

## ORDINANCE NO: 2099

## AN ORDINANCE AMENDING CONDITIONAL USE PERMIT REGULATIONS

WHEREAS, the Wisconsin legislature has set zoning standards for the regulation of Conditional Use Permits within Wis. Stat. § 62.23(7)(de);

WHEREAS, the Village of Shorewood, has further defined Conditional Uses within Article V of Chapter 535 Zoning, which requires that the Plan Commission consider Conditional Uses upon application and a public hearing;

WHEREAS, the Plan Commission first discussed at their meeting on September 25, 2018 and has subsequently recommended on January 29, 2019 that the Village Board amend its current ordinance pertaining to the definition, review, notice and consideration procedures, and limitations of Conditional Uses;

NOW, THEREFORE, at a regular meeting of the Village Board of the Village of Shorewood, Milwaukee County Wisconsin held on the 4th of March 2019, a quorum being present and a majority of the Board voting therefore said Board does ordain as follows:

**SECTION 1**

That Section 535-23 "Conditional use permit" of Article V "Conditional Uses" of Chapter 535, "Zoning," of the General Ordinances of the Village of Shorewood be amended to read as follows:

Due to their varying design and operational characteristics, and potentially deleterious neighborhood impact, conditional uses, as identified within individual Zoning Districts in the Village Code, require a transparent, public review process on a case-by-case basis in order to determine whether or not they will be compatible with surrounding uses and development patterns.

The Village Plan Commission may authorize the Planning and Development Department to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this chapter and are found to be in compliance with the performance standards of Article VIII and do not adversely affect property values.

**SECTION 2**

That the title of Section 535-25 "Review and approval" of Article V "Conditional Uses," of Chapter 535, "Zoning," of the General Ordinances of the Village of Shorewood be amended to read as follows:

Review, notice, consideration and limitations.

### SECTION 3

That the newly renamed Subsection 535-25 "Review, notice, consideration and limitations." of Article V "Conditional Uses," of Chapter 535, "Zoning," of the General Ordinances of the Village of Shorewood be amended to read as follows:

The Village Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.

The Village Clerk shall give notice of the required public hearing through publication of a Class II Notice, under Chapter 985 of the Wisconsin Statutes in the official Village newspaper. To the extent practical, the Planning & Development Department shall also provide notice to the owners of record of properties within 200 feet of the property for which the conditional use is being considered at least seven days prior of the hearing; however, compliance with this neighboring property owner notice shall not be a requirement for providing proper legal notice in order to take action, nor shall its non-compliance invalidate any action taken.

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- E. The Plan Commission shall render its written decision within 60 days of the close of the public hearing, including any reasons for granting or denying the permit, unless an extension is agreed upon by the applicant.
- F. No alteration, extension or other modification of a conditional use shall be permitted, unless specifically approved by the Plan Commission. Any application for an alteration, extension or other modification will be filed and processed as an original application under this section.
- G. Any conditional use approved by the Plan Commission operated in conformity with the original application and any conditions imposed within the approval shall be construed to run with the land and benefit all future owners and occupants of the affected premises, unless the same shall lapse or be terminated as herein provided. However, any conditional use approved by the Plan Commission shall become null and void if the use has been abandoned or discontinued for a period of one (1) year.
- H. Any conditional use operated in conformity with the original application and any conditions imposed within the approval by the Plan Commission shall lapse and become null and void one (1) year after the date of approval if the use has not commenced, or a valid building permit has not been obtained or construction is not underway. If a valid building permit has been obtained or construction is underway, the approval will expire if construction has not been completed within 18 months of the granting of the conditional use permit. The applicant may obtain an extension of these limitations through a request to the Plan Commission prior to expiration with a written explanation for the extension of time, and a timeline or schedule for completion.

- I. The Plan Commission shall not consider an application for a similar use under the same conditions or information that was denied by the Plan Commission within one year from the date of denial. Upon review of the application, the Planning and Development Director shall make the initial determination of whether or not an application is similar, or that no new information has been provided or conditions have not changed. After that initial determination, the Planning & Development Director will bring the application to the Plan Commission for confirmation, if desired by the applicant. If the Plan Commission modifies that determination and deems that the use is not similar, or that conditions have changed or new information has been provided, the Planning & Development Director will process the submission as an original application and schedule consideration for the next meeting of the Plan Commission.
  
- J. The Plan Commission may terminate a conditional use after a public hearing, if any of the following determinations are made:
  - (1) The conditional use has not operated in conformity with the original application or any conditions imposed within the approval.
  - (2) The conditional use has had a demonstrably negative impact on the surrounding area.
  - (3) The applicant or entity granted the conditional use violates, allows or suffers the violation of the ordinances of the Village of Shorewood, the State of Wisconsin or the United States on the premise covered by the conditional use.


SECTION 4

That all Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance are hereby to such extent repealed.

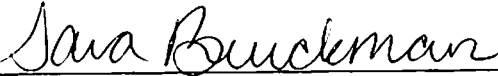
SECTION 5

That this Ordinance shall take effect and be in force from and after its passage and posting.

PASSED AND ADOPTED by the Village Board of the Village of Shorewood, Milwaukee County, Wisconsin, this 4th day of March, 2019.

  
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Allison Rozek, Village President

Countersigned:

  
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Sara Bruckman, CMC, WCMC, Village Clerk