fence provided that the barbed wire is at least 8 feet above grade with the vertical supports for the barbed wire slanting inward away from the property line. Security and screening fences shall comply with the traffic visibility requirements set forth in Section 17.0601 of this Ordinance. Security fences shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property. A plat of survey shall be submitted with each fence permit application showing the location of the fence with relationship to the property line. If a joint fence is to be constructed on the property line, a joint permit application shall be filed by all parties having a proprietary interest in the fence.

(17) Antennas. The Village recognizes that the development of various antennas, including earth station dish antennas, and their increased use poses questions of regulation not often addressed in municipal zoning

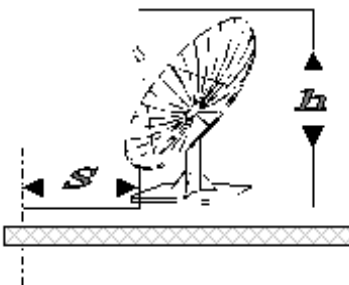
ordinances. In developing antenna regulations, the interest of the antenna owner in the use of the device must be balanced with the interest of adjoining property owners and the general public so as to protect the health and safety of all citizens, as well as the aesthetic values embodied in this Ordinance. To this end, the following regulations are adopted. Antennas are permitted as accessory uses in any district subject to the following regulations. Pursuant to the requirements of the Federal Communication Act of 1996, earth station dish antennas less than one meter (39.37 inches) in diameter in residential districts and earth station dish antennas less than two meters (78.74 inches) in other districts are exempt from the requirements of this section.

- (a) Terrestrial antennas and earth station dish antennas may be located in the rear yard or on the roof of the principal structure in all residential districts. Terrestrial antennas and earth station dish antennas may be located in the side and rear yard or on the roof of the principal structure in all agricultural, business, office, manufacturing, institutional, or park districts.
- (b) All freestanding terrestrial antennas and roof antennas shall meet the height requirements for the district in which they are located, except as provided in Section 17.0702(E) of this Ordinance.
- (c) Ground-mounted earth station dish antennas shall not exceed 15 feet in height.
- (d) All terrestrial antennas shall be located not less than one (1) foot from a lot line for each three (3) feet of height above the surrounding grade. (See Illustration No. 3)
- (e) All earth station dish antennas shall be located not less than three (3) feet from a side or rear lot line. (See Illustration No. 3)
- (f) All antennas, including earth station dish antennas, shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of noncombustible and corrosive resistant materials.
- (g) All antennas, including earth station dish antennas, shall be filtered and/or shielded so as to prevent the emission or reflection of electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interfer-

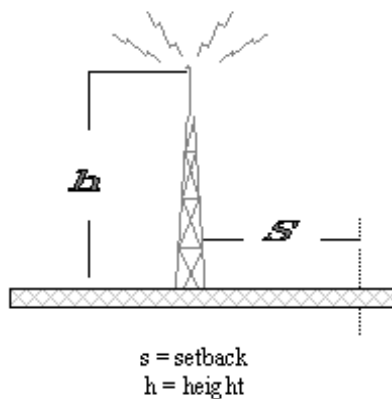
ILLUSTRATION NO. 3

MEASURING HEIGHT AND SETBACK OF ANTENNAS

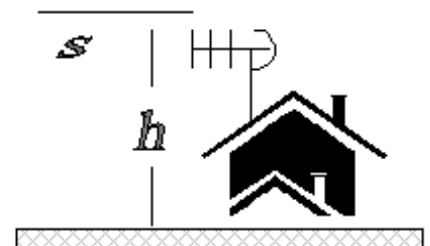
EARTH STATION DISH ANTENNA



TOWER MOUNTED ANTENNA



ROOF MOUNTED ANTENNA



ence is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

- (h) Not more than one (1) terrestrial and one (1) earth station dish antenna per dwelling unit shall be permitted on a lot or parcel in a residential zoning district.
 - (i) Earth station dish antennas shall be located and designed to reduce their visual impact on surrounding properties.
 - (j) No form of advertising or identification may be displayed on the dish or framework of any antenna other than the customary manufacturer's identification plates.
 - (k) All antennas, and the construction supports and installation thereof, shall conform to applicable Village building code and electrical code regulations and requirements. Appropriate permits shall be issued by the Building Inspector. Prior to the issuance of a permit for a building-mounted earth station dish antenna, the applicant shall submit a plan or document prepared by a registered professional engineer which certifies that the proposed dish antenna installation is structurally sound to accommodate wind load, snow load, and dead load.
 - (l) Portable or trailer-mounted antennas are not permitted with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed two (2) days at any one location.
 - (m) The Zoning Administrator shall review and approve plans, including ground elevation, for location of all earth station dish antennas prior to the issuance of a permit.
 - (n) In the event the property owner of a parcel of land located in a residential district determines and documents that the placement of an antenna in a rear yard would prevent its use for its intended purpose, the property owner may apply to the Zoning Board of Appeals for a variance to allow the installation of the antenna in a side yard location. The procedure for issuing the variance shall follow the procedure set forth in Section 17.1205 of this Ordinance.
- (18) Emergency Generators
- (a) Emergency generators shall be permitted in the rear yard only and shall be located as close to the principal structure as allowed by the manufacturer. Emergency generators shall meet the principal structure setbacks for the Zoning District in which the emergency generator is located.
 - (b) As an exception to Section 17.0704(A)(18)(a), the Plan Commission may, at its discretion, permit an emergency generator in the side yard and may permit the emergency generator to encroach into the applicable setback up to 5 feet. The Plan Commission may require additional screening to reduce the impacts of the emergency generator on adjacent properties.
 - (c) Emergency generators located outdoors shall be within a manufacturer-provided enclosure to screen the generator equipment and reduce the noise emitted by the generator.
 - (d) Testing of the emergency generators during non-emergency situations shall following the requirements of the Noise Ordinance found in Section 9.07(9).
 - (e) Emergency generators located in the RM-1, B-1, B-2, B-3, B-4,

BP-1, OP-1, M-1, Q-1, I-1, P-1, and P-2 Zining Districts shall require Site Plan Review by the Plan Commission and Architectural Review Board prior to the issuance of a building permit. If the property on which the emergency generator will be installed is adjacent to a residentially zoned property, a noise study will need to be provided to the Plan Commission that demonstrates the noise levels of the emergency generator at the property line meet the requirements as described in Section 9.07(9) of the Municipal Code.

- (f) Temporary Emergency Generators that are portable and are not hardwired into the principal structure shall be permitted on limited basis during an emergency and shall be ran for no more than 24 consecutive hours.

B. Accessory Uses and structures Permitted in Any Yard without a permit. The following accessory uses and structures may be placed in any yard without a building permit provided that such use does not interfere with the vision clearance triangle as set forth in Section 17.0601 of this Ordinance; shall not located closer than three (3) feet to a side or rear lot line and shall not exceed 15 feet in height (except for flag poles).

1. Basketball hoops, bird baths, flag poles (flag poles shall not exceed the height limitation for the district in which they are located), fountains, lawn furniture, religious statues, and wishing wells.
2. Rummage Sales may be conducted in any district provided that the rummage sale does not exceed four (4) consecutive days in length and is not conducted more often than three (3) times per year. Rummage sales do not require the issuance of a building permit. Rummage sale signs shall be limited as provided in Section 17.0803(E) of this Ordinance.

17.0705 ADDITIONS

Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

17.0706 AVERAGE STREET YARDS

The required street yard, or setback, may be decreased in any residential district to the average of the existing street yards of the abutting structures on each side, but shall in no case be less than 15 feet.

17.0707 CORNER LOTS

Structures shall provide a front street yard setback as required by this Ordinance on the street that the structure faces as established by the Zoning Ordinance. A second front street yard setback shall be provided on the site side of the structure abutting a public or private street. The second front street yard setback shall be the same setback as required in that local district. The remaining yards shall be a side yard and a rear yard. The building Inspector shall determine which yard is the street yard and which yard is the rear yard. The rear yard shall generally be the yard directly behind the front entrance to the structure and the side yard shall be the remaining yard.

Where a corner lot abuts an arterial street and an interior local street and the dwelling on the lot faces the local street, an accessory building shed permitted by Section 17.0704 (A) (2) of this Ordinance may be permitted in the yard abutting the arterial street provided that all the conditions set forth in Section 17.0704 (A) (2) are complied with and further provided that no accessory building shed is placed, erected, or moved closer to the arterial street right-of-way than the minimum required street yard setback for a principle building for the district in which the lot is located, and the Plan Commission finds all of the following:

- A. The rear yard has a slope of significant magnitude such that makes placing an accessory building shed in the rear yard would result in grading that could adversely impact a neighboring property, and
- B. The rear yard is of limited depth that makes placing an accessory building shed in the rear yard difficult, and
- C. One or more of the neighboring properties on the arterial street have an accessory building shed that have is/are an approximately equal distance from the arterial street as the requested location for the proposed accessory building shed, and
- D. The arterial street yard is of sufficient size to minimize the visual and other impacts of an accessory building shed in the street yard.

17.0708 DOUBLE FRONTAGE LOT

Lots abutting two opposite streets shall provide the front yard setback required by the district in which the lot is located from each street upon which the lot abuts.

Where a double frontage lot abuts an arterial street and an interior local street; the dwelling on the lot faces the local street opposite the arterial street, any accessory structure permitted by Section 17.0704 of this Ordinance may be permitted in the yard abutting the arterial street provided that all the conditions set forth in Section 17.0704 are complied with and adherence to procedure A or B below is followed:

- A. By approval of the Building Inspector if no accessory structure is placed, erected, or moved closer to the arterial street right-of-way than the minimum required street yard setback for the district in which the lot is located

- B. By approval of the Plan Commission, at its discretion, and only if the Plan Commission makes a finding determining all of the following:
1. The accessory structure is for a single family or two-family residential property.
 2. The accessory structure is located in such a way to not impact the right of way or future right of way, traffic, easements, sidewalk or future sidewalk, or drainage.
 3. The yard and possible accessory structures are reasonably landscaped from view,
 4. The accessory structures fit within the design and presentation of the neighborhood.
 5. There shall be no driveway to the accessory structures and no access to the arterial roadway.
 6. The accessory structures setbacks shall follow at a minimum the rear yard setback limits for that district.

If the yard abutting the arterial street has been determined to be a side yard by the Building Inspector, no accessory structure shall be placed within the side yard.

17.0709

TRIPLE FRONTED LOTS

Lots abutting three streets shall provide the street yard setback required by the district in which the lot is located from each street upon which the lot abuts.

Where a triple frontage lot abuts one or more local, arterial or collector street and the dwelling on the lot faces a local street, any accessory structure permitted by Section 17.0704 of this Ordinance may be permitted in the yard abutting an arterial or collector street on the opposite side of the lot from the local street that the dwelling faces, provided that all of the condition set forth in Section 17.0704 are complied with and adherence to procedure A or B below is followed:

- A. By approval of the Building Inspector if no accessory structure is placed, erected, or moved closer to the local arterial or collector street right-of-way than the minimum required street yard setback for the District in which the lot is located;
- B. By approval of the Plan Commission, at its discretion, and only if the Plan Commission makes a finding determining all of the following:
1. The accessory structure is for a single family or two-family residential property.
 2. The accessory structure is located in such a way to not impact the right of way or future right of way, traffic, easements, sidewalk or future sidewalk, or drainage.
 3. The yard and possible accessory structures are reasonably landscaped from view,
 4. The accessory structures fit within the design and presentation of the neighborhood.
 5. There shall be no driveway to the accessory structures and no access to the arterial roadway.
 6. The accessory structures setbacks shall follow at a minimum the rear yard setback limits for that district.

If the yard abutting an arterial or collector street has been determined to be a side yard by the Building Inspector, no accessory structure shall be placed within the side yard. The dwelling shall be deemed to face the street on which the address is located for

purposes of this Section 17.0709;

17.0710

AUXILIARY USES

From time to time certain auxiliary uses may be requested in certain districts. This section of code is designed so that the more limited in scope and timeline an auxiliary use is the more flexibility in gaining approval from the Village there will be. Because the nature of auxiliary uses changes over time this section of the code is meant to give great deference to the Plan Commission in setting the appropriate restrictions for these types of uses to be both open to the changing world of business, while protecting the safety and welfare of the community. The Village does find that fireworks stands are considered unsafe activities and are, accordingly, prohibited in the Village. The Village also finds that adult-oriented materials and uses shall not qualify as auxiliary uses. This section shall not be utilized to circumvent outside storage regulations or outside establishment permit provisions.

- A. Auxiliary Uses in Village Parks may be permitted by the Village Park Board and are exempt from the requirement to secure a Village Building Permit.

- B. Auxiliary uses in any business, industrial, or institutional district may be permitted by the Plan Commission. Such uses may include activities like Farmers Markets, Flea Markets, carnivals, circuses, outdoor group assemblies, etc. Said uses may occur outside of structures and may run from year to year. The Plan Commission when granting an auxiliary use shall consider the following items and find the following:
 - (a) The Auxiliary use has a considerable and reasonable purpose and nexus to the permitted use of the property.
 - (b) The Auxiliary use is compatible with the permitted uses of the district and does not go against the spirit of the code.
 - (c) If the Auxiliary use is more than 10 days or portions of a day total in a year, than a public hearing is required for the auxiliary use with the notice requirements found within the Conditional Use section. In no case shall an auxiliary use be more than 100 days total or portions of a day per year.
 - (d) The Auxiliary use will not interfere with the necessary parking to operate the permitted use and will not result in parking off of an approved hard surface such that the ground becomes in disrepair.
 - (e) The Auxiliary use will not interfere with public safety as determined by the Fire Chief and Waukesha Sheriff's Department.
 - (f) The Auxiliary use is unlikely to impact the health, welfare, or safety of the neighborhood or area due to the limited nature of the auxiliary event and protocols to be used by the auxiliary users to minimize external impact.
 - (g) The Auxiliary use has the necessary outside establishment permit or outside storage permissions as required by the code if relevant to that type of use.
 - (h) If the Auxiliary use involves the sale or consumption of alcohol the petitioner has properly planned for the safety and welfare of the public.
 - (i) If the Auxiliary use involves a concert or music to be played outdoors and said property is within 200 feet of a residential property than a public

hearing is required on the use of music for the auxiliary uses with the notice requirements found within the Conditional Use section.

Auxiliary uses within this section are unique uses and the Plan Commission may impose special requirements for items including, but not limited to parking, sanitary facilities, lighting, security, public notice, and hours of operation. No auxiliary use shall be conducted within the street right-of-way. The Plan Commission may reconsider its findings under this section at any time if it has reason to believe that the operation of the Auxiliary use or the environment said auxiliary use operates in is no longer suitable for the health, safety, or welfare of the community. If the Plan Commission finds that the auxiliary use is no longer appropriate said use shall stop immediately, but the petitioner may request a modified auxiliary use to address the concerns from the Plan Commission.

Auxiliary use permits shall expire after one year, and may be administratively renewed for one year periods thereafter for such reasonable fee as determined by the Village Board unless the auxiliary uses changes or the Plan Commission requests review of the same.

Auxiliary uses are allowed to have temporary signage. Said auxiliary uses may erect one (1) temporary sign not to exceed 50 square feet in area on one side and 100 square feet in area on all sides. All temporary buildings, tents, equipment, supplies, and debris shall be removed from the site within 2 days following the auxiliary activity.

C. Residential Home Sales Office Auxiliary Uses

1. Any auxiliary use within a residential zoning district that involves sales, office hours, or other use in which persons may be present on the premises shall be conducted only during the following hours: from 8:00 a.m. to 6:00 p.m., Monday through Friday; and from 9:00 a.m. to 3:00 p.m. on Saturdays, Sundays and holidays.
2. No structure may be used until it is approved for use by the Village Building Inspector and has an occupancy permit.
3. No more than two sales or office employees may be on site at any one time.
4. The premises shall comply with all current and future applicable codes, laws, statutes, ordinances, policies and guidelines of the village, Waukesha County, the State of Wisconsin, and the federal government as determined by the Building Inspector.
5. The Plan Commission may establish additional reasonable conditions upon the auxiliary use, which shall be stated in writing to the applicant at the time of issuance of the auxiliary use permit.
6. The auxiliary use may be revoked by the Plan Commission upon a reasonable finding that the conditions of approval have been violated. The auxiliary use may also be revoked by the Plan Commission after reasonable notice is given to the applicant, upon a finding that the changing character of the surrounding area causes the auxiliary use to no longer be compatible with the surrounding area; or that the temporary use is not consistent with the original intent; or for similar cause, based upon consideration of the public welfare.
7. Auxiliary uses shall expire one year from the date of issuance. The Plan Commission may renew an auxiliary use permit in this section for one additional year upon application for a renewal, subject to all the conditions noted herein.

