

ORDINANCE 2023-05-01

**AN ORDINANCE TO AMEND MULTIPLE SECTIONS OF CHAPTER
170 REGARDING TEMPORARY USES, BOTH 30-DAYS AND LESS AND
MORE THAN 30-DAYS BUT LESS THAN 150-DAYS**

WHEREAS, the Village Board adopted a new Zoning Code in 2022; and

WHEREAS, as a part of the Village's Zoning Code, incorporated therein was a provision regarding "Temporary Uses" or uses that would not otherwise be permitted in a particular District which can only be allowed by special permit; and

WHEREAS, it became noticeable that the provisions of "Temporary Uses" which were up to 30-days and those that were greater than 30-days but less than 90-days; and

NOW, THEREFORE, the Village Board of the Village of Richfield, Washington County Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Amend Chapter 170 of the Village of Richfield Village Code, entitled "Zoning," Article 5, entitled "Specific Procedural Requirements" Division 11, entitled "Temporary Use – 30 Days or Less " is hereby re-created as follows:

**DIVISION 11
TEMPORARY USE – 30 DAYS OR LESS**

170.520 Generally

Temporary use permits for 30 days or less in a single calendar year are reviewed by the zoning administrator and are intended to ensure that such uses do not cause negative impacts. Temporary use permits under this Division may also be allowed by Village Staff for multiple occurrences in a single permit application, provided the occurrences do not exceed 30-days in aggregate in a single calendar year. For the purposes of this Division, any portion of a day authorized for a temporary use shall constitute a full day. Temporary uses which have the potential of being detrimental to and/or incompatible with adjoining properties or the community at large are reviewed by the Plan Commission as described in Division 12.

170.521 Review procedure

The general steps outlined below shall be used in the review of an application for a temporary use, 30 days or less.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.

2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. A determination of completeness shall be made within 30-days of the submittal. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. If the application is deemed incomplete or if additional information is requested, the zoning administrator will take no further steps to process the application until the deficiencies are remedied or the information is provided. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.
3. **Decision.** When the zoning administrator determines the application is complete, he or she makes a decision based on the decision criteria in this division to (i) approve the permit, (ii) approve the permit with conditions, or (iii) deny the application.
4. **Applicant notification.** Within a reasonable time following his or her decision, but not more than 10 work days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
5. **Public record copy.** A copy of the decision document is retained as a public record.

170.522 Basis of decision

To approve a temporary use permit for 30 days or less, the zoning administrator must determine that the proposed temporary use complies with all applicable sections of this code and does not have the potential to create a general nuisance or a nuisance for those properties in the general area of the proposed use.

170.523 Conditions of approval

- A. **Generally.** In approving a temporary use permit for 30 days or less, the zoning administrator may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions may address such matters as parking, access, signage, lighting, security, solid waste disposal, potable water and sanitary facilities, screening, noise, traffic control, hours and days of duration and operation, financial guarantees or warranties to ensure compliance and/or against defects or damage to public property, and other items which may be required to protect the health, safety, and welfare of the public.
- B. **Effect on contracts with another party.** The zoning administrator shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

[1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

170.524 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

170.525 Expiration of an approval

A temporary use permit shall not be issued across multiple calendar years. A temporary use permit shall only be authorized to 1) automatically expire 30 days after the first day of the temporary use, 2) an earlier date, or 3) as may be specified in the approval but not to exceed 30 days, in aggregate, in a single calendar year.

170.526 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals within 30 calendar days of the final decision.

170.527 to 170.539 Reserved

Section 2. Amend Chapter 170 of the Village of Richfield Village Code, entitled "Zoning," Article 5, entitled "Specific Procedural Requirements" Division 12, entitled "Temporary Use – More than 30 Days but Less than 90 Days" is hereby re-created as follows:

DIVISION 12 TEMPORARY USE – MORE THAN 30 DAYS BUT LESS THAN 150 DAYS

170.540 Generally

Temporary uses that would operate for more than 30 days but less than 150 days in a single calendar year, or, which have the potential of being detrimental to and/or incompatible with adjoining properties or the community at large are reviewed by the Plan Commission as set forth in this division. For the purposes of this Division, any portion of a day authorized for a temporary use shall constitute a full day.

170.541 Review procedure

The general steps outlined below shall be used in the review of an application for a temporary use, for more than 30 days but less than 150 days.

1. **Submittal of application materials.** The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
2. **Determination of completeness.** The zoning administrator reviews the submittal to make sure it is complete and ready for further review. A determination of completeness shall be made within 30-days of the submittal. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. If the application is deemed incomplete or if additional information is requested, the zoning administrator will take no further steps to process the application

until the deficiencies are remedied or the information is provided. The incomplete application is retained as a public record. A determination that an application is complete means the application is ready for formal review and does not suggest the applicant has provided sufficient information in all regards or preclude the reviewing authority from requesting additional information it deems appropriate.

3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
4. **Staff report preparation and distribution.** The zoning administrator prepares may prepare a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
6. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
7. **Decision.** After considering all of the information submitted by the applicant and the staff report, if any, the Plan Commission makes a decision based on the decision criteria contained in this division to (i) approve the permit, (ii) approve the permit with conditions, or (iii) deny the application.
8. **Preparation of final decision document.** Based on the action of the Plan Commission, the zoning administrator prepares a final decision document consistent with this division subject to the direction given by the Plan Commission.
9. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, but not more than 10 work days, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
10. **Public record copy.** A copy of the decision document is retained as a public record.

170.542 Basis of decision

To approve a temporary use permit for more than 30 days but less than 150 days, the Plan Commission must determine that the proposed temporary use complies with all applicable sections of this code and does not have the potential to create an unacceptable negative effect on adjoining properties or the community at large.

170.543 Conditions of approval

- A. **Generally.** In approving a temporary use permit for more than 30 days but less than 150 days, the zoning administrator may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions may address such matters as parking, access, signage, lighting, security, solid waste disposal, potable water and sanitary facilities, screening, noise, traffic control, hours and days of duration and operation, financial guarantees or warranties to ensure compliance and/or against defects or damage to

public property, and other items which may be required to protect the health, safety, and welfare of the public.

- B. **Effect on contracts with another party.** The Plan Commission shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.^[1]

Editorial notes:

[1] See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

170.544 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

170.545 Expiration of an approval

A temporary use permit shall automatically expire 150 days after the first day of the temporary use or an earlier date as may be specified in the approval.

170.546 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

170.547 to 170.559 Reserved

Section 3. This ordinance shall become effective immediately upon passage and publication/posting.

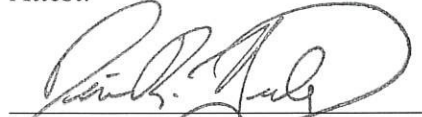
Section 4. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section(s) or portion(s) thereof directly specified in the decision and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

Passed and adopted by the Village Board of the Village of Richfield this 18th day of May, 2023.



John Jeffords, Village President

Attest:



Jim Healy, Administrator/Clerk

DIVISION 4
AGRITOURISM – ENTERTAINMENT BUSINESS

170.1070 Generally

An agritourism - entertainment business is a commercial business operation that may involve one or more of the agritourism operations set forth in Appendix B and other operations deemed compatible with those uses or that are not otherwise addressed in this code due to the lack of enumeration. An agritourism – entertainment business must, at its core, relate to the Village’s agricultural character and shall not operate more than **180 consecutive continuous days (i.e., first day of operation to last day, may not exceed 180 days) in a calendar year**. The purpose of this district is to give property owners a potential revenue source on less than a majority of the land while protecting the majority of the land for traditional agricultural purposes as set forth as Permitted Uses in the A-2, General Agricultural zoning district. Permitted Uses in the underlying A-2, General Agricultural zoning district shall continue to be allowed unless specifically restricted as part of the approval procedure.

An agritourism - entertainment business is a commercial business operation that may involve one or more of the agritourism operations set forth in Appendix B and other operations deemed compatible with those uses or that are not otherwise addressed in this code due to the lack of enumeration. An agritourism – entertainment business must, at its core, relate to the Village’s agricultural character and shall not operate more than **210 days in a calendar year**. ~~180 consecutive continuous days (i.e., first day of operation to last day, may not exceed 180 days) in a calendar year.~~ The purpose of this district is to give property owners a potential revenue source on less than a majority of the land while protecting the majority of the land for traditional agricultural purposes as set forth as Permitted Uses in the A-2, General Agricultural zoning district. Permitted Uses in the underlying A-2, General Agricultural zoning district shall continue to be allowed unless specifically restricted as part of the approval procedure.

An agritourism - entertainment business is a commercial business operation that may involve one or more of the agritourism operations set forth in Appendix B and other operations deemed compatible with those uses or that are not otherwise addressed in this code due to the lack of enumeration. An agritourism – entertainment business must, at its core, relate to the Village’s agricultural character and shall not operate more than 210 days in a calendar year. The purpose of this district is to give property owners a potential revenue source on less than a majority of the land while protecting the majority of the land for traditional agricultural purposes as set forth as Permitted Uses in the A-2, General Agricultural zoning district. Permitted Uses in the underlying A-2, General Agricultural zoning district shall continue to be allowed unless specifically restricted as part of the approval procedure.

170.1071 Farmland reservation and undeveloped lands.

Farmland reservation areas and undeveloped lands can be included as part of the majority of the subject property deemed to be for traditional agricultural purposes, as allowed as Permitted Uses in the A-2, General Agricultural District, provided there are no related buildings or any site improvements on the same.

Farmland reservation areas and undeveloped lands can be included as part of the majority of the subject property deemed to be for traditional agricultural purposes, as allowed as Permitted Uses in the A-2, General Agricultural District, and for purposes such as for U-Pick activities, wagon/sleigh rides, mazes, harvest events, overflow parking, and for storm water management provided there are no related buildings or any site improvements on the same.

Farmland reservation areas and undeveloped lands can be included as part of the majority of the subject property deemed to be for traditional agricultural purposes, as allowed as Permitted Uses in the A-2, General Agricultural District, and for purposes such as for U-Pick activities, wagon/sleigh rides, mazes, harvest events, overflow parking, and for storm water management provided there are no related buildings or any site improvements on the same.

