



PLANNING STAFF REPORT

MEMO DATE: May 7, 2020

MTG. DATE: MAY 13, 2020

TO: Village of Cottage Grove Plan Commission

CC: Village of Cottage Grove Board of Trustees
Matt Giese – Village Administrator
Larry Konopacki – Village Attorney
Lisa Kalata – Village Clerk

FROM: [Erin Ruth, AICP – Village Planning Director](#)

RE: **Conditional Use Permits – Ordinance Review**

BACKGROUND

At its April meeting the Plan Commission continued its discussion of conditional uses relative to 2017 Wis. Act 67. Specifically, we discussed uses that staff proposed could remain as conditional uses. Staff also reviewed how those uses related to Wisconsin Statutes and licensing requirements where applicable. The uses discussed were the following:

- Commercial animal boarding
- Bed and breakfasts
- Payday lenders
- Communication towers
- Intermediate daycares
- Migrant labor camps

It was agreed that staff would bring specific text amendment language to the next meeting.

OVERVIEW

Staff reviewed examples of ordinance text from other Dane County communities.

It should be noted that the manner in which the Village's zoning ordinance is constructed gives the Village a head start in addressing the conditional use issue. Some ordinances simply have a list of uses for each district that are labeled either permitted or conditional with little or no further explanation or regulation.



The Village's ordinance already addresses land uses as a separate chapter and most land uses have additional regulations above and beyond those of the underlying district.

Of the ordinances that provide specific criteria for conditional uses, the City of Sun Prairie's ordinance appears to be the most thorough. Text from the Sun Prairie ordinance related to the uses listed above is attached for review and discussion.

You will notice from the attachment that the City of Sun Prairie also deals with outdoor dining in a much more comprehensive manner than the Village does. Sun Prairie has a long list of regulations for various categories of outdoor dining, whereas in the Village ordinance outdoor seating for less than 20 patrons is permitted by right, while seating for 20 or more is considered an 'accessory outdoor entertainment' land use which is a conditional use. Staff would like feedback from the Plan Commission as to whether the Village's current approach is adequate or if a more comprehensive set of regulations similar to Sun Prairie is preferred.

CITY OF SUN PRAIRIE ZONING

Chapter 17.16

Commercial Animal Boarding.

Description: Commercial animal boarding facility land uses include land uses which provide short-term and/or long-term boarding for animals. Examples of these land uses include commercial kennels and commercial stables. Exercise yards, fields, training areas, and trails associated with such land uses are considered accessory to such land uses and do not require separate consideration.

1. Permitted by right: Not applicable.
2. Special use regulations: Not applicable.
3. Conditional use regulations (RH-35ac):
 - a. A maximum of one animal unit per acre of fully enclosed outdoor area shall be permitted, and a maximum of five dogs, cats or similar animals per acre of fully enclosed outdoor area, shall be permitted.
 - b. The minimum permitted size of horse or similar animal stall shall be one hundred (100) square feet.
 - c. The following setbacks shall be required in addition to those of the zoning district:
 - i. No activity area, including pastures or runs, shall be located closer than ten (10) feet to any property line.
 - ii. Any building housing animals shall be located a minimum of three hundred (300) feet from any residentially zoned property.
 - iii. A vegetative strip at least one hundred (100) feet wide shall be maintained between any corral, manure pile, or manure application area and any surface water or well in order to minimize runoff, prevent erosion, and promote nitrogen absorption.
 - d. Special events such as shows, exhibitions, and contests shall only be permitted when a temporary use permit has been secured. (See [Section 17.44.040.](#))
 - e. Shall comply with [Section 17.44.050](#), standards and procedures applicable to all conditional uses.

Bed and Breakfast Establishment.

Description: Bed and breakfast establishments are exclusively indoor lodging facilities which provide meals only to paying lodgers. Such land uses may provide indoor recreational facilities for the exclusive use of their customers.

1. Permitted by right: Not applicable.

2. Special use regulations: Not applicable.

3. Conditional use regulations (RH-35ac, CR-5ac, ER-1, SR-4, MR-8, UR-12, NC, SC, UC, CC):

a. All such facilities shall be required to obtain a permit to serve food and beverages. They shall be inspected annually at a fee as established by a separate ordinance, to verify that the land use continues to meet all applicable regulations.

b. One sign, with a maximum area of twenty (20) square feet, shall be permitted on the property.

c. Facility shall provide a bufferyard with a minimum opacity of four-tenths along all borders of the property abutting residentially zoned property.

d. Shall comply with [Section 17.44.050](#), standards and procedures applicable to all conditional uses.

Commercial Dog Day Care.

Description: Commercial facility occupied by dogs for the purpose of exercise and socialization during daytime, business hours. No animal will be kept overnight or on weekends. These facilities can include indoor and outdoor spaces.

1. Permitted by right: Not applicable.

2. Special use regulations: Not applicable.

3. Conditional use regulations (NC, SC, UC, SI, UI):

a. Total area requirements must allow for one hundred (100) square feet per dog. This area requirement per dog shall be calculated by using the total area that will be occupied by the dogs, including area within the building and outdoor play area.

b. Outdoor space must be completely fenced with a six-foot high solid wooden (or other approved material which will absorb the sound) fence. The fence shall be no closer than thirty (30) feet to any property used, zoned, or planned for residential use and no closer than fifteen (15) feet to any property used, zoned, or planned for nonresidential use.

c. Noise levels shall not exceed sixty-five (65) decibels as measured at the property line adjacent to any property used, zoned, or planned for residential, office, commercial, institutional, or park use and seventy (70) decibels as measured at the property line to any property used, zoned, or planned for industrial, storage, or transportation use. (See [Section 17.36.090](#), Noise standards.)

d. Any building housing dogs shall be located a minimum of three hundred (300) feet from any property used, zoned, or planned for residential, office, commercial, institutional, or park use, or be adequately soundproofed to comply with [Section 17.36.090](#), Noise standards, and be located a distance from the property line of ten (10) feet minimum or in accordance with the required structure setbacks for that zoning district, whichever is greater.

- e. Facility shall provide a bufferyard with a minimum opacity of eight-tenths along all borders of the outdoor play area adjoining property used, zoned, or planned for residential use, and four-tenths with a minimum of two plant units per one hundred (100) feet of lot width along all borders of the outdoor play area bordering properties used, zoned, or planned for nonresidential use. The bufferyard shall include a minimum ten-foot vegetative strip around the outside of the fence line.
- f. Animal waste must be picked up immediately, bagged and deposited in a sealed container to prevent odor from impacting neighboring properties. Animal waste containers must be stored at least fifteen (15) feet from any property line and meet all dumpster screening standards for commercial land uses.
- g. The city waste water pollution control facility staff shall be permitted to inspect the operation for compliance with waste disposal standards.
- h. Hours of operation shall be established during the conditional use permit review.
- i. Shall comply with [Section 17.44.050](#), standards and procedures applicable to all conditional uses.
- j. Property owner's permission is required as part of the conditional use permit application.

Payday Lender.

Description: A payday lender means a business, owned by a licensee, pursuant to Section 138.14(1)(i), Wisconsin Statutes, that makes payday loans. For the purposes of this section, such establishments shall not be construed to be "banks" or "financial institutions."

1. Permitted by right: Not applicable.
2. Special use regulations: Not applicable.
3. Conditional use regulations (SC, UC, CC):
 - a. A payday lender shall not be located within one thousand five hundred (1,500) feet, as measured from the lot line, of any other payday lender.
 - b. A payday lender shall not be located within one thousand (1,000) feet, as measured from the lot line, of any tattoo or body piercing establishment or pawn shop.
 - c. A payday lender shall not be located within one hundred fifty (150) feet, as measured from the lot line, of any residential zoning district, or within one hundred fifty (150) feet of a single-family or two-family residential district that is located within a planned development (PD) district.
 - d. Exterior building appearances and signage shall be compatible with surrounding development, and be designed to ensure that the use does not detract from the ability of businesses in the vicinity to attract customers, nor affect the marketability of properties in the vicinity for sale at their assessed values.

- e. Hours of operation. Payday lenders shall be allowed to be open only between the hours of eight a.m. and ten p.m. Monday through Saturday and ten a.m. and six p.m. on Sunday.
- f. Loitering prohibited. No operator or employee of a payday lender shall allow, suffer, or permit loitering on the business premises. For purposes of this section, "business premises" shall include the permitted premises.
- g. Shall comply with [Section 17.44.050](#), standards and procedures applicable to all conditional uses.

Household Pet Boarding Facility.

Description: A commercial establishment in which household pets are housed overnight for a fee or compensation.

1. Permitted by right: Not applicable.
2. Special use regulations: Not applicable.
3. Conditional use regulations (NC, SC, UC, SI, UI):
 - a. Location. Household pet boarding facilities shall be located inside of an enclosed structure. No outdoor boarding facilities shall be permitted.
 - b. Total area requirements must allow for one hundred (100) square feet per household pet. This area requirement per household pet shall be calculated by using the total area that will be occupied by the household pets, including area within the building and outdoor play area.
 - c. Outdoor space must be completely fenced with a six-foot high solid wooden (or other approved material which will absorb the sound) fence. The fence shall be no closer than thirty (30) feet to any property used, zoned, or planned for residential use and no closer than fifteen (15) feet to any property used, zoned, or planned for nonresidential use.
 - d. Noise levels shall not exceed sixty-five (65) decibels as measured at the property line adjacent to any property used, zoned, or planned for residential, office, commercial, institutional, or park use and seventy (70) decibels as measured at the property line to any property used, zoned, or planned for industrial, storage, or transportation use. (See [Section 17.36.090](#), Noise standards.)
 - e. Any building housing household pets shall be located a minimum of three hundred (300) feet from any property used, zoned, or planned for residential, office, commercial, institutional, or park use, or be adequately soundproofed to comply with [Section 17.36.090](#), Noise standards, and be located a distance from the property line of ten (10) feet minimum or in accordance with the required structure setbacks for that zoning district, whichever is greater.
 - f. Facility shall provide a bufferyard with a minimum opacity of eight-tenths along all borders of the outdoor play area adjoining property used, zoned, or planned for residential use, and four-tenths with a minimum of two plant units per one hundred (100) feet of lot width along all borders of the outdoor play area bordering property used, zoned, or planned for nonresidential

use. The bufferyard shall include a minimum ten-foot vegetative strip around the outside of the fence line.

g. Animal waste must be picked up immediately, bagged and deposited in a sealed container to prevent odor from impacting neighboring properties. Animal waste containers must be stored at least fifteen (15) feet from any property line and meet all dumpster screening standards for commercial land uses.

h. The city wastewater pollution control facility staff shall be permitted to inspect the operation for compliance with waste disposal standards.

i. Property owner's permission is required as part of the conditional use permit application.

j. A caretaker shall be present at all times that household pets are present. A caretaker's residence as defined in [Section 17.08.040](#), may be allowed provided the following standards are met:

i. Not more than one residential dwelling unit may be allowed on the premises.

ii. The dwelling unit shall be designated solely for the caretaker of the pet boarding facility and may not be rented or otherwise occupied by anyone not directly associated with the business.

iii. One onsite-parking stall per bedroom shall be designated for the caretaker's residence.

iv. In the event the pet boarding facility is terminated, the use of the dwelling unit shall cease.

v. The dwelling unit shall not exceed twenty percent (20%) of the gross floor area of the primary use or one thousand six hundred (1,600) square feet, whichever is less.

vi. The dwelling unit shall conform to other applicable codes and regulations for residential structures.

k. Shall comply with [Section 17.44.050](#), standards and procedures applicable to all conditional uses.

City-Operated Kennel/Impound Facility.

Description: A city operated facility that provides temporary shelter and storage for stray, abandoned or confiscated domestic animals.

1. Permitted by right: Not applicable.

2. Special use regulations (UI):

a. Outdoor containments for animals shall be located a minimum of twenty (20) feet from any residentially zoned property;

- b. Shall comply with [Section 17.44.040](#) procedures for all special uses;
3. Conditional use regulations: Not applicable.

Intermediate Day Care Home.

Description: Intermediate day care homes are occupied residences in which a qualified person or persons provide child care for nine to fifteen (15) children.

- a. Permitted by right: Not applicable.
- b. Special use regulations: Not applicable.
- c. Conditional use regulations (RH-35ac, CR-5ac, ER-1, SR-4, MR-8, UR-12):
 - i. Minimum lot size seven thousand two hundred (7,200) square feet;
 - ii. Minimum of one hundred forty (140) square feet of living space per child;
 - iii. Minimum of one hundred (100) square feet of fully enclosed outside play area shall be provided per child at maximum permitted occupancy;
 - iv. Property owner's permission is required to operate facility on rental property;
 - v. Shall comply with [Section 17.44.050](#), standards and procedures applicable to all conditional uses.

Migrant Labor Camp.

Migrant labor camps include any facility subject to the regulation of Section 103.90, Wisconsin Statutes.

- a. Permitted by right: Not applicable.
- b. Special use regulations: Not applicable.
- c. Conditional use regulations (RH-35ac, HI).
 - i. Shall be surrounded by a bufferyard with a minimum opacity of eight-tenths along all property lines adjacent to all properties in residential, office or commercial zoning districts;
 - ii. Migrant labor camp shall be an accessory use to an active principal use, under the same ownership, which is located within the city;
 - iii. Shall comply with [Section 17.44.050](#); standards and procedures applicable to all conditional uses.

Private Outdoor Cafe.

a. Description: Any outdoor dining area that is located on private property and operated adjacent to and in conjunction with an indoor commercial entertainment use as defined in [Section 17.16.100](#) of the zoning ordinance, in which the sale of alcohol beverages accounts for less than fifty percent (50%) of their gross receipts. Private outdoor cafes with an occupancy of ten percent of the existing interior seating of the establishment or eight seats, whichever is greater shall comply with all of the special use regulations listed under subsection 24.b. of this section and [Section 17.44.040](#), procedures applicable to all special uses. Private outdoor cafes with seating in excess of ten percent of the existing interior seating of the establishment or more than eight seats, whichever is greater, shall require additional review through the conditional use process to ensure the promotion of the public health, safety, comfort, and welfare. Conditional use regulations are addressed in subsection 24.c. of this section:

b. Special use regulations: (NC, SC, UC, CC, PD). A private outdoor cafe special use permit shall be granted only to the operator of a restaurant which is in compliance with the City of Sun Prairie Code of Ordinances, and is licensed by the Wisconsin Department of Health and Family Services to operate a restaurant pursuant to Chapter 254, Wisconsin Statutes.

In addition to the application procedures applicable to all special uses as described in [Section 17.44.040](#), an application for a private outdoor cafe special use permit shall include a detailed drawing to scale of the proposed site indicating the following: the existing facade, the points of ingress and egress, the proposed location of the tables, chairs, serving equipment, planters, borders, awnings, umbrellas and other facilities to be included in the seating area. The drawings must also include the location of existing public improvements, including fire hydrants, street signs, street lights, utilities, traffic signals, mail boxes, trees and tree grates, parking meters, planting boxes or planting areas, fire escapes or other overhead obstructions and any other public obstruction.

- i. A private outdoor cafe may only be open between the hours of seven a.m. and ten p.m. on any day unless alternative times are specifically requested by the applicant and approved by the common council through a conditional use permit.
- ii. A private outdoor cafe must be located on an impervious surface or hard all-weather decking material.
- iii. All food preparation, storage, and handling shall conform to applicable health codes.
- iv. Reserved.
- v. Reserved.
- vi. Outdoor furnishing materials and finishes shall be durable, smooth and easily cleanable and shall be kept in sound condition and good repair.
- vii. The private outdoor cafe shall be accessible to the disabled, and the permit holder shall at all times comply with all applicable federal, state and city laws, ordinances and regulations concerning accessibility and nondiscrimination in the providing of service.

viii. A private outdoor cafe shall not be permitted in a permanently protected green space area, required bufferyard, or required landscaped area.

ix. Reserved.

x. The private outdoor cafe shall not have an undue adverse impact upon nearby property, the character of the neighborhood, traffic conditions, parking or other matters affecting the public health, safety, welfare, or convenience.

xi. It shall be assumed that an outdoor dining area is a privilege and not a right. The city shall have the right to prohibit the operation of an outdoor dining area at any time because of anticipated or unanticipated problems or conflicts with the use of the private outdoor area.

xii. As stated above, private outdoor cafe permits are to be considered a privilege and not a right. The private outdoor cafe special use permit may be revoked by the city council following notice of the permittee. The special use permit may be revoked if one or more conditions outlined in this section have been violated, or if the private outdoor cafe area is being operated in a manner which constitutes a public nuisance not specifically outlined in this section. Following the revocation of private outdoor cafe permit, no application for the same site shall be filed within one year from the date of revocation.

xiii. Private outdoor cafes permitted under this section may play amplified music, whether live or recorded and may have speakers, microphones, televisions or other audio or video devices provided all noise standards established in [Section 17.36.090](#) are met for daytime hours and stationary noise limits established in [Section 8.32.030](#) are met for nighttime hours. Daytime hours for private outdoor cafes shall be defined as seven a.m. to ten p.m.

xiv. Additional parking shall not be required due to the addition of a private outdoor cafe. For outdoor seating in excess of thirty (30) seats, the city may determine that additional parking is necessary and require that such parking be provided.

xv. Lighting to serve outside seating areas shall comply with the zoning ordinance [Section 17.36.070](#), Exterior lighting standards.

xvi. Reserved.

xvii. All signage associated with the private outdoor cafe area, including menu boards and signage on awnings, canopies and umbrellas, and other fixtures, must comply with the zoning ordinance [Chapter 17.40](#), Signage Regulations.

xviii. To contain food and beverage service to the cafe area, private outdoor cafe areas in which alcohol beverages are served must be delineated by a system of enclosure such as decorative fencing or railings. The system of enclosure shall be not lower than three feet in height.

xix. Businesses which intend to serve alcohol beverages at the private outdoor cafe must additionally meet the following requirements:

1.

The business shall hold a valid liquor license for all premises where alcohol beverages are served and consumed pursuant to [Chapter 5.08](#) of the City of Sun Prairie Municipal Code, regulations pertaining to alcohol licensing procedures.

2.

Private outdoor cafes where alcoholic beverages are served and consumed shall be responsible for policing the area of the outdoor cafe to be sure the area is in compliance with the alcohol licensing requirements described in [Chapter 5.08](#) of the City of Sun Prairie Code of Ordinances at all times.

c.

Conditional use regulations: (NC, SC, UC, CC, PD). Any private outdoor cafe with seating in excess of ten percent (10%) of the existing interior seating of the establishment or more than eight seats, whichever is greater, shall comply with standards listed in subsection 24.b. of this section, and [Section 17.44.050](#), procedures applicable to all conditional uses.

Sidewalk Cafe.

a. Description: Any outdoor dining area located in any public sidewalk or right-of-way that is operated adjacent to and in conjunction with an indoor commercial entertainment use as defined in [Section 17.16.100](#) of the zoning ordinance, in which the sale of alcohol beverages accounts for less than fifty percent (50%) of their gross receipts. Sidewalk cafes with an occupancy of eight (8) seats or fewer shall comply with all of the special use regulations listed under subsection (25)(b) of this section and [Section 17.44.040](#), procedures applicable to all special uses. Sidewalk cafes with an occupancy of nine (9) seats or greater shall require additional review through the conditional use process to ensure the promotion of the public health, safety, comfort, and welfare. Conditional use regulations are addressed in subsection (25)(c) of this section:

b. Special use regulations: (NC, SC, UC, CC, PD).

i. A sidewalk cafe special use permit shall be granted only to the operator of a restaurant which is in compliance with the City of Sun Prairie Code of Ordinances, and is licensed by the Wisconsin Department of Health and Family Services to operate a restaurant pursuant to Chapter 254, Wisconsin Statutes.

ii. In addition to the application procedures applicable to all special uses as described in [Section 17.44.040](#), an application for a sidewalk cafe special use permit shall include a detailed drawing to scale of the proposed site indicating the following: the existing facade, the points of ingress and egress, the proposed location of the tables, chairs, serving equipment, planters, borders, awnings, umbrellas and other facilities to be

included in the seating area. The drawings must also include the location of existing public improvements, including fire hydrants, street signs, street lights, utilities, traffic signals, mail boxes, trees and tree grates, parking meters, planting boxes or planting areas, fire escapes or other overhead obstructions and any other public obstruction.

iii. The maximum allowable number of seats for each sidewalk cafe shall be calculated by multiplying the frontage of the business times the width of the sidewalk less such area as is reserved for unobstructed pedestrian walkways and building entrance areas, then dividing by fifteen (15) square feet.

iv. No tables, chairs, fencing, or any other fixtures used in connection with a sidewalk cafe shall be attached, chained or in any manner affixed to the public area, or any other public property including street trees.

v. A sidewalk cafe may only be open from April 15th through October 31st and between the hours of seven a.m. and ten p.m. on any day unless alternative times are specifically requested by the applicant and approved by the common council through a conditional use permit.

vi. A sidewalk cafe must be located on an impervious surface.

vii. All food preparation, storage, and handling shall conform to applicable health codes.

viii. Reserved.

ix. Reserved.

x. Outdoor furnishing materials and finishes shall be durable, smooth and easily cleanable and shall be kept in sound condition and good repair.

xi. The sidewalk cafe shall be accessible to the disabled, and the permit holder shall at all times comply with all applicable federal, state and city laws, ordinances and regulations concerning accessibility and nondiscrimination in the providing of service.

xii. In no event shall the operation of, or placement of equipment or furnishings for the sidewalk cafe obstruct access to any crosswalk, mailbox, curb cut, parking space or any other public property. The furnishings or equipment shall not obstruct access to any fire hydrant, fire escape or fire door, or obstruct the clear view of any traffic signal, regulatory sign or street sign. Whether the placement of equipment or furnishings obstructs access to any of the foregoing shall be the determination of the city.

xiii. Reserved.

xiv. The sidewalk cafe shall not have an undue adverse impact upon nearby property, the character of the neighborhood, traffic conditions, parking or other matters affecting the public health, safety, welfare, or convenience.

xv. It shall be assumed that an outdoor dining area is a privilege and not a right. The city shall have the right to prohibit the operation of an outdoor dining area at any time because of anticipated or unanticipated problems or conflicts with the use of the

sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades, marches, or repairs to the street or sidewalk. To the extent that is possible, the permittee shall be given prior notice of any time period during which the operation of the outdoor dining area will be prohibited.

xvi. As stated above, sidewalk cafe permits are to be considered a privilege and not a right. The sidewalk cafe special use permit may be revoked by the city council following notice of the permittee. The special use permit may be revoked if one or more conditions outlined in this section have been violated, or if the sidewalk cafe area is being operated in a manner which constitutes a public nuisance not specifically outlined in this section. Following the revocation of sidewalk cafe permit, no application for the same site shall be filed within one year from the date of revocation.

xvii. Sidewalk cafes permitted under this section may play amplified music, whether live or recorded and may have speakers, microphones, televisions or other audio or video devices provided all noise standards established in [Section 17.36.090](#) are met for daytime hours and stationary noise limits established in [Section 8.32.030](#) are met for nighttime hours. Daytime hours for sidewalk cafes shall be defined as seven a.m. to ten p.m.

xviii. Additional parking shall not be required due to the addition of a sidewalk cafe area.

xix. Sidewalk cafes are restricted to the sidewalk frontage of the abutting business establishment to which a permit has been issued.

xx. Lighting to serve outside seating areas shall comply with the zoning ordinance [Section 17.36.070](#), exterior lighting standards.

xxi. Only those furnishings or equipment authorized by the sidewalk cafe permit and shown on the approved site plan may be stored in the public right-of-way when the sidewalk cafe is not in operation. Should the permittee not utilize the sidewalk as authorized for a period of forty-eight (48) hours or more, all the tables and materials shall be removed therefrom.

xxii. The owner of an establishment that operates a sidewalk cafe shall agree in writing to maintain that portion of the right-of-way where the outside seating is located. The owner/lessee/lessor of the business establishment and the property owner shall agree in writing to hold the city harmless for any personal injury or property damage resulting from the existence or operation of, and the condition and maintenance of the right-of-way upon which any outside seating is located, and shall furnish evidence of general liability insurance in the amount of one million dollars (\$1,000,000.00) per person and two million dollars (\$2,000,000.00) per occurrence with the city as additional named insured.

xxiii. The city may cause the immediate removal or relocation of all or any part of the sidewalk cafe or its fixtures in emergency situations. The city, its officers, agents and employees shall not be responsible for any damages or loss of sidewalk cafe fixtures relocated during emergency situations and shall not be responsible for any loss of

revenue associated with removal, costs associated with the removal, or the return and installation of any sidewalk cafe fixtures.

xxiv. No signs, including menu boards shall be permitted outside the sidewalk cafe area and not more than one sign or menu board shall be allowed for each sidewalk cafe. All signage, including the menu board and signage on awnings, canopies and umbrellas, and other fixtures, must comply with the zoning ordinance [Chapter 17.40](#), Signage Regulations.

xxv. To prevent additional encroachment onto public space and to contain food and beverage service to the cafe area sidewalk cafe areas must be separated from the pedestrian walk space by a system of enclosure, such as decorative fencing anchored by removable bollards. Such fencing shall be not lower than three feet or higher than four feet in height.

xxvi. Outdoor dining is permitted only where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed activity. The outdoor dining area shall leave not less than four and one-half consecutive feet of sidewalk width at every point, which is clear and unimpeded for pedestrian traffic.

xxvii. Businesses which intend to serve alcohol beverages at the sidewalk cafe must additionally meet the following requirements:

1. The business shall hold a valid liquor license for all premises where alcohol beverages are served and consumed pursuant to [Chapter 5.08](#) of the City of Sun Prairie Municipal Code, regulations pertaining to alcohol licensing procedures.
2. Sidewalk cafes where alcoholic beverages are served and consumed shall be responsible for policing the area of the outdoor cafe to be sure the area is in compliance with the alcohol licensing requirements described in [Chapter 5.08](#) of the city of Sun Prairie Code of Ordinances at all times.

c. Conditional use regulations: (NC, SC, UC, CC, PD). Any sidewalk cafe with an occupancy of nine seats or greater shall comply with standards listed in subsection 25.b. of this section, and [Section 17.44.050](#), procedures applicable to all conditional uses.

Beer Garden.

a. Description: Any outdoor seating area that is located on private property and operated adjacent to and in conjunction with a business primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. Beer gardens shall comply with all of the conditional use regulations listed under subsection 26.c. of this section, and [Section 17.44.050](#), procedures applicable to all conditional uses.

b. Special use regulations: Not applicable.

c. Conditional use regulations: (NC, SC, UC, CC, PD).

- i. A beer garden conditional use permit shall be granted only to the operator of a bar or tavern which is in compliance with the city of Sun Prairie Code of Ordinances, and is licensed by the Wisconsin Department of Health and Family Services to operate said establishment pursuant to Chapter 254, Wisconsin Statutes.
- ii. In addition to the application procedures applicable to all conditional uses as described in [Section 17.44.040](#), an application for a beer garden conditional use permit shall include a detailed drawing to scale of the proposed site indicating the following: the existing facade, the points of ingress and egress, the proposed location of the tables, chairs, serving equipment, planters, borders, awnings, umbrellas and other facilities to be included in the seating area. The drawings must also include the location of existing public improvements, including fire hydrants, street signs, street lights, utilities, traffic signals, mail boxes, trees and tree grates, parking meters, planting boxes or planting areas, fire escapes or other overhead obstructions and any other public obstruction.
- iii. A beer garden may only be open between the hours of seven a.m. and ten p.m. on any day unless alternative times are specifically requested by the applicant and approved by the common council through a conditional use permit.
- iv. A beer garden must be located on an impervious surface or hard all-weather decking material.
- v. All food preparation, storage, and handling shall conform to applicable health codes.
- vi. Reserved.
- vii. Reserved.
- viii. Outdoor furnishing materials and finishes shall be durable, smooth and easily cleanable and shall be kept in sound condition and good repair.
- ix. The beer garden shall be accessible to the disabled, and the permit holder shall at all times comply with all applicable federal, state and city laws, ordinances and regulations concerning accessibility and nondiscrimination in the providing of service.
- x. A beer garden shall not be permitted in a permanently protected green space area, required bufferyard, or required landscaped area.
- xi. Reserved.
- xii. The beer garden shall not have an undue adverse impact upon nearby property, the character of the neighborhood, traffic conditions, parking or other matters affecting the public health, safety, welfare, or convenience.
- xiii. It shall be assumed that an outdoor dining area is a privilege and not a right. The city shall have the right to prohibit the operation of an outdoor dining area at any time because of anticipated or unanticipated problems or conflicts with the use of the private outdoor area.
- xiv. As stated above, beer garden permits are to be considered a privilege and not a right. The beer garden conditional use permit may be revoked by the city council following notice of the

permittee. The conditional use permit may be revoked if one or more conditions outlined in this section have been violated, or if the beer garden area is being operated in a manner which constitutes a public nuisance not specifically outlined in this section. Following the revocation of beer garden permit, no application for the same site shall be filed within one year from the date of revocation.

xv. Beer gardens permitted under this section may play amplified music, whether live or recorded and may have speakers, microphones, televisions or other audio or video devices provided all noise standards established in [Section 17.36.090](#) are met for daytime hours and stationary noise limits established in [Section 8.32.030](#) are met for nighttime hours. Daytime hours for beer gardens shall be defined as seven a.m. to ten p.m.

xvi. Beer garden seating will be included when figuring the restaurant's off-street parking requirement. Additional parking shall not be required due to the addition of a beer garden. For outdoor seating in excess of thirty (30) seats, the city may determine that additional parking is necessary and require that such parking be provided.

xvii. Lighting to serve outside seating areas shall comply with the zoning ordinance [Section 17.36.070](#), Exterior lighting standards.

xviii. Reserved.

xix. All signage associated with the beer garden area, including menu boards and signage on awnings, canopies and umbrellas, and other fixtures, must comply with the zoning ordinance [Chapter 17.40](#), Signage Regulations.

xx. The beer garden area shall be enclosed with a decorative fence not less than five feet high. The city may require portions of the fence to be solid or higher than five feet to lessen potential conflicts with adjacent uses.

xxi. All parts of the outdoor area are more than one hundred (100) feet from all structures used for residential purposes, except the outdoor area does not have to be any distance from residential uses located in a structure which would be part of the licensed premises.

xxii. The business shall hold a valid liquor license for all premises where alcohol beverages are served and consumed pursuant to [Chapter 5.08](#) of the city of Sun Prairie Municipal Code, regulations pertaining to alcohol licensing procedures.