

VILLAGE OF DOWNERS GROVE
Report for the Village
10/17/2023

SUBJECT:	SUBMITTED BY:
Zoning Ordinance Text Amendments	Stan Popovich, AICP Director of Community Development

SYNOPSIS

An ordinance has been prepared amending various sections of the Zoning Ordinance.

STRATEGIC PLAN ALIGNMENT

The goals for 2023-2025 includes a *Strong, Diverse Local Economy* and *Exceptional Municipal Services*.

FISCAL IMPACT

N/A

RECOMMENDATION

Staff recommends approval on the October 24, 2023 Active Agenda per the Plan Commission' unanimous 6:0 positive recommendation for the proposed text amendments. The Plan Commission found that the proposed text amendments met the review and approval criteria in Section 28.12.020.F

BACKGROUND

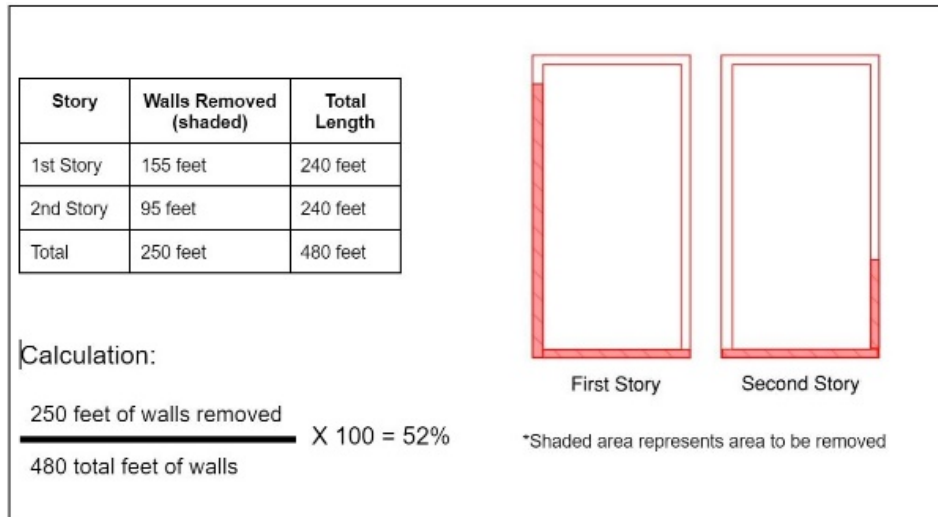
The Village is requesting review of multiple text amendments to the Zoning Ordinance. The proposed text amendments fall into two categories: (1) amendments related to Nonconforming Uses and Structures and (2) minor clarifications and modifications to the Zoning Ordinance.

Category 1 – Nonconforming Structures and Uses

The intent of the non-conforming ordinance is to promote maintenance, reuse and rehabilitation of existing buildings, but also place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties. Currently, the Municipal Code states that when a nonconforming principal structure is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than fifty percent (50%) of the market value of the structure, as determined by the property owner's certified appraiser, the structure may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located. Nonconforming uses are treated in the same manner.

The results of property appraisals can vary and open themselves to third party subjective analysis and review. The Village aims to create a more tangible and reliable process to determine the loss of nonconforming status for structures and uses. The proposed amendment notes the loss of nonconforming status occurs when more

than 50% of the structure's exterior walls, measured in linear feet, are damaged or destroyed by causes within the control of the owner, see image below. This approach will provide a consistent measurable determination.



The Plan Commission considered this request and suggested staff review the possibility of determining a loss in non-conformance status based on a surface area calculation instead of the proposed linear calculations. Staff reviewed the request and believes a surface area calculation may create additional subjective analysis during the application, construction and inspection processes. Staff thinks the linear calculations will create a more tangible and reliable process to determine the loss of nonconforming status for structures and uses.

Category 2 - Minor Clarifications and Modifications to the Zoning Ordinance

The second category of amendments updates and clarifies various sections of the Zoning Ordinance. Over time and through practice, staff has identified sections where further clarification, minor adjustments in language, and visual diagrams would prove useful to both the practitioner and residents. Proposed amendments include but are not limited to bicycle parking for multi-family residential properties, clarification on recreational vehicle screening, clarification on fence regulations, and clarification on butterfly roof eaves. The changes proposed are intended to further improve the review process while also ameliorating common questions and inquiries that staff receives repeatedly.

Public Comment

Prior to and during the Plan Commission meeting, staff did not receive any inquiries regarding this proposal.

ATTACHMENTS

Proposed Text Amendments

Staff Report

Minutes of the September 18, 2023 Plan Commission meeting

ORDINANCE NO. _____

AN ORDINANCE AMENDING
CERTAIN ZONING ORDINANCE PROVISIONS

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County,
Illinois, as follows: (Additions are indicated by redline/underline; deletions by ~~strikeout~~):

Section 1. That Section 28.5.050(k)(1) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.5.050(k)(1) Commercial Use Category
* * *

- (k) *Office*. Uses in an enclosed building, customarily performed in an office, that focus on providing executive, management, administrative, professional or medical services. Specific use types include:
- (1) Business and Professional Office. Office uses for companies and non-governmental organizations. Examples include corporate office, law offices, architectural firms, therapists, counselors, insurance companies and other executive, management or administrative offices for businesses and corporations. See also DGMC Section 28.6.090.
 - (2) Medical, Dental and Health Practitioner. Office uses related to diagnosis and treatment of human patients’ illnesses, injuries and physical maladies that can be performed in an office setting with no overnight care. Surgical, rehabilitation and other medical centers that do not involve overnight patient stays are included in this subcategory, as are medical and dental laboratories.

* * *

Section 2. That Section 28.7.060 of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.7.060 Bicycle Parking

- (a) *Minimum Requirements*. Bicycle parking spaces must be provided in accordance with the minimum ratios established in Table 7-3.

Table 7-3: Minimum Bicycle Parking Ratios

USE CATEGORY	Minimum Bicycle Parking Spaces (% of Motor Vehicle Parking)
Subcategory	
Specific use (See DGMC Section 28.5.020)	
PUBLIC, CIVIC AND INSTITUTIONAL	

Community Center	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Library	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Museum or Cultural Facility	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Parks and Recreation	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
School	
Elementary and Junior High	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Senior High	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
COMMERCIAL	
Assembly and Entertainment	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Commercial Service	
Health club, fitness facility	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Eating and Drinking Establishment	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Financial Service	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Office	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Retail Sales	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Studio, Instructional or Service	None for first 19 vehicle spaces, then 10% or 2 spaces, whichever is greater
<u>RESIDENTIAL</u>	
<u>Apartment/condo</u>	<u>None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater.</u>

* * *

Section 3. That Section 28.7.090 of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.7.090 Parking Of Recreational Vehicles And Equipment

* * *

- (b) Recreational vehicles located on a zoning lot after December 31, 2007 are subject to the following regulations:
- (1) Not more than one(1) recreational vehicle and one (1) piece of recreational equipment or utility trailer may be parked or stored in the rear or side yard of any lot in a residential zoning district. The vehicles and equipment must comply with the principal building setback requirements of the subject zoning district. For the purpose of this provision, one (1) piece of recreational equipment is equal to a single non-motor vehicle with no more than one (1) watercraft or not more than two (2) snowmobiles, personal watercrafts or specialty prop-crafts. Recreational vehicles, recreational equipment and utility trailers may not be stored in the street yard.
 - (2) Notwithstanding the regulations of DGMC Section 28.7.090(b)(1), recreational vehicles, recreational equipment and utility trailers may be temporarily parked in the rear or side yard or in the street yard if stored on a driveway, provided that the Community Development Director is given prior notice of the dates for such temporary parking. For purpose of this provision, temporary parking is the parking of vehicles or equipment during any period not exceeding ten (10) days in aggregate (which may or may not be consecutive) within any period of thirty (30) consecutive days.
 - (3) All recreational vehicles, recreational equipment and utility trailers parked in residential zoning districts must be parked on an improved area constructed of a hard dustless material, generally asphalt, brick pavers or concrete.
 - (4) Recreational vehicles, recreational equipment and utility trailers stored or parked in residential zoning districts must be owned by the owner or occupant of the subject property.
 - (5) Any recreational vehicle, recreational equipment or utility trailer stored in a rear or side yard of a residential district must be screened on at least three (3) sides by a ~~single~~**solid** ~~hedge row of evergreens~~ a minimum of four feet (4') in height at the time of planting or by a six foot (6') privacy fence. The screening must be placed so that the equipment is screened from view of all abutting property owners.
 - (6) The recreational vehicle, recreational equipment, or utility trailer must be properly licensed.
 - (7) No recreational vehicle, equipment, or utility trailer may have its wheels removed or be affixed to the ground so as to prevent its ready removal.
 - (8) No parked or stored recreational vehicle may be used for living, sleeping or business purposes.

Section 4. That Section 28.7.130(c) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.7.130 Drive-Through And Drive-In Facilities

- (a) *Purpose.* These regulations of this Section are intended to help ensure that
 - (1) there is adequate on-site maneuvering and circulation area for vehicles and pedestrians;
 - (2) vehicles awaiting service do not impede traffic on abutting streets; and
 - (3) impacts on surrounding uses are minimized.
- (b) *Applicability.* The regulations apply to new developments, the addition of drive-through and drive-in facilities to existing developments and the relocation of existing drive-through facilities.
- (c) *Stacking Spaces Required.* Stacking lanes must be provided in accordance with the minimum requirements of Table 7-5. Table 7-5: Stacking Space Requirements

Use	Minimum Number of Stacking Spaces Required
Bank/financial institution	4 spaces per drive-through lane
Car wash	2 spaces per approach lane, plus 2 drying spaces at end of bay
Vehicle repair/maintenance	2 per service bay (<u>can be provided as parking spaces</u>)
Gasoline pump	2 spaces per pump per side
Restaurant	8 total spaces, with at least 3 spaces between order and pick-up station
Other	3 spaces per lane, ordering station or machine

(d) *Stacking Lane Dimensions, Design and Layout*

- (1) Stacking lanes must be designed so that they do not interfere with parking movements or safe pedestrian circulation. Stacking lanes must have a minimum width of ten feet (10').
 - (2) All stacking lanes must be clearly identified, through such means as striping, landscaping, pavement design, curbing and/or signs.
- (e) *Setbacks*. Stacking lanes must be set back at least fifty feet (50') from any abutting residential zoning district.
- (f) *Noise*. Sound attenuation walls, landscaping or other mitigation measures may be required to ensure that drive-through facilities will not have adverse noise-related impacts on nearby residential uses.
- (g) *Site Plans*. Site plans must show the location of drive-through windows and associated facilities (for example: communications systems and access aisles), as well as adjacent residential uses.

(Ord. No. 5706, 7/10/18)

Section 5. That Section 28.10.010 of the Zoning Ordinance is hereby amended to read as follows:

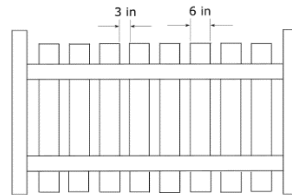
Sec 28.10.010 Fences

(a) *General*. The general regulations of this subsection apply to all fences.

- (1) *Applicability*. All fences, including plants and walls in the nature of a fence, must be erected and maintained in conformance with the requirements of this Section.
- (2) *Permits Required*. It is unlawful to erect or alter any fence within the Village unless a permit has been issued by the Community Development Director. A written application for a fence permit, including applicable fees as established in the User-Fee, License & Fine Schedule must be filed with the Community Development Department. A fence permit issued under this Section is valid for a term of six (6) months.
- (3) *Public Safety*. Fences may not be constructed or maintained in any way that would impair public protection services or impair public safety by obstructing the vision of persons using the street, sidewalks or driveways.
- (4) *Structural Elements*. All fences must be constructed so that fence posts and structural elements are located on the side of the fence facing the property being enclosed.
- (5) *Open-Design Fences*. Open design fences must be constructed in such a manner that no post or vertical and horizontal element exceeds a width of six inches (6"), and the open area is not less than fifty percent (50%) of the closed area~~ratio of open area to closed area does not exceed 1:2~~, with the

open area distributed uniformly over the entire fence surface. Open-design fences include split rail, post and board and similar designs, expressly excluding chain-link, shadow box and woven mesh fences. See Figure 10.1 below:

Figure 10.1 Open Design Regulations



- (6) Electrified or Barbed Wire Fences. Electrified or barbed wire fence are prohibited in all zoning districts, except that in business and manufacturing districts electrified or barbed wire fences may be approved through the special use process.
- (b) *Fences in R Districts.* Fences in R zoning districts are subject to the general regulations of DGMC Section 28.10.010(a) and the R district regulations of this subsection. See Figures 10-1 and 10-2.
 - (1) Street and Corner Yards. The regulations of this subsection apply to fences in street and corner yards of lots located in R districts.
 - a. Open-design fences that do not exceed four feet (4') in height are permitted within street and corner yards.
 - b. Chain-link and woven mesh fences are prohibited in street and corner yards, except that chain-link fences, including those that are anodized or vinyl-clad, constructed without slats, are permitted in the street and corner yard area on corner lots when the side of any principal structure located on the subject lot faces a street, provided that the fence does not exceed four feet (4') in height and is located only in the area from the rear line of the structure to the rear lot line.
 - c. Fences up to six feet (6') in height are permitted in the street and corner yard area on corner lots when the side of any principal structure located on the subject lot faces a street if the rear of the structure faces the rear of a structure that is located on an adjacent corner lot, provided that the fence is located only in the area from the rear line of the structure to the rear lot line.
 - d. Fences up to six feet (6') in height are permitted in the street and corner yard area of an R-zoned lot occupied by a principal nonresidential use if the lot has multiple street frontages and contains a parking lot without a structure. Such fence must be an open-design fence (See DGMC Section 28.10.010(a)(5)) and be constructed along the parking lot perimeter immediately adjacent to an arterial street or non-residentially zoned property. All other landscaping and screening requirements of Article VIII of this Chapter apply.
 - (2) Side and Rear Yards. The regulations of this subsection apply to fences in the side and rear yards of lots located in R districts.
 - a. Fences, including chain-link and woven mesh designs, are permitted in side and rear yards and required setbacks. Fences in side and rear yards may not exceed six feet (6') in height. In residential districts abutting nonresidential districts, fences of up to eight feet (8') in height and closed in design may be erected in the side

and rear yards of the residential district. On double-frontage lots, when the rear of any principal structure located on the lot faces a street, and all directly abutting lots purposes of these fence regulations. On double-frontage lots, when the rear of any principal structure located on the lot faces a street, and one or more directly abutting lots has the front of a principal structure that faces the same street, the fence must adhere to the yard requirements of the front facing principal structure.

- b. On corner lots with three (3) lot lines abutting a street, fences up to six feet (6') in height, including chain-link and woven mesh designs, are permitted only within the two (2) street-facing side yard areas located from the rear building line to the rear lot line. Any fences outside this area are subject to a maximum height limit of four feet (4').

Figure ~~10-1~~ 10-2: Residential Fence Regulations

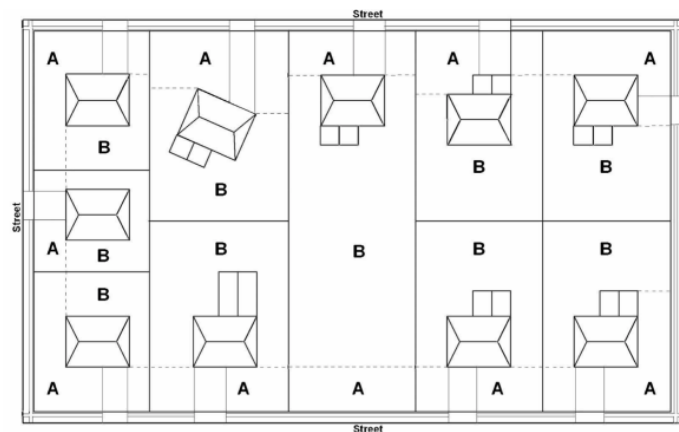
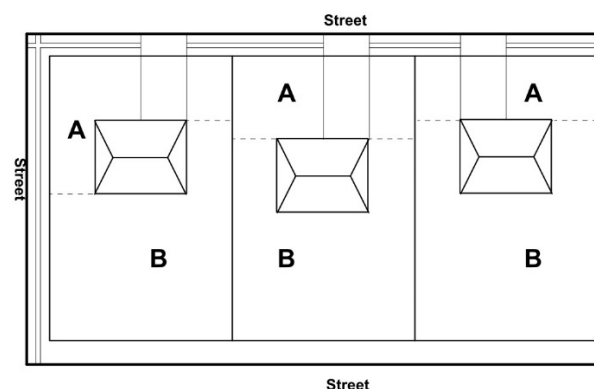


Figure ~~10-2~~ 10-3: Residential Multi-Frontage Fence Regulations

Fence Regulations Quick Guide

A – Fences may be open and not exceed four feet (4') in height.

B – Fences may be open or solid and not exceed six feet (6') in height.



2. *Fences in Nonresidential Districts.* Fences in nonresidential zoning districts are subject to the general regulations of DGMC Section 28.10.010(a) and the nonresidential district regulations of this subsection.
 - (1) Street and Corner Yards. Open-design fences up to eight feet (8') in height are permitted in street yards.
 - (2) Side and Rear Yards. Fences up to eight feet (8') in height are allowed inside and rear yards.

(Ord. No. 5804, 12/17/19; Ord. No. 5706, 7/10/18)

HISTORY

Amended by Ord. 5828 ZO revisions 2020 on 10/20/2020

Amended by Ord. 5914 ZO - Omnibus 2022 on 2/15/2022

Section 6. That Section 28.11.030(f)(2)(b) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.11.030 Nonconforming Uses

* * *

(f) Loss of Nonconforming Status

(1) Abandonment

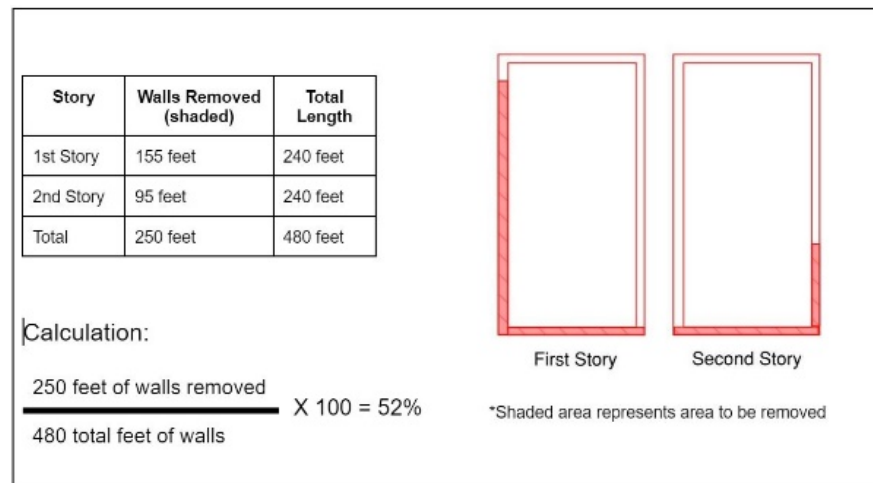
- a. Except as expressly authorized in DGMC Section 28.11.030(f)(1)d, once a nonconforming use is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.
- b. A nonconforming use is presumed abandoned when the use is discontinued or ceases for a continuous period of six (6) months or more.
- c. Any period of discontinuance caused by acts of God or accidental fire are not counted in calculating the length of discontinuance.
- d. Re-establishment of an abandoned nonconforming use may be approved in accordance with the zoning exception procedures of DGMC Section 28.12.080 if the Zoning Board of Appeals finds that all of the following criteria have been met:
 1. the subject property cannot reasonably or economically be used for a conforming use;
 2. the proposed use is equally appropriate or more appropriate in the proposed location than the existing nonconforming use;
 3. the traffic, hours of operation, noise and other operating characteristics of the proposed use will result in no greater adverse impact on the neighborhood than the previous nonconforming use;
 4. the proposed use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and
 5. the use is consistent with the comprehensive plan.

(2) Damage or Destruction

- a. When a building containing a nonconforming use is destroyed or damaged by acts of God or accidental fire, the building may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within twelve (12) months of the date of occurrence of such damage.
- b. When a building containing a nonconforming use is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than fifty percent (50%) of the structure's exterior walls measured in linear feet,

~~market value of the structure, as determined by the property owner's certified appraiser,~~ the use may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located. Exterior walls include supporting structural elements, such as load bearing masonry walls, and in wood construction, studs, sole plat or top plate. Roofs, interior finishes, non-structural exterior finishes, and all foundation walls are excluded. See Figure 11.1 below:

Figure 11.1: Exterior Wall Calculation



* * *

Section 7. That Section 28.11.040(e)(1)(b) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.11.040(e)(1)(b) Nonconforming Structures

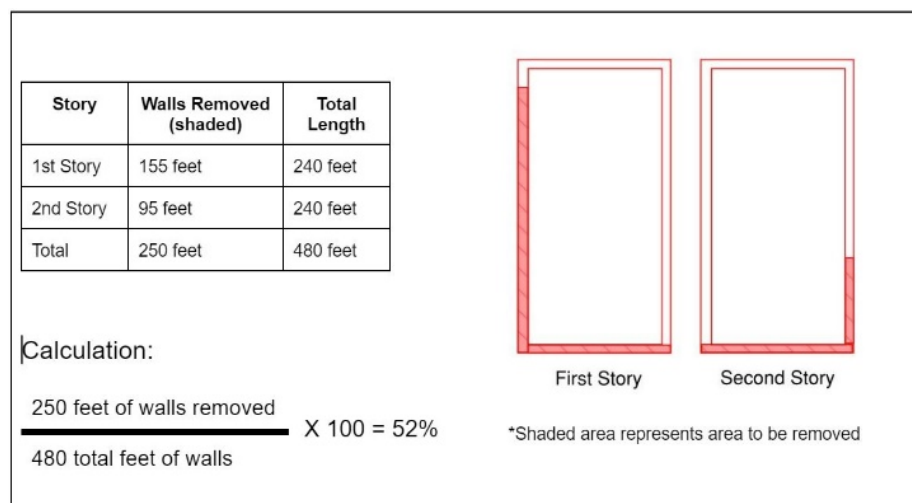
* * *

(e) Loss of Nonconforming Status

(1) Damage or Destruction

- a. When a nonconforming structure is destroyed or damaged by acts of God or accidental fire, the structure may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within twelve (12) months of the date of occurrence of such damage.
- b. When a nonconforming principal structure is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than fifty percent (50%) of the ~~structure's exterior walls measured in linear feet, market value of the structure, as determined by the property owner's certified appraiser,~~ the structure may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located. Exterior walls include supporting structural elements, such as load bearing masonry walls, and in wood construction, studs, sole plat or top plate. Roofs, interior finishes, non-structural exterior finishes, and all foundation walls are excluded. See Figure 11.1 below:

Figure 11.1: Exterior Wall Calculation



* * *

Section 8. That Section 28.12.050(i)(4) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.12.050 Special Uses

* * *

(i) Lapse of Approval

- (1) The applicant may submit, and the Village Council may approve, as part of the ordinance authorizing the special use, a maximum 2-year schedule for establishing the approved special use. If such a schedule is not approved by the Village Council, the approved special use will lapse and have no further effect one (1) year after it is approved by the Village Council, unless:
 - a. a building permit has been issued (if required);
 - b. a certificate of occupancy has been issued; or
 - c. the special use has been lawfully established.
- (2) The Village Council is authorized to extend the expiration period for good cause on up to two (2) separate occasions, by up to six (6) months each. Requests for extensions must be submitted to the Community Development Director and forwarded to the Village Council for a final decision.
- (3) A special use also lapses upon revocation of a building permit or a certificate of occupancy for violations of conditions of approval or upon expiration of a building permit to carry out the work authorized by the special use.
- (4) If any special use is ~~abandoned, or is~~ discontinued or not in operation for a continuous period of six (6) months or more, the special use for such use is void, and such use may not be reestablished unless and until a new special use is obtained in accordance with the procedures of this Section.

* * *

Section 9. That Section 28.14.100(b) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.14.100 Setbacks

* * *

(b) Permitted Obstructions. Yards in all zoning districts must be unobstructed and unoccupied from the ground to the sky except as indicated in Table 14-1.

Table 14-1: Permitted Yard Obstructions

Obstruction/Projection	Permitted in these Yards				Minimum Setback/Maximum Encroachment into required setback
	Corner	Street	Side	Rear	
A/C units, generators, compressors, transformers, associated equipment, rainwater collection and geothermal equipment (ground-mounted)	No	No[1]	Yes	Yes	10 ft. min. setback in R-1 7 ft. min. setback in R-2 6 ft. min. in R-3, R-5, R-5A, R-6 5 ft. min. setback in all other districts
Air conditioner (window unit only)	Yes	Yes	Yes	Yes	No setback required
Antenna, amateur radio	No	No	No	Yes	<u>Ground mounted only;</u> <u>5 ft. min. setback in R-4 district</u> <u>6 ft. min. setback in all other districts</u>
Antenna, receive-only and satellite dish	Yes	Yes	Yes	Yes	
Arbor, pergola or trellis	Yes	Yes	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Architectural building features (e.g., sills, belt courses, cornices, wing walls)	Yes	Yes	Yes	Yes	No setback in DB and DC districts. 1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.
Awning, canopy architectural light shelf or solar shading device	Yes	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft. (nonresidential districts - 2.5 ft. max. encroachment in street setback)
Balcony	Yes	Yes	Yes	Yes	Must meet required district street and side yard setbacks. 10 ft. max. encroachment in rear yard
Basketball standards and backboards	Yes	Yes	Yes	Yes	
Bay window (1st floor only; with or without foundation)	Yes	Yes	Yes	Yes	Street setback - 1.5 ft. max. encroachment Side setback - 1.5 ft. max. encroachment if setback is < 6 ft. or 2 ft. max. encroachment if setback is ≥ 6 ft. Rear setback - 2.5 ft. max. encroachment
Bicycle Parking	Yes	Yes	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Breezeway	No	No	No	Yes	10 ft. max. max. encroachment
Chimney	Yes	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.

Clothesline	No	No	Yes	Yes	5 ft. min. setback
Compost pile or container (See Chapter 13 of this Code)	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Deck or patio, uncovered and open-air (see also “porch,” below) [2]	Yes	Yes	Yes	Yes	5 ft. max. encroachment in street setback 5 ft. min. setback in side and rear property line
Dog house or dog run	No	No	No	Yes	No setback in DB and DC districts. 5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Driveway or uncovered walk	Yes	Yes	Yes	Yes	1 ft. min. (interior) or rear setback
Eaves and gutters	Yes	Yes	Yes	Yes	In street setback and rear setback - 2.5 ft. max. encroachment In side setback - 2 ft. max. encroachment
Electric vehicle charging equipment	Yes	Yes	Yes	Yes	In front and rear - 2.5 ft. max. encroachment In side - 2 ft. max. encroachment
Fence	Yes	Yes	Yes	Yes	See also Sec. 10.010
Fire escape (open or lattice enclosed, fireproof outside stairways)	Yes	Yes	Yes	Yes	2 ft. max. encroachment
Fireplace, fire pit, outdoor cooking/kitchen areas (See Chapter 13 of this Code)	Yes[3]	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts. Must meet required R district street setback in corner yards.
Flag pole	Yes	Yes	Yes	Yes	Equal to the height of the pole; no max. encroachment of flag beyond lot line
Garage (detached)[4]	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Garden features (e.g., cold frames, hoop houses, greenhouses)	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Gazebo	Yes	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Hot Tub (and associated equipment)	Yes[3]	No	Yes	Yes	10 ft. min. setback in R-1 and R-2 Districts 7 ft. min. setback in all other R districts. Must meet required R district street setback in corner yards
Parking, open	Yes	Yes	Yes	Yes	See also DGMC Section 28.7.070
Playground equipment & playhouses (excluding equipment located on public parks and playgrounds or on school or day care center playgrounds, tot lots)	Yes[3]	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts Must meet required R district street setback in corner yards.
Porch, covered and open on at least 3 sides (see also “deck,” above)	Yes	Yes	Yes	Yes	5 ft. max. encroachment in street setback and rear setback (See also DGMC Section 28.14.100(c)) Must meet required district side yard setbacks
Shed, carport or storage structure	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Sign	Yes	Yes	No	No	See Article IX
Solar panel and equipment (building-mounted)	Yes	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.

Solar panel and equipment (ground-mounted)	No	No	Yes	Yes	2 ft. max. encroachment in side setback; 10 ft. max. encroachment in rear setback. See also DGMC Section 28.6.010(m)
Sport courts & accessory lighting	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Sports equipment	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Steps (for access to building or lot; max. 4 feet above grade)	Yes	Yes	Yes	Yes	No setback in DB and DC districts. 1 ft. min. setback
Swimming pool (in-ground & above-ground and associated equipment)	No	No	Yes	Yes	10 ft. min. setback in R-1 and R-2 districts 7 ft. min. setback in all other R districts
Vegetable Garden	Yes	Yes	Yes	Yes	No setback required
Walkway (covered)	No	No	No	No	In residential districts - principal building setbacks apply In nonresidential districts - no side or rear setback required
Wall	Yes	Yes	Yes	Yes	See also DGMC Section 28.10.010
Wall, retaining	Yes	Yes	Yes	Yes	No setback in DB and DC districts. 1 ft. min. setback
Yard features (e.g., ornamental light standards, anchored lawn furniture and decorations, sundials, statues, bird baths, ponds, sculptures, seat walls, etc.)	Yes	Yes	Yes	Yes	No setback in DB and DC districts. 5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Wheelchair lifts and ramps that meet federal and state accessibility standards	Yes	Yes	Yes	Yes	1 ft. min. setback
Window wells	Yes	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.

[1] Except for single family residential uses, units may be located on the building's primary street facade and in front of a bump as long as the unit is screened by a wing wall made of the same material as the primary façade which is attached to the primary building via a full foundation and is at least as tall as the equipment.

[2] Provided that in Planned Unit Developments or other subdivisions containing ten (10) or more lots in which permanent common open space is provided under the terms of the recorded covenants or a public park, patios and decks may be placed one foot (1') from the rear and side lot line.

[3] Only on corner lots, may be placed up to the minimum required setback, provided that they are screened on all sides by an open fence, wall, dense hedge or other landscaping that provides at least eighty percent (80%) direct view blocking. The hedge or landscaping must reach a minimum height of thirty-six inches (36") at maturity.

[4] Only on corner lots, detached garages may be placed up to the minimum required street setback provided that they are located between the rear property line and the rear wall of the building.

Section 10. That Section 28.15.080 of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.15.080 Words And Terms Beginning With "E"

* * *

Eave. The lower edge of a sloping roof surface or the top edge of a parapet or flat roof or the lower edge of a butterfly roof structure. See Figure 15-7.

Figure 15-7: Eave

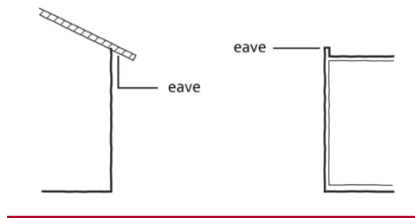
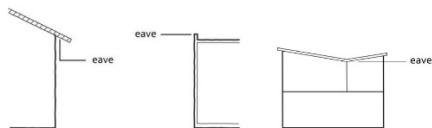


Figure 15-7: Eave



* * *

Section 11. That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 12. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____

Village Clerk



**VILLAGE OF DOWNERS GROVE
REPORT FOR THE PLAN COMMISSION
SEPTEMBER 18, 2023 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
23-PCE-0022	Zoning Ordinance Text Amendments	Flora León, AICP Senior Planner

REQUEST

The Village is requesting multiple text amendments to the Zoning Ordinance. The proposed amendments are to the following Articles:

- Article 5, Allowed Uses
- Article 7, Parking
- Article 10, General Development Regulations
- Article 11, Nonconformities
- Article 12, Review and Approval Procedures
- Article 14, Measurements
- Article 15, Definitions

NOTICE

The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

APPLICANT: Village of Downers Grove
801 Burlington Avenue
Downers Grove, IL 60515

ANALYSIS

SUBMITTALS

This report is based on the following documents, which are on file with the Department of Community Development:

1. Application/Petition for Public Hearing
2. Zoning Ordinance – Proposed Amendments

PROJECT DESCRIPTION

The Village is requesting review of multiple text amendments to the Zoning Ordinance. The proposed text amendments fall into two categories.

Nonconforming Structures and Uses - Currently, the Downers Grove Municipal Code states that when a nonconforming principal structure is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than fifty percent (50%) of the market value of the structure, as determined by the property owner's certified appraiser, the structure may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located. Additionally, the Downers Grove Municipal

Code states that when a building containing a nonconforming use is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than fifty percent (50%) of the market value of the structure, as determined by the property owner's certified appraiser, the use may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located.

The results of property appraisals can vary and open themselves to third party subjective analysis and review. The Village aims to create a more tangible and reliable process to determine the loss of nonconforming status for structures and uses. As such, it is recommended that Chapter 28, Section 11.040(e)(1)b & Section 11.030(f)(2)b is amended with provisions that redefines the loss of nonconforming structures and uses. Specifically, damage or destruction in both instances should not be associated with a percentage of the appraised value, which can vary depending on the appraiser. Instead, the loss of nonconforming status occurs when more than 50% of the structure's exterior walls, measured in linear feet, are damaged or destroyed by causes within the control of the owner. This approach will provide a consistent measurable determination.

Minor Clarifications and Modifications to the Zoning Ordinance - The second category of amendments updates and clarifies various sections of the Zoning Ordinance. Over time and through practice, staff has identified code sections where further clarification and minor adjustments in language that would prove useful to both the practitioner and residents. The changes proposed are intended to further improve the review process while also ameliorating common questions and inquiries that staff receives repeatedly.

A summary list of the proposed amendments is shown below and are identified in the attached Zoning Ordinance excerpts. For each proposed amendment new proposed text is underlined, while text proposed to be removed is shown as a ~~strikeout~~.

Section	Description	Page Reference
28.5.050(k)(1)	Added therapists/counselors to the Business and Professional Office description.	P. 1
28.7.060(a)	Added provisions regarding bicycle parking for apartments/condos.	P. 1-2
28.7.090(b)(5)	Clarified provisions regarding screening for recreational vehicles.	P. 3
28.7.130(c) Table 7-5	Clarified that stacking spaces for vehicle repair/maintenance can be provided in parking stalls.	P. 3-4
28.10.010(a)(5)	Clarified provisions regarding open design fences.	P. 4-5
28.10.010(b)(2)a	Added a provision allowing residential districts that abut nonresidential districts to construct a maximum eight foot tall fence in the side and rear yards.	P. 5-6
28.11.030(f)(2)b	Revised text redefining damage and destruction of a nonconforming use based on the percentage of removal of the structure's exterior walls.	P. 7-8
28.11.040(e)(1)b	Revised text redefining damage and destruction of a nonconforming structure based on the percentage of removal of the nonconforming structure's exterior walls.	P. 8-9

28.12.050(i)(4)	Clarified provisions regarding the discontinuation of special use approvals. No change in practice or application of the DGMC.	P. 9-10
28.14.100(b)	Added provisions for amateur antennas.	P. 10
28.15.080 Figure 15-7	Added butterfly roof structures to the eave definition and graphic.	P. 12-13

PUBLIC COMMENT

The legal notice was published in the *Daily Herald*. No public comments were received on any proposed text amendment.

FINDINGS OF FACT***Section 12.020(f) Review and Approval Criteria of Zoning Ordinance Text Amendments***

The decision to amend the zoning ordinance text is a matter of legislative discretion that is not controlled by any one standard. In making recommendations and decisions about zoning ordinance text amendments, review and decision-making bodies must consider at least the following factors:

(1) Whether the proposed text amendment is in conformity with the policy and intent of the comprehensive plan

The proposed text amendments are consistent with the policy and intent of the Comprehensive Plan. The Comprehensive Plan notes that the Zoning Ordinance should be regularly reviewed and updated. In each case, the proposed amendments further these policies and goals of the Comprehensive Plan:

- Maintain the Village's image and desirability as a great place to live by preserving and enhancing the quality, character, safety and appeal of residential neighborhoods,
- Accommodate residential renovation and redevelopment through a consistent, expedient and thorough permitting process.
- Consistently administer and enforce residential development regulations, including compliance with setbacks, maximum height, parkway tree preservation, stormwater, bulk, density and other development regulations
- Where appropriate, encourage new development/redevelopment to include connections and amenities for pedestrians, bicyclists and commuters
- Enhance the economic viability, productivity, appearance and function of the Village's commercial corridors

This standard is met.

(2) Whether the proposed zoning ordinance text amendment corrects an error or inconsistency in the zoning ordinance, meets the challenge of a changing condition or is necessary to implement established policy.

The proposed text amendments address inconsistencies in the zoning ordinance, provide clarity or implement an established policy. All amendments provide clarification, additional flexibility and/or remove inconsistencies in the Zoning Ordinance. The proposed amendments further the purposes of the Zoning Ordinance as shown in Section 28.1.060 of the Zoning Ordinance. This standard is met.

DRAFT MOTION

Staff will provide a recommendation at the September 18, 2023 meeting. Should the Plan Commission find that the request meets the standards of approval for a Zoning Ordinance Text Amendment, staff has

23-PLC-0022, Text Amendments
September 18, 2023

Page 4

prepared a draft motion that the Plan Commission may make for the recommended approval of 23-PLC-0022:

Based on the petitioner's submittal, the staff report, and the testimony presented, I find that the petitioner has met the standards of approval for a Zoning Text Amendment as required by the Village of Downers Grove Zoning Ordinance and is in the public interest and therefore, I move that the Plan Commission recommend to the Village Council approval of 23-PLC-0022 regarding the proposed amendments Articles 5, 7, 10, 11, 12, 14 and 15 of the Zoning Ordinance.

Staff Report Approved By:



Stanley J. Popovich, AICP
Director of Community Development

P:\P&CD\PROJECTS\PLAN COMMISSION\2023 PC Petition Files\23-PCE-0022 - Text Amendments

ORDINANCE NO. _____

**AN ORDINANCE AMENDING
CERTAIN ZONING ORDINANCE PROVISIONS**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by redline/underline; deletions by ~~strikeout~~):

Section 1. That Section 28.5.050(k)(1) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.5.050(k)(1) Commercial Use Category

* * *

(k) *Office*. Uses in an enclosed building, customarily performed in an office, that focus on providing executive, management, administrative, professional or medical services. Specific use types include:

- (1) Business and Professional Office. Office uses for companies and non-governmental organizations. Examples include corporate office, law offices, architectural firms, therapists, counselors, insurance companies and other executive, management or administrative offices for businesses and corporations. See also DGMC Section 28.6.090.
- (2) Medical, Dental and Health Practitioner. Office uses related to diagnosis and treatment of human patients' illnesses, injuries and physical maladies that can be performed in an office setting with no overnight care. Surgical, rehabilitation and other medical centers that do not involve overnight patient stays are included in this subcategory, as are medical and dental laboratories.

* * *

Section 2. That Section 28.7.060 of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.7.060 Bicycle Parking

(a) *Minimum Requirements*. Bicycle parking spaces must be provided in accordance with the minimum ratios established in Table 7-3.

Table 7-3: Minimum Bicycle Parking Ratios

USE CATEGORY	Minimum Bicycle Parking Spaces (% of Motor Vehicle Parking)
Subcategory	
Specific use (See DGMC Section 28.5.020)	
PUBLIC, CIVIC AND INSTITUTIONAL	

Community Center	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Library	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Museum or Cultural Facility	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Parks and Recreation	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
School	
Elementary and Junior High	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Senior High	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
COMMERCIAL	
Assembly and Entertainment	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Commercial Service	
Health club, fitness facility	None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater
Eating and Drinking Establishment	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Financial Service	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Office	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Retail Sales	None for first 19 vehicle spaces, then 5% or 2 spaces, whichever is greater
Studio, Instructional or Service	None for first 19 vehicle spaces, then 10% or 2 spaces, whichever is greater
<u>RESIDENTIAL</u>	
<u>Apartment/condo</u>	<u>None for first 9 vehicle spaces, then 10% or 2 spaces, whichever is greater.</u>

* * *

Section 3. That Section 28.7.090 of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.7.090 Parking Of Recreational Vehicles And Equipment

* * *

- (b) Recreational vehicles located on a zoning lot after December 31, 2007 are subject to the following regulations:
- (1) Not more than one(1) recreational vehicle and one (1) piece of recreational equipment or utility trailer may be parked or stored in the rear or side yard of any lot in a residential zoning district. The vehicles and equipment must comply with the principal building setback requirements of the subject zoning district. For the purpose of this provision, one (1) piece of recreational equipment is equal to a single non-motor vehicle with no more than one (1) watercraft or not more than two (2) snowmobiles, personal watercrafts or specialty prop-crafts. Recreational vehicles, recreational equipment and utility trailers may not be stored in the street yard.
 - (2) Notwithstanding the regulations of DGMC Section 28.7.090(b)(1), recreational vehicles, recreational equipment and utility trailers may be temporarily parked in the rear or side yard or in the street yard if stored on a driveway, provided that the Community Development Director is given prior notice of the dates for such temporary parking. For purpose of this provision, temporary parking is the parking of vehicles or equipment during any period not exceeding ten (10) days in aggregate (which may or may not be consecutive) within any period of thirty (30) consecutive days.
 - (3) All recreational vehicles, recreational equipment and utility trailers parked in residential zoning districts must be parked on an improved area constructed of a hard dustless material, generally asphalt, brick pavers or concrete.
 - (4) Recreational vehicles, recreational equipment and utility trailers stored or parked in residential zoning districts must be owned by the owner or occupant of the subject property.
 - (5) Any recreational vehicle, recreational equipment or utility trailer stored in a rear or side yard of a residential district must be screened on at least three (3) sides by a ~~single~~solid ~~hedge row of evergreens~~ a minimum of four feet (4') in height at the time of planting or by a six foot (6') privacy fence. The screening must be placed so that the equipment is screened from view of all abutting property owners.
 - (6) The recreational vehicle, recreational equipment, or utility trailer must be properly licensed.
 - (7) No recreational vehicle, equipment, or utility trailer may have its wheels removed or be affixed to the ground so as to prevent its ready removal.
 - (8) No parked or stored recreational vehicle may be used for living, sleeping or business purposes.

Section 4. That Section 28.7.130(c) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.7.130 Drive-Through And Drive-In Facilities

- (a) *Purpose.* These regulations of this Section are intended to help ensure that
 - (1) there is adequate on-site maneuvering and circulation area for vehicles and pedestrians;
 - (2) vehicles awaiting service do not impede traffic on abutting streets; and
 - (3) impacts on surrounding uses are minimized.
- (b) *Applicability.* The regulations apply to new developments, the addition of drive-through and drive-in facilities to existing developments and the relocation of existing drive-through facilities.
- (c) *Stacking Spaces Required.* Stacking lanes must be provided in accordance with the minimum requirements of Table 7-5. Table 7-5: Stacking Space Requirements

Use	Minimum Number of Stacking Spaces Required
Bank/financial institution	<u>Four (4)</u> spaces per drive-through lane
Car wash	<u>Two (2)</u> spaces per approach lane, plus <u>two (2)</u> drying spaces at end of bay
Vehicle repair/maintenance	<u>Two (2)</u> per service bay (<u>can be provided as parking spaces</u>)
Gasoline pump	<u>Two (2)</u> spaces per pump per side
Restaurant	<u>Eight (8)</u> total spaces, with at least <u>three (3)</u> spaces between order and pick-up station
Other	<u>Three (3)</u> spaces per lane, ordering station or machine

(d) *Stacking Lane Dimensions, Design and Layout*

- (1) Stacking lanes must be designed so that they do not interfere with parking movements or safe pedestrian circulation. Stacking lanes must have a minimum width of ten feet (10').
 - (2) All stacking lanes must be clearly identified, through such means as striping, landscaping, pavement design, curbing and/or signs.
- (e) *Setbacks*. Stacking lanes must be set back at least fifty feet (50') from any abutting residential zoning district.
- (f) *Noise*. Sound attenuation walls, landscaping or other mitigation measures may be required to ensure that drive-through facilities will not have adverse noise-related impacts on nearby residential uses.
- (g) *Site Plans*. Site plans must show the location of drive-through windows and associated facilities (for example: communications systems and access aisles), as well as adjacent residential uses.

(Ord. No. 5706, 7/10/18)

Section 5. That Section 28.10.010 of the Zoning Ordinance is hereby amended to read as follows:

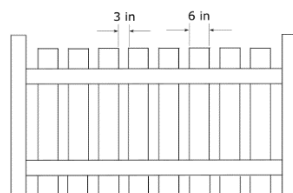
Sec 28.10.010 Fences

(a) *General*. The general regulations of this subsection apply to all fences.

- (1) *Applicability*. All fences, including plants and walls in the nature of a fence, must be erected and maintained in conformance with the requirements of this Section.
- (2) *Permits Required*. It is unlawful to erect or alter any fence within the Village unless a permit has been issued by the Community Development Director. A written application for a fence permit, including applicable fees as established in the User-Fee, License & Fine Schedule must be filed with the Community Development Department. A fence permit issued under this Section is valid for a term of six (6) months.
- (3) *Public Safety*. Fences may not be constructed or maintained in any way that would impair public protection services or impair public safety by obstructing the vision of persons using the street, sidewalks or driveways.
- (4) *Structural Elements*. All fences must be constructed so that fence posts and structural elements are located on the side of the fence facing the property being enclosed.
- (5) *Open-Design Fences*. Open design fences must be constructed in such a manner that no post or vertical and horizontal element exceeds a width of six inches (6"), and the open area is not less than

~~fifty percent (50%) of the closed arearatio of open area to closed are does not exceed 1:2~~, with the open area distributed uniformly over the entire fence surface. Open-design fences include split rail, post and board and similar designs, expressly excluding chain-link, shadow box and woven mesh fences. See Figure 10.1 below:

Figure 10.1 Open Design Regulations



- (6) Electrified or Barbed Wire Fences. Electrified or barbed wire fence are prohibited in all zoning districts, except that in business and manufacturing districts electrified or barbed wire fences may be approved through the special use process.
- (b) *Fences in R Districts.* Fences in R zoning districts are subject to the general regulations of DGMC Section 28.10.010(a) and the R district regulations of this subsection. See Figures 10-1 and 10-2.
 - (1) Street and Corner Yards. The regulations of this subsection apply to fences in street and corner yards of lots located in R districts.
 - a. Open-design fences that do not exceed four feet (4') in height are permitted within street and corner yards.
 - b. Chain-link and woven mesh fences are prohibited in street and corner yards, except that chain-link fences, including those that are anodized or vinyl-clad, constructed without slats, are permitted in the street and corner yard area on corner lots when the side of any principal structure located on the subject lot faces a street, provided that the fence does not exceed four feet (4') in height and is located only in the area from the rear line of the structure to the rear lot line.
 - c. Fences up to six feet (6') in height are permitted in the street and corner yard area on corner lots when the side of any principal structure located on the subject lot faces a street if the rear of the structure faces the rear of a structure that is located on an adjacent corner lot, provided that the fence is located only in the area from the rear line of the structure to the rear lot line.
 - d. Fences up to six feet (6') in height are permitted in the street and corner yard area of an R-zoned lot occupied by a principal nonresidential use if the lot has multiple street frontages and contains a parking lot without a structure. Such fence must be an open-design fence (See DGMC Section 28.10.010(a)(5)) and be constructed along the parking lot perimeter immediately adjacent to an arterial street or non-residentially zoned property. All other landscaping and screening requirements of Article VIII of this Chapter apply.
 - (2) Side and Rear Yards. The regulations of this subsection apply to fences in the side and rear yards of lots located in R districts.
 - a. Fences, including chain-link and woven mesh designs, are permitted in side and rear yards and required setbacks. Fences in side and rear yards may not exceed six feet (6') in height. In residential districts abutting nonresidential districts, fences

of up to eight feet (8') in height and closed in design may be erected in the side and rear yards of the residential district. On double-frontage lots, when the rear of any principal structure located on the lot faces a street, and all directly abutting lots

purposes of these fence regulations. On double-frontage lots, when the rear of any principal structure located on the lot faces a street, and one or more directly abutting lots has the front of a principal structure that faces the same street, the fence must adhere to the yard requirements of the front facing principal structure.

- b. On corner lots with three (3) lot lines abutting a street, fences up to six feet (6') in height, including chain-link and woven mesh designs, are permitted only within the two (2) street-facing side yard areas located from the rear building line to the rear lot line. Any fences outside this area are subject to a maximum height limit of four feet (4').

Figure ~~10-1~~ 10-2: Residential Fence Regulations

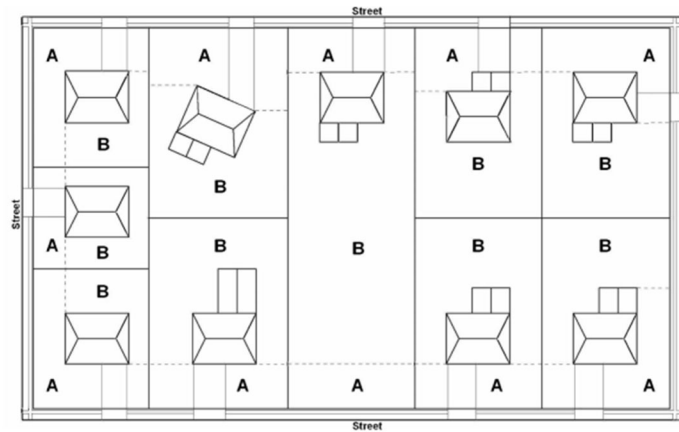
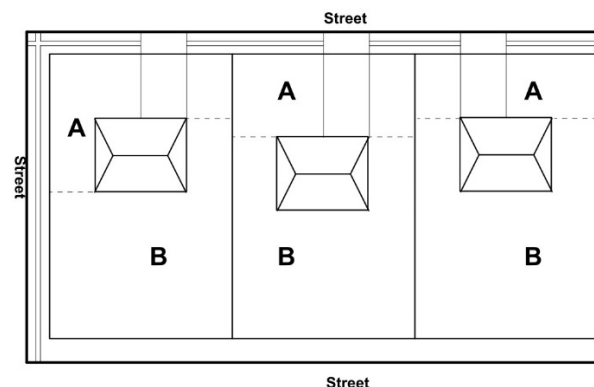


Figure ~~10-2~~ 10-3: Residential Multi-Frontage Fence Regulations

Fence Regulations Quick Guide

A – Fences may be open and not exceed four feet (4') in height.

B – Fences may be open or solid and not exceed six feet (6') in height.



2. *Fences in Nonresidential Districts.* Fences in nonresidential zoning districts are subject to the general regulations of DGMC Section 28.10.010(a) and the nonresidential district regulations of this subsection.
 - (1) Street and Corner Yards. Open-design fences up to eight feet (8') in height are permitted in street yards.
 - (2) Side and Rear Yards. Fences up to eight feet (8') in height are allowed inside and rear yards.

(Ord. No. 5804, 12/17/19; Ord. No. 5706, 7/10/18)

HISTORY

Amended by Ord. 5828 ZO revisions 2020 on 10/20/2020

Amended by Ord. 5914 ZO - Omnibus 2022 on 2/15/2022

Section 6. That Section 28.11.030(f)(2)(b) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.11.030 Nonconforming Uses

* * *

(f) Loss of Nonconforming Status

(1) Abandonment

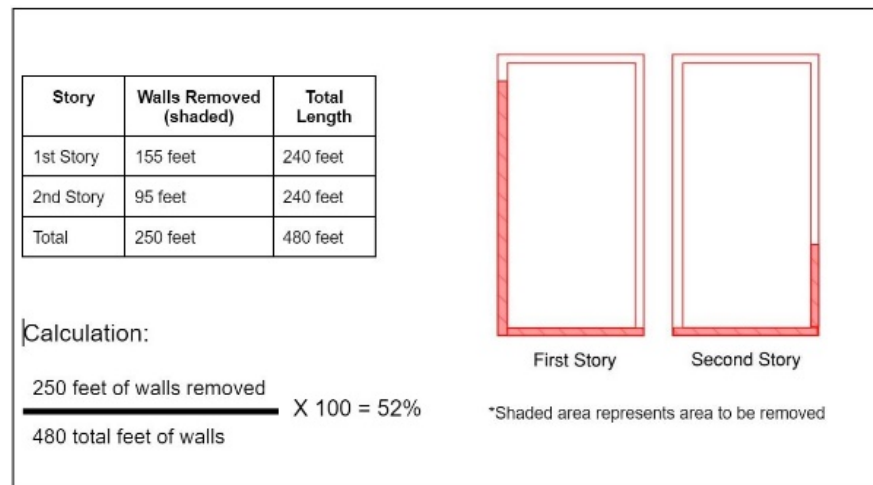
- a. Except as expressly authorized in DGMC Section 28.11.030(f)(1)d, once a nonconforming use is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.
- b. A nonconforming use is presumed abandoned when the use is discontinued or ceases for a continuous period of six (6) months or more.
- c. Any period of discontinuance caused by acts of God or accidental fire are not counted in calculating the length of discontinuance.
- d. Re-establishment of an abandoned nonconforming use may be approved in accordance with the zoning exception procedures of DGMC Section 28.12.080 if the Zoning Board of Appeals finds that all of the following criteria have been met:
 1. the subject property cannot reasonably or economically be used for a conforming use;
 2. the proposed use is equally appropriate or more appropriate in the proposed location than the existing nonconforming use;
 3. the traffic, hours of operation, noise and other operating characteristics of the proposed use will result in no greater adverse impact on the neighborhood than the previous nonconforming use;
 4. the proposed use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and
 5. the use is consistent with the comprehensive plan.

(2) Damage or Destruction

- a. When a building containing a nonconforming use is destroyed or damaged by acts of God or accidental fire, the building may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within twelve (12) months of the date of occurrence of such damage.
- b. When a building containing a nonconforming use is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than fifty percent (50%) of the structure's exterior walls measured in linear feet,

~~market value of the structure, as determined by the property owner's certified appraiser,~~ the use may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located. Exterior walls include supporting structural elements, such as load bearing masonry walls, and in wood construction, studs, sole plat or top plate. Roofs, interior finishes, non-structural exterior finishes, and all foundation walls are excluded. See Figure 11.1 below:

Figure 11.1: Exterior Wall Calculation



* * *

Section 7. That Section 28.11.040(e)(1)(b) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.11.040(e)(1)(b) Nonconforming Structures

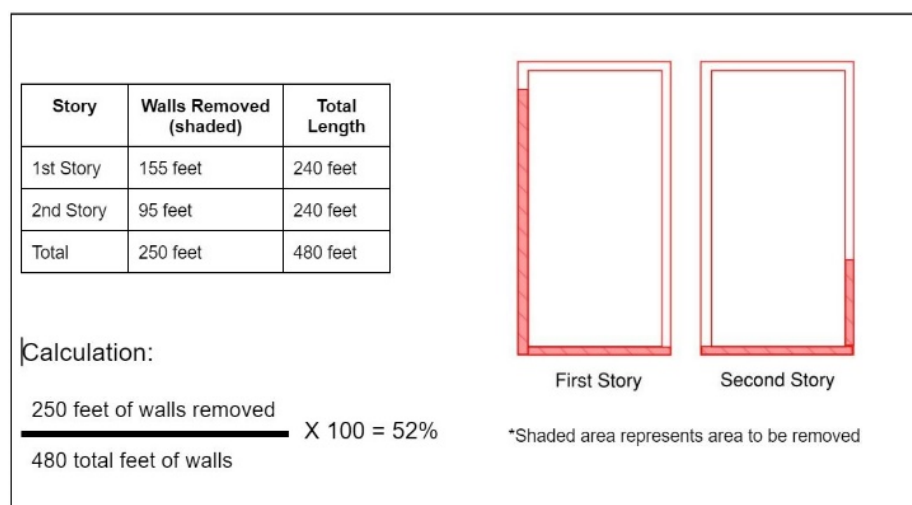
* * *

(e) Loss of Nonconforming Status

(1) Damage or Destruction

- a. When a nonconforming structure is destroyed or damaged by acts of God or accidental fire, the structure may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within twelve (12) months of the date of occurrence of such damage.
- b. When a nonconforming principal structure is demolished, damaged or destroyed by causes within the control of the owner and the extent of demolition, damage or destruction is more than fifty percent (50%) of the ~~structure's exterior walls measured in linear feet, market value of the structure, as determined by the property owner's certified appraiser,~~ the structure may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located. Exterior walls include supporting structural elements, such as load bearing masonry walls, and in wood construction, studs, sole plat or top plate. Roofs, interior finishes, non-structural exterior finishes, and all foundation walls are excluded. See Figure 11.1 below:

Figure 11.1: Exterior Wall Calculation



* * *

Section 8. That Section 28.12.050(i)(4) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.12.050 Special Uses

* * *

(i) Lapse of Approval

- (1) The applicant may submit, and the Village Council may approve, as part of the ordinance authorizing the special use, a maximum 2-year schedule for establishing the approved special use. If such a schedule is not approved by the Village Council, the approved special use will lapse and have no further effect one (1) year after it is approved by the Village Council, unless:
 - a. a building permit has been issued (if required);
 - b. a certificate of occupancy has been issued; or
 - c. the special use has been lawfully established.
- (2) The Village Council is authorized to extend the expiration period for good cause on up to two (2) separate occasions, by up to six (6) months each. Requests for extensions must be submitted to the Community Development Director and forwarded to the Village Council for a final decision.
- (3) A special use also lapses upon revocation of a building permit or a certificate of occupancy for violations of conditions of approval or upon expiration of a building permit to carry out the work authorized by the special use.
- (4) If any special use is ~~abandoned, or is~~ discontinued or not in operation for a continuous period of six (6) months or more, the special use for such use is void, and such use may not be reestablished unless and until a new special use is obtained in accordance with the procedures of this Section.

* * *

Section 9. That Section 28.14.100(b) of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.14.100 Setbacks

* * *

(b) Permitted Obstructions. Yards in all zoning districts must be unobstructed and unoccupied from the ground to the sky except as indicated in Table 14-1.

Table 14-1: Permitted Yard Obstructions

Obstruction/Projection	Permitted in these Yards				Minimum Setback/Maximum Encroachment into required setback
	Corner	Street	Side	Rear	
A/C units, generators, compressors, transformers, associated equipment, rainwater collection and geothermal equipment (ground-mounted)	No	No[1]	Yes	Yes	10 ft. min. setback in R-1 7 ft. min. setback in R-2 6 ft. min. in R-3, R-5, R-5A, R-6 5 ft. min. setback in all other districts
Air conditioner (window unit only)	Yes	Yes	Yes	Yes	No setback required
Antenna, amateur radio	No	No	No	Yes	<u>Ground mounted only:</u> <u>5 ft. min. setback in R-4 district</u> <u>6 ft. min. setback in all other districts</u>
Antenna, receive-only and satellite dish	Yes	Yes	Yes	Yes	
Arbor, pergola or trellis	Yes	Yes	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Architectural building features (e.g., sills, belt courses, cornices, wing walls)	Yes	Yes	Yes	Yes	No setback in DB and DC districts. 1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.
Awning, canopy architectural light shelf or solar shading device	Yes	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft. (nonresidential districts - 2.5 ft. max. encroachment in street setback)
Balcony	Yes	Yes	Yes	Yes	Must meet required district street and side yard setbacks. 10 ft. max. encroachment in rear yard
Basketball standards and backboards	Yes	Yes	Yes	Yes	
Bay window (1st floor only; with or without foundation)	Yes	Yes	Yes	Yes	Street setback - 1.5 ft. max. encroachment Side setback - 1.5 ft. max. encroachment if setback is < 6 ft. or 2 ft. max. encroachment if setback is ≥ 6 ft. Rear setback - 2.5 ft. max. encroachment
Bicycle Parking	Yes	Yes	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Breezeway	No	No	No	Yes	10 ft. max. max. encroachment
Chimney	Yes	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.

Clothesline	No	No	Yes	Yes	5 ft. min. setback
Compost pile or container (See Chapter 13 of this Code)	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Deck or patio, uncovered and open-air (see also “porch,” below) [2]	Yes	Yes	Yes	Yes	5 ft. max. encroachment in street setback 5 ft. min. setback in side and rear property line
Dog house or dog run	No	No	No	Yes	No setback in DB and DC districts. 5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Driveway or uncovered walk	Yes	Yes	Yes	Yes	1 ft. min. (interior) or rear setback
Eaves and gutters	Yes	Yes	Yes	Yes	In street setback and rear setback - 2.5 ft. max. encroachment In side setback - 2 ft. max. encroachment
Electric vehicle charging equipment	Yes	Yes	Yes	Yes	In front and rear - 2.5 ft. max. encroachment In side - 2 ft. max. encroachment
Fence	Yes	Yes	Yes	Yes	See also Sec. 10.010
Fire escape (open or lattice enclosed, fireproof outside stairways)	Yes	Yes	Yes	Yes	2 ft. max. encroachment
Fireplace, fire pit, outdoor cooking/kitchen areas (See Chapter 13 of this Code)	Yes[3]	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts. Must meet required R district street setback in corner yards.
Flag pole	Yes	Yes	Yes	Yes	Equal to the height of the pole; no max. encroachment of flag beyond lot line
Garage (detached)[4]	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Garden features (e.g., cold frames, hoop houses, greenhouses)	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Gazebo	Yes	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Hot Tub (and associated equipment)	Yes[3]	No	Yes	Yes	10 ft. min. setback in R-1 and R-2 Districts 7 ft. min. setback in all other R districts. Must meet required R district street setback in corner yards
Parking, open	Yes	Yes	Yes	Yes	See also DGMC Section 28.7.070
Playground equipment & playhouses (excluding equipment located on public parks and playgrounds or on school or day care center playgrounds, tot lots)	Yes[3]	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts Must meet required R district street setback in corner yards.
Porch, covered and open on at least 3 sides (see also “deck,” above)	Yes	Yes	Yes	Yes	5 ft. max. encroachment in street setback and rear setback (See also DGMC Section 28.14.100(c)) Must meet required district side yard setbacks
Shed, carport or storage structure	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Sign	Yes	Yes	No	No	See Article IX
Solar panel and equipment (building-mounted)	Yes	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.

Solar panel and equipment (ground-mounted)	No	No	Yes	Yes	2 ft. max. encroachment in side setback; 10 ft. max. encroachment in rear setback. See also DGMC Section 28.6.010(m)
Sport courts & accessory lighting	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Sports equipment	No	No	Yes	Yes	5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Steps (for access to building or lot; max. 4 feet above grade)	Yes	Yes	Yes	Yes	No setback in DB and DC districts. 1 ft. min. setback
Swimming pool (in-ground & above-ground and associated equipment)	No	No	Yes	Yes	10 ft. min. setback in R-1 and R-2 districts 7 ft. min. setback in all other R districts
Vegetable Garden	Yes	Yes	Yes	Yes	No setback required
Walkway (covered)	No	No	No	No	In residential districts - principal building setbacks apply In nonresidential districts - no side or rear setback required
Wall	Yes	Yes	Yes	Yes	See also DGMC Section 28.10.010
Wall, retaining	Yes	Yes	Yes	Yes	No setback in DB and DC districts. 1 ft. min. setback
Yard features (e.g., ornamental light standards, anchored lawn furniture and decorations, sundials, statues, bird baths, ponds, sculptures, seat walls, etc.)	Yes	Yes	Yes	Yes	No setback in DB and DC districts. 5 ft. min. setback in R-4 district 6 ft. min. setback in all other districts
Wheelchair lifts and ramps that meet federal and state accessibility standards	Yes	Yes	Yes	Yes	1 ft. min. setback
Window wells	Yes	Yes	Yes	Yes	1.5 ft. max. encroachment if setback is < 6 ft. 2 ft. max. encroachment if setback is ≥ 6 ft.

[1] Except for single family residential uses, units may be located on the building's primary street facade and in front of a bump as long as the unit is screened by a wing wall made of the same material as the primary façade which is attached to the primary building via a full foundation and is at least as tall as the equipment.

[2] Provided that in Planned Unit Developments or other subdivisions containing ten (10) or more lots in which permanent common open space is provided under the terms of the recorded covenants or a public park, patios and decks may be placed one foot (1') from the rear and side lot line.

[3] Only on corner lots, may be placed up to the minimum required setback, provided that they are screened on all sides by an open fence, wall, dense hedge or other landscaping that provides at least eighty percent (80%) direct view blocking. The hedge or landscaping must reach a minimum height of thirty-six inches (36") at maturity.

[4] Only on corner lots, detached garages may be placed up to the minimum required street setback provided that they are located between the rear property line and the rear wall of the building.

Section 10. That Section 28.15.080 of the Zoning Ordinance is hereby amended to read as follows:

Sec 28.15.080 Words And Terms Beginning With "E"

* * *

Eave. The lower edge of a sloping roof surface or the top edge of a parapet or flat roof or the lower edge of a butterfly roof structure. See Figure 15-7.

Figure 15-7: Eave

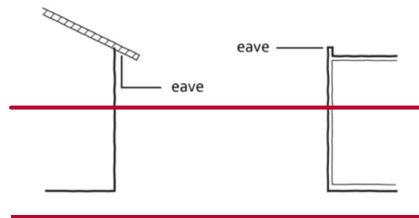
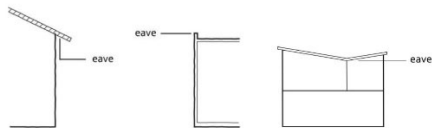


Figure 15-7: Eave



* * *

Section 11. That all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 12. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk

APPROVED

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING

September 18, 2023, 7:00 P.M.

23-PCE-0022: A petition seeking multiple text amendments to various Articles within Chapter 28 (Zoning Ordinance) of the Municipal Code. Village of Downers Grove, Petitioner

Chairman Rickard asked for the staff presentation.

Senior Planner, Flora Leon, stated the petition was a handful of text amendments. She said currently the Downers Grove municipal code stated that when a nonconforming principle structure or use was demolished, damaged, or destroyed by causes within the control of the owner and the extent was more than 50% of the market value of the structure, it may not be reestablished except in compliance with all regulation applicable to the zoning district in which it's located. She said in several instances property appraisals vary and are open to third party analysis and review. Ms. Leon said the Village was aiming to create a more tangible and reliable process to determine the loss of nonconforming structures and uses.

Ms. Leon then provided an overview of additional text amendments. She said they added the use categories of therapists and counselors under business and professional office in Article 5, added a requirement for bicycle parking for all new apartments and condos, proposed screening be a solid hedge for recreational vehicles, and added provisions regarding vehicle repair maintenance and standing space in terms of parking stalls. In regards to fencing, two text amendments were proposed, one that clarified 50% of the closed area in open design fences, and an amendment was proposed to allow residential districts adjacent to non-residential districts, an option to install up to 8 feet in fence height. Finally, it was clarified what the discontinuation of special use would mean in Article 12, provisions were added for setbacks for amateur antennas and added setback regulations in Article 14, and staff added provisions on how to measure the eave height of butterfly style roofs.

Ms. Leon discussed criteria for the text amendments and staff found the criteria had been met.

Chairman Rickard asked about the nonconforming structures. He asked how they measured linear walls and how that played into the equation. He also asked if someone took down part of a wall instead of the whole wall would that count as a removed wall, such as with a project that extend from the first to second floor. He said it was a gray area because people could get creative with that. Chairman Richard asked if it should be square footage of exterior wall to classify it so then it would not matter if they take out a partial or full height of a wall. He said a lot was left to interpretation looking at just a linear measurement of a wall.

Chairman Rickard asked for public input. No members provided public input.

Mr. Zawila stated it was a matter of record that Chairman Rickard voiced a potential option on how to measure the walls. He said they could review the surface area component ahead of presenting to council, but the intent of the proposed amendment was to take a linear measurement.

APPROVED

Chairman Rickard said he was in favor of getting away from the appraisal and going to a more measurable objective way to determine but said if they could come up with a better way to measure it. The rest of the Plan Commission agreed.

BASED ON THE PETITIONER'S SUBMITTAL, THE STAFF REPORT, AND THE TESTIMONY PRESENTED, IT IS FOUNDED THE PETITIONER HAS MET THE STANDARDS OF APPROVAL FOR A ZONING TEXT AMENDMENT AS REQUIRED BY THE VILLAGE OF DOWNERS GROVE ZONING ORDINANCE AND IS IN THE PUBLIC INTEREST, AND THEREFORE, COMMISSIONER K. PATEL MADE A MOTION THAT THE PLAN COMMISSION RECOMMEND TO THE VILLAGE COUNCIL APPROVAL OF FILE 23-PCE-0022 REGARDING THE PROPOSED AMENDMENTS ARTICLES 5, 7, 10, 11, 12, 14, AND 15 OF THE ZONING ORDINANCE.

SECOND BY COMMISSIONER BOYLE

ROLL CALL:

AYE: K. PATEL, BOYKE, FRANKOVIC, TOTH, V. PATEL, CHAIRMAN RICKARD

NAY: NONE.

MOTION APPROVED. VOTE: 6-0

/s/ Celeste K. Weilandt
Recording Secretary

(As transcribed by Ditto Transcripts)