



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

ORDINANCE NO. 16-003

**AN ORDINANCE AMENDING SECTION 94.3.02 OF THE ZONING ORDINANCE ENTITLED
*TREATMENT OF ALLOWABLE USES BY ZONING DISTRICT.***

WHEREAS, the Village of Weston is authorized to prepare, amend and adopt a zoning ordinance under Wis. Stats. §§ 62.23 and 61.35; and

WHEREAS, the Village adopted a new Chapter 94 in March 2015, to serve as the Village's general zoning ordinance and the Village's extraterritorial zoning ordinance for the portions of the Town of Weston defined as the extraterritorial zoning area; and

WHEREAS, Village Staff has requested an amendment to correct sections of the zoning code to be consistent with changes made to the ordinance when the Town of Weston adopted the zoning ordinance in December 2015 and Marathon County in January 2016; and

WHEREAS, the Plan Commission has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Village limits; and

WHEREAS, the Joint Town and Village Extraterritorial Zoning Committee has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Extraterritorial Zoning limits of the Town of Weston; and

WHEREAS, the Joint Village and Town of Weston Extraterritorial Zoning Committee and Village Plan Commission have held a joint public hearing on this ordinance on April 11, 2016, in compliance with Wis. Stat. § 62.23, and following such hearing the Board considered public comments and the recommendation of the Village Plan Commission and Joint Village and Town of Weston Extraterritorial Zoning Committee; and

WHEREAS, the Village Board finds the proposed amendment is reasonable, consistent with the Village Comprehensive Plan, and in the public interest;

NOW, THEREFORE, the Village Board of Weston, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: Section 94.3.02 of the Village of Weston Zoning Ordinance entitled *Treatment of Allowable Uses by Zoning District* is hereby amended to provide as follows:

Section 94.3.02: Treatment of Allowable Uses by Zoning District

The allowable land uses for each standard zoning district established in Article 2 are listed in Figures 3.04 and 3.05. Article 4 contains detailed descriptions and performance standards for the land uses listed in these figures. No land use is permitted or permissible on a property unless it can be located or implemented on that property in full compliance with all applicable provisions of this Chapter, unless a variance has been granted pursuant to Section 94.16.11.

- (1) **Land Uses Permitted by Right.** Land uses listed as permitted uses (designated by the letter “P” in Figures 3.04 and 3.05) are permitted by right, subject to all applicable requirements of this Chapter and other regulations.
- (2) **Land Uses Listed as Conditional Uses.** Land uses listed as conditional uses (designated by the letter “C” in Figures 3.04 and 3.05) are allowed only by conditional use permit, subject to the procedures in Section 94.16.06, other applicable requirements of this Chapter, and other applicable regulations. Uses listed in these figures as conditional uses that were legal land uses (permitted or conditional) prior to March 18, 2015 shall not require a new conditional use permit so long as any previously approved conditions of use and site plan are followed. Any substantial modification of such use or from the previously approved condition of such use, in the determination of the Zoning Administrator, shall require application and Village consideration of a new conditional use permit under Section 94.16.06.
- (3) **Temporary Land Uses.** Temporary land uses (designated by the letter “T” in Figures 3.04 and 3.05) are allowed on a temporary basis subject to temporary use approval requirements in Section 94.16.07.

~~(4) **Unlisted Land Uses.** For land uses that do not appear to be encompassed by a land use category listed in Figures 3.04 and 3.05 the Zoning Administrator is authorized to determine that such an “unlisted” land use has the same permitted-by-right, conditional, temporary, or prohibited status of a listed land use category in a certain zoning district, based on evaluation of how the unlisted use compares to a listed land use category using the following factors:~~

- ~~(a) The relative characteristics of the unlisted land use, including equipment, processes, and employment density for business uses and population density and scale for residential uses.~~
- ~~(b) The relative amount of site or building area devoted to the unlisted land use, and the relative size, scale, and density of the use.~~
- ~~(c) The relative type and amounts of activity, as measured by traffic, loading, sales, customer type, products or services produced or sold, hours of operation, and other reasonably objective factors.~~
- ~~(d) The relative performance of the land use different standards in this Chapter, such as noise, odors, lighting, and signage.~~
- ~~(e) Any allowances or limitations under applicable Wisconsin Statutes.~~

~~Prior to making such a determination, the Zoning Administrator may seek a recommendation from the Plan Commission.~~

- ~~(5) (4) **Multiple Land Uses in Single Building or on Single Lot.** Where, in the determination of the Zoning Administrator, multiple land uses are proposed or in existence within a single building and/or on a single lot, he or she shall first make a determination whether each such use is a principal use or an accessory use. All principal uses sharing a single building and/or a single lot must be listed as either a permitted land use or a conditional land use in the associated zoning district, except in the case of legally established nonconforming uses under Article 15. If any such uses are listed as a conditional use, they shall be subject to the associated procedure requirements in Section 94.16.06.~~

SECTION 2: The amendment effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

SECTION 3: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure,

land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 18th day of April, 2016

WESTON VILLAGE BOARD

By: _____
Barbara Ermeling, its President

Attest:

Sherry Weinkauf, its Clerk

APPROVED: _____

PUBLISHED: _____