

**(MODEL ZONING ORDINANCE)**

**PROPOSED**  
**ZONING REGULATIONS**

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TOWN OF WESTON, MARATHON COUNTY, WISCONSIN

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**Drafted February, 1991**

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**with**  
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**Note: (May, 2003): Weston became a Village in 1996**

## **Model Zoning Ordinance On Line**

**June, 2003**

By Russell Knetzger, AICP  
Milwaukee, WI

A model zoning ordinance has been placed on the WAPA web site for use by anyone ([www.wisconsinplanners.org](http://www.wisconsinplanners.org)). Drafted in February, 1991 to implement the new master plan for Marathon County's Town of Weston (population 11,000 and made a Village in 1996), the 216 page ordinance was offered to WAPA readers in July, 1991. At a nominal cost, users had to purchase a paper copy, or buy a computer disk, from the North Central Wisconsin Regional Planning Commission (NCWRPC) in Wausau, Wisconsin. Now, with the convenience of e-mail and the Internet, access to the ordinance is free. It is a modifiable MicroSoft Word Windows 98 file so that adjustments can be made to suit your needs.

The ordinance is based upon s.62.23 Wis. Statutes (city planning), but can also be used by villages, or by towns that have adopted village powers. Counties and non-village power towns would need to make modifications to such sections as adoption and amendment, how to process conditional uses, and whether or not site plan approvals would go beyond the town level to the county level. Currently counties are not known to make such reviews in Wisconsin except as part of Conditional Uses.

The version on the web site has been adapted to two "Smart Growth" provisions. One is Wisconsin's January 1, 2001 mandatory inclusion of a "Traditional Neighborhood Development" section in the zoning ordinances of communities over 12,500 population (see s.66.034(3), Wis. Statutes, renumbered later to 66.1027(3)). The adaptation has been done by designating the Planned Unit Development section, and its corresponding OPD Overlay PD District, as intended to implement said s.66.1027(3) statute. Similarly with the Smart Growth encouragement in that same statute of "Conservation Subdivisions", said Planned Unit Development section is designated for that purpose.

This ordinance incorporates time-tested concepts from earlier model zoning ordinances, such as Waukesha County (1950s by William L. Nelson), and Kenosha County (1980s by Roland Tonn and George Melcher using the 1964 SEWRPC model). It also utilizes features of the prior Town of Weston ordinance that was based upon the model by Barton Aschman Associates, a consulting firm of the 1960s, adopted by many Wausau metropolitan area communities. Features are also taken from the ordinance of the Town of Mt. Pleasant in Racine County, drafted by Russell Knetzger in the late 1960s. Ideas were also borrowed from a 1990 NCWRPC model ordinance by then-director Arno W. Haering.

All sections and all definitions were re-examined and updated to 1991, and reviewed again in more cursory fashion for the June, 2003 insertion on the WAPA web site. Districts range from unsewered rural (but the agricultural preservation zone is a "holding district" where development may not be imminent, but is expected) to diversified urban development on sewers. It contains single family 1/4 acre to 1-acre lot sizes, mobile homes, duplexes and several multiple family residence districts. The commercial section ranges from neighborhood convenience (suitable for intermixture in "TND – Traditional Neighborhood Developments") to office-only districts, to a blended office/industrial district called Business Park.

The industrial district Permitted Uses are based principally upon compliance with the performance standards chapter, and commercial and industrial permitted uses are described primarily by class and characteristic, rather than only by exact use name.

All non-single family uses are only permitted subject to approval of building, site, and operational plans (BSOP) by the Planning Commission. BSOP Review guidelines are built into the ordinance.

- F. The phrase "used for" shall include "arranged for", "designed for", "intended for", "maintained for" and "occupied for";
- G. The word "person" applies to persons, associations, proprietorships, corporations, and partnerships;
- H. All measured distances shall be to the nearest inte-gral foot. If a fraction is one half foot or less, the next below shall be taken.

17.01-4 DEFINITIONS

(See Appendix of words arranged alphabetically)

17.02 ADMINISTRATION AND ENFORCEMENT

17.02-1 ORGANIZATION

The administration of this Ordinance is hereby vested in the following three offices of the Town of Weston government:

- (1) Town Planning Commission (see 17.02-2)
- (2) Town Zoning Administrator (see 17.02-3)
- (3) Board of Zoning Appeals (see 17.13)

17.02-2 TOWN PLANNING COMMISSION

(1) Composition and Appointment: The Commission referred to in this section and elsewhere in this Ordinance shall be composed and appointed as provided for in ss.62.23(1), Wis.Statutes (also see ss.60.62(1)) and as further provided for in any Town ordinance implementing said Statute.)

(2) Compliance to Open Meeting Law: All meetings and hearings of the Commission shall be conducted in accordance with sections 19.81 through 19.98 of the Wisconsin Statutes, the Open Meeting Law.

(3) Duties:

A. The primary duties of the Commission with respect to this Ordinance shall be:

1. to carry out ss.62.23(2) regarding the making and maintaining of a master plan for the physical development of the municipality; and
2. to also be cognizant of such plans as may be adopted by adjacent municipalities, the county, or the regional planning agency referred to in ss.66.945 Wis. Stats.; so as
3. to make its recommendations and conduct its administration of this Ordinance, pursuant to ss. 62.23 (3) Wis.Stats., in accordance with said Town plan and with such of the other plans as the Commission shall endorse.

B. Additional duties of the Commission shall be:

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1. to hold informational or public hearings as assigned to the Commission by this Ordinance;
2. to supervise the office of the Zoning Administrator in the administration of this Ordinance.

(4) Powers:

- A. to enter upon any lands and make inspections thereof, in the performance of Commission duties, as provided for in ss.62.23(4) Wis. Statutes.
- B. to recommend to the Town Board amendments to this Ordinance, either as petitioned by owners of land or their agents, (with or without modifications or conditions as the Commission shall deem appropriate), or as petitioned by the Commission itself.
- C. to grant or deny without Town Board approval conditional use permits as set forth in 17.06 CONDITIONAL USES.
- D. to review, negotiate, and approve without Town Board approval applications for Zoning Permits where the District regulations require Commission action as set forth in 17.05 REVIEW OF BUILDING, SITE AND OPERATIONAL PLANS.
- E. to suspend or revoke any zoning or conditional use permit as approved by the Commission where the Commission finds non-compliance to the permit, or to delegate said authority to the Zoning Administrator.

17.02-3 ZONING ADMINISTRATOR

(1) There is hereby created the office of Zoning Administrator for the Town of Weston as the administrative and enforcement officer for the provisions of this Ordinance.

(2) Building Inspector Designated: The Building Inspector is hereby designated as the Zoning Administrator, and for such duties, may be provided with the assistance of such others as the Town Board may direct.

(3) Duties: it shall be the duty of the Zoning Administrator to administer, supervise and enforce the provisions of this Ordinance and to:

- A. Record all permits issued, inspections made, work approved and other official actions.
- B. Inspect all structures, lands, air, and waters within the Town as is necessary to assure compliance with this Ordinance.
- C. Investigate all complaints made relating to the location of structures and the use of structures, lands, air, and waters.
- D. Give Notice of all violations of this Ordinance to the owner, resident, agent or occupant of the premises.
- E. Report Uncorrected Violations to the Town Attorney and assist that officer in the prosecution of said Ordinance violations.
- F. Prepare agendas for the Town Planning Commission and Zoning Board of Appeals including processing of applications for action by those bodies.

(4) Powers: The Zoning Administrator shall have all the powers necessary to enforce the provisions of this Ordinance without limitation by reason of enumeration including the following:

- A. Issue Zoning Permits and Occupancy Certificates upon application for the erection or use of a structure, land, air or water where such erection or use complies with all of the Provisions of this Ordinance.
- B. Permit temporary events for periods not to exceed ten (10) days for specific purposes such as: temporary carnivals, sports activities over public ways, church bazaars, charity fund raisers, and revival meetings which are not detrimental to the public health, safety, morals, comfort, convenience, or general welfare; provided, however, that said use or operation and any incidental temporary structures or tents

are in conformance with all other ordinances and codes of the Town;

- C. Enter Premises, Public or Private, at any reasonable time for any proper purpose to make those inspections as deemed necessary to ensure compliance with this Ordinance. If, however, entry is refused after presentation of identification, in cases of emergency the administrator may procure a special inspection warrant in accordance with Sect. 963.10 of the Wisconsin Statutes.
- D. To Revoke any Zoning Permit or Occupancy Certificate upon reasonable cause or question as to proper compliance and to issue Cease and Desist Orders requiring the cessation of any activity which is in violation of this Ordinance, such revocation to be effective until reinstated by said Administrator or the Board of Appeals.
- E. Commence any Legal Proceedings in the name of the Town and with the authorization of the Town Board necessary to enforce the provisions of this Ordinance.
- F. Recommend to the Planning Commission any additional use regulations the Administrator shall deem necessary to make the operation of this Ordinance more effective.

17.02-4 ZONING PERMIT AND OCCUPANCY CERTIFICATE

(1) Required: No new building and no existing building which is to be remodelled or relocated shall be issued a Building Permit until a Zoning Permit is issued certifying that such construction or change would comply with the provisions of this Ordinance, based upon the information and plans supplied to the Zoning Administrator as required hereunder. Occupancy or use of land, air, water, or buildings and structures shall be prohibited until an Occupancy Certificate has been issued certifying that all appropriate provisions of this Ordinance have been met.

(2) Procedure: Applications for Zoning Permits and Occupancy Certificates shall be made to the Zoning Administrator on forms furnished by the Administrator

prior to or at the same time as an application for a Building Permit or prior to the commencement of any use not involving a Building Permit, and shall include the following where pertinent and necessary for proper review.

- A. A statement by the applicant as to the intended use of the premises and buildings thereon.
- B. An accurate map of the property drawn to a reasonable scale and properly dimensioned showing:
  1. The boundaries of the property involved, and address including subdivision lot and block number or metes and bounds description.
  2. The location of the center line of any abutting streets, existing highway access restrictions, proposed street access points and the locations of off street parking, loading areas and drive-ways.
  3. The location on the lot of any existing buildings, proposed additions, or proposed new buildings, including the measured distances between such buildings and from the nearest portion of such buildings to the lot lines and to the center line of any abutting street.
  4. The proposed floor elevation of any proposed buildings in relation to the existing and/or established grade of any abutting streets and the general direction of surface drainage on the lot including the location of any drainage way. Such elevations shall be referenced to Mean Sea Level datum.
  5. The high water line of any stream or lake which abuts the property or otherwise directly affects it by flooding.
  6. The boundaries of soil types shown as existing on the property on USDA Soil Conservation Service maps where these are required by the Zoning Administrator.



C. Water Supply and Sewage Disposal: Where the proposed use involves human occupancy, and connection is not to be made to municipal water or sewer service, satisfactory evidence of a safe and adequate supply of pure water shall be provided and the locations of any well for that purpose, as well as the method and location of approved sewage disposal shall also be mapped.

(3) Permit Issuance: Upon Determination of Compliance by the Zoning Administrator of the applicant's request with all applicable provisions of this Ordinance, including where necessary approval by the Plan Commission of Building Site and Operational Plans pursuant to Sect. 17.05 and upon payment of the proper fee (Sect. 11.5), a Zoning Permit shall be issued. The applicant shall post such permit in a conspicuous place at the site.

(4) Final Inspection: Within 10 days after the notification of the completion of the erection, alteration or relocation of the building or of intent to commence a use, the Building Inspector shall make an inspection of the premises and any building thereon and if the building and the intended use thereof and the proposed use of the premises comply with the requirements of this Ordinance, an Occupancy Certificate shall be issued.

(5) Expiration: If within 12 months of the date of application for a Zoning Permit, no Occupancy Certificate has been issued, any Zoning Permit related thereto shall lapse and the Zoning Administrator shall make immediate investigation to ascertain that no use or occupancy has in fact commenced without proper authority. Upon showing of valid cause, the Zoning Administrator may grant a one-time extension of such permit for a period not to exceed six (6) months.

(6) Temporary Occupancy Certificate: Pending the issuance of a regular permit, a temporary permit for a non-residential use may be issued for a period not exceeding six (6) months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately insure occupant safety. A temporary permit shall be voided if the building fails to conform to the provisions of this Ordinance to such a degree as to render it unsafe or unfit for the occupancy.

17.02-5 ZONING COMPLIANCE STATEMENTS

Owners of properties or their agents, for their convenience and without actually applying for a zoning permit, upon paying a separate fee therefore, may request the Zoning Administrator to issue a "zoning compliance statement" stating whether the existing or prospective use or construction on that property complies with, or is likely to comply with, the terms of this ordinance. The Zoning Administrator may refuse to issue such permits except on an "as time is available basis" based upon work flow in the zoning office, and may condition such statements as not covering aspects that are in the opinion of the administrator speculative, or indeterminate from the information at hand.

17.02-6 FEES

(1) Fees: for Zoning Permits, Occupancy Certificates, Conditional Uses, Zoning Changes and Amendments, Variances or other requests before the Board of Appeals, the applicant shall be required to defray the cost of administration, map preparation, inspections, public notices and record keeping. The Town Board shall, from time to time upon recommendation of the Planning Commission, establish a fee schedule by resolution, which shall update said schedule of (2) following. The fee schedule shall be published and made available through the Zoning Administrator.

(2) Schedule of Zoning Fees: (see following excerpt from Manual of Fees, Town of Weston, Marathon County, Wis.)

17.02-7 DOUBLE FEES

A double fee may be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

**(2) SCHEDULE OF FEES, 1991 TOWN OF WESTON, MARATHON COUNTY, WI**

ZONING PERMITS

Single and Two-Family	
-New	\$25
-Addition/Alteration/Conversion	\$20
Multi-Family	
-New	\$25 + \$6/unit
-Addition/Alteration/Conversion	\$20 + \$6/add unit
All Other Principal Structures	
-New	\$30 + \$10/1000 s.f.
-Addition/Alteration/Conversion	\$20 + \$10/1000 s.f.
Accessory Structures	
-New/Addition/Alteration/Conversion	\$15
Temporary Use	\$15
Occupancy Certificate	\$15 first use, \$10 each added use
Zoning Compliance Statements	One Half above rates + \$5 typing

SIGNS

New	\$30
Additions/Alterations	\$20

SITE PLAN REVIEWS

General (Section 17.05)	\$100
Mobile Home Development	\$200
Overlay Extractive/Landfill (OEL)	\$100 + \$2/acre
Overlay Planned Development (OPD)	\$100

ZONING PUBLIC HEARING

Rezoning/Amendment	\$200
Conditional Use	\$150

BOARD OF APPEALS

\$85

17.02-8 ENFORCEMENT AND VIOLATIONS

(1) Financial Sureties: The Planning Commission may require that a performance bond or letter of credit be obtained for the benefit of the Town and filed with the Town so as to insure compliance with the terms of this ordinance or a permit. In setting the amount of the bond or letter of credit, consideration should be given to: 1) the purpose of the bond or letter of credit, 2) the use to which any forfeited money is to be applied, and 3) the time when it may be applied and any cost increases due to time or inflation that may be incurred by the Town in the event of noncompliance with this ordinance or the terms of a permit, or that may be incurred for purposes of rehabilitation. The amount of the bond may be subject to further review. Failure to obtain or maintain such bond or letter of credit shall invalidate any permit.

(2) Violations, Injunctions, Abatement and Removal: It shall be unlawful to construct, develop or use any structure, or develop or use any land, water, or air in violation of any of the provisions of this ordinance or order of the Zoning Administrator or Board of Appeals. In case of any violation, the Town Board, the Town Attorney, the Zoning Administrator (see 17.02-3(4)E.), or any owner of real estate affected who would be specifically damaged by such violation, may institute appropriate legal action or proceedings to enjoin a violation of this ordinance, or seek abatement or removal. In addition, those actions commenced on behalf of the Town may seek a forfeiture or penalty provided herein.

(3) Proceedings:

- A. Civil Proceedings: Pursuant to the provisions of section 66.12 of the Wisconsin Statutes, an action for violation of a municipal ordinance is deemed a civil action. Accordingly, Chapters 801 to 847 of the Wis. Statutes shall apply where applicable to violations of this ordinance.
- B. Town Attorney: After Town Board consultation, the Town Attorney may commence legal actions or proceedings as outlined above and may proceed pursuant to the proceedings outlined in Wisconsin Statutes sections 66.119, 66.12 or 288.10 or

pursuant to the issuance of a summons and complaint.

- C. Citations: Citations may be issued by the Zoning Administrator, or authorized deputies.
- D. Special Inspection Warrants: The provisions of Wisconsin Statutes section 66.122 and 66.123 shall govern the issuance of all special inspection warrants.
- E. Statute of Limitations: Pursuant to Wisconsin Statutes section 893.93 (2)(6) any action to recover a forfeiture or penalty imposed by ordinance or regulation, when no other limitation is prescribed by law, shall be commenced within two years of said violation. In those situations in which there occurs a continuing violation in existence for more than two years prior to the issuance of the complaint, and wherein each day the violation exists continues to constitute a separate offense, no penalty may be imposed for each day of violation occurring more than two years prior to the commencement of the action; a penalty may be imposed, however, for each day of violation occurring within the two year period prior to the issuance of the complaint.

(4) Penalties:

- A. General Penalties: Any person, partnership, firm, or corporation who fails to comply with the provisions of this ordinance or any order of the Zoning Administrator issued in accordance with this ordinance shall, upon conviction thereof, forfeit not less than Ten Dollars (\$10) nor more than Five Hundred Dollars (\$500), and the cost of prosecution for each violation including court costs and reasonable attorney fees; and in default of payment of such forfeiture and costs shall be imprisoned until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.
- B. Schedule of Cash Deposits for Violations Charged Under A.: The cash deposit for the violation of

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any section or subsection of this ordinance shall be One Hundred Dollars (\$100). In addition upon conviction, any person who has been found to have acted in violation of any of the above sections shall be liable for the costs of prosecution including court costs and reasonable attorney fees; and in default of payment of such forfeiture and costs, shall be imprisoned until payment thereof, but not exceeding thirty (30) days. For a second offense of a similar nature within a twelve month period, the cash deposit shall be Two Hundred and Fifty Dollars (\$250) and for a third offense of a similar nature within a twelve month period, the cash deposit shall be Five Hundred Dollars (\$500).

(5) Liens: In addition to all other remedies available at law, judgment on convictions of violations of the terms of this ordinance wherein a forfeiture or penalty is imposed shall be filed with the County Register of Deeds Office and shall constitute a lien on the property and running with the property wherein the violation occurred and shall be removed only upon payment of said penalty or forfeiture. Notice of the imposition of such a lien shall be given to the defendant and prior to the filing of the lien, the defendant shall be given ten days to appeal to the court of the county in imposing such a lien on the property wherein the violation occurred. Any judgment so filed with the Register of Deeds shall note thereon the imposition of such a lien and a legal description of the property so affected. Upon satisfaction or partial satisfaction of such judgment notice of such satisfaction or partial satisfaction shall be filed with the Register of Deeds.