

## CHAPTER 9

### DESIGN REVIEW ORDINANCE

#### 9.1 INTRODUCTION.

(1) TITLE. This Chapter shall be known as the “Design Review Ordinance of the Town of Black Earth” and will be referred to in this Chapter as “this Chapter” or “this ordinance.”

(2) AUTHORITY. This Chapter is established pursuant to the authority conferred by sec. 60.23(29), 61.34(1), 61.34(5), Wis. Stats., by the adoption of village powers under sec. 60.10, Wis. Stats., and under Section 10.16(10) of Dane County Zoning Ordinance.

(3) PURPOSE. The purpose of this Chapter is to promote the public health, safety, and welfare by ensuring, to the maximum extent practicable, that future development or redevelopment of individual parcels of land in the Town of Black Earth proceeds according to the Town’s goals, objectives, and policies for its physical growth and change, as expressed in this Chapter and the Town of Black Earth Comprehensive Plan.

(4) ABROGATION AND GREATER RESTRICTIONS. Other regulations and standards contained in the Dane County Land Division and Subdivision Ordinance, Dane County Zoning Ordinance, Town of Black Earth Subdivision Ordinance, Town of Black Earth Driveway Ordinance, and Wisconsin Administrative Code pertaining to the use and development of property may apply. To the greatest extent possible, the regulations and standards of this Chapter shall be construed to be consistent and in harmony with other applicable regulations and standards provided. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

(5) APPLICABILITY. The following types of developments in the Town of Black Earth shall be subject to the provisions of this Chapter:

(a) Development of residential land uses consisting of three or more attached dwelling units per building.

(b) Development of all projects in which a principal use is a commercial, industrial, or institutional use, but not including any land use that is listed as a permitted use within the A-1 Agriculture District (Exclusive) in the Dane County Zoning Ordinance.

(c) Any new accessory use to one of the principal uses listed in subsections (a) or (b), including but not limited to signage, lighting, accessory buildings over 300 square feet in floor area, telecommunications facilities, and exterior building alterations.

(d) Any addition to an existing use listed in subsection (a) or (b) that results in a total expansion of at least 25 percent in building floor area, outdoor storage area, or parking lot area over the area which existed as of (insert date of ordinance adoption).

(e) Where developments under subsection (c) or (d) are proposed, the project, building, and site shall comply with the provisions of Section 9.02 of this Chapter to the extent practical, given existing site and building conditions.

## 9.2 DESIGN STANDARDS

(1) **GENERALLY.** No development subject to design review shall be commenced unless, in the determination of the Plan Commission, such development complies with each of the following design standards, except if the applicant requests and the Plan Commission grants a modification under Section 9.05. These provisions shall not apply to existing uses unless an application for a development proposal is made.

### (2) **SITE LAYOUT.**

(a) The development shall allow for proper ingress and egress from public roads to the site at designated access points only.

(b) Internal traffic safety shall be provided by adequate driveway widths and circulation patterns.

(c) Interconnected parking lots, streets, driveways, and walkways shall be provided wherever practical to facilitate movement between sites.

(d) No buildings, parking, drive aisles, or other hard surfaced areas shall be placed within a twenty foot wide strip adjacent to the current or proposed right-of-way or road easement edge.

(e) The siting of all buildings shall meet any applicable standard within the Town of Black Earth Comprehensive Plan.

(f) The development shall be so planned and constructed that all surface drainage meets the standards of applicable town, county, and state erosion control and stormwater management regulations, and does not adversely affect neighboring properties.

### (3) **BUILDING DESIGN.**

(a) Building materials, colors, designs, and scale shall contribute to the desired character and image of the Town, and with the applicable standards expressed in the Town of Black Earth Comprehensive Plan. Modifications to standardized prototype and corporate franchise designs may be required.

(b) The principal building shall be oriented to the main road on which the site is located.

(c) All front and street walls shall provide an architecturally detailed facade, particularly where building masses and long unbroken building facades would otherwise result. Unfaced concrete block, structural concrete, prefabricated metal siding, and similar surfaces are discouraged for such facades.

(d) The principal building shall be architecturally finished on all sides and include architectural details such as variations in height and roof lines, exterior wall offsets, overhangs and canopies, windows, bays, and visually distinct entrances.

#### (4) NATURAL FEATURES AND LANDSCAPING.

(a) Pre-existing landforms, terrain, and vegetation shall be preserved in their natural state, insofar as practicable, by minimizing modifications that are not essential to project development and by designing grades and contours in general conformance with neighboring developed areas.

(b) New landscape plantings shall be focused near building foundations, within and around parking lots and loading areas, and within the yard adjacent to the main road on which the development site is located, in a manner consistent with vision clearance triangle requirements.

(c) New plantings shall be provided in accordance with the following guidelines:

i. Plans should include plantings of the following types and number per every one acre of lot area.

A. Four canopy trees with a trunk diameter of at least two inches at time of planting.

B. Eight ornamental or evergreen trees with a height of at least four feet at time of planting.

C. Twenty shrubs with a height of at least eighteen inches at time of planting.

ii. Credit towards planting requirements may be provided where the retention and protection of existing trees are included in the landscape plan.

#### (5) OUTDOOR STORAGE AND SCREENING.

(a) Outdoor storage of materials, equipment, fuel, scrap, inoperative vehicles and similar objects shall not occur in places that are readily visible from public rights-of-way or neighboring properties.

(b) External trash dumpsters shall be screened from common view by walls, berms, dense landscaping, or combinations thereof.

(c) Mechanical equipment, communication dishes and signal receiving antennas that are readily visible when viewed from ground level of adjacent properties or from public rights-of-way shall be softened by screening or covered in a manner that forms an integral part of the building or site design.

(6) SIGNAGE.

(a) One wall or awning mounted sign shall be permitted per business or per customer entrance, whichever is greater. The maximum total wall sign copy area shall be 50 square feet.

(b) One ground mounted sign shall be permitted per lot. The maximum sign copy area for all faces of the ground sign visible at one time shall be 50 square feet. The maximum ground sign height shall be 16 feet.

(c) The following types of signs are not permitted:

- i. Off-site advertising and directional signs greater than 50 square feet in area (including billboards).
- ii. Roof signs.
- iii. Any temporary sign displayed more than 30 days in any calendar year.
- iv. Portable signs.
- v. Signs that cause a visual distraction and pose a potential nuisance or traffic safety hazard, including flashing signs, inflatable signs, rippling or sparkling signs, spotlights, and a wide variety of strings of lights, tinsel, pom-pons, pinwheels, pennants, banners, streamers, and related attention-getting devices.

(d) The standards in subsections (a) through (c) shall not apply to agriculture signs, farm signs, crop signs, auxiliary signs, directional signs, parking lot signs, community information signs, political signs, garage sale signs, private property protection signs, or real estate signs.

(7) EXTERIOR LIGHTING.

- (a) Exterior lighting, when used, shall be established, directed and maintained so as not to be cast directly on occupied buildings on adjacent properties.
- (b) All exterior light fixtures that are over 150 watts and not in the rights-of-way or easements of public roads shall be completely shielded or recessed into canopies, with the fixtures mounted parallel to the ground.
- (c) The maximum illumination level at all lot lines shall be one-half footcandle, the average illumination level within the lot shall be no greater than two and one-half footcandles, and the maximum illumination level at any point on the lot shall be twenty footcandles, except where the petitioner demonstrates that different light levels will meet the standards of the Illuminating Engineering Society of North America for areas with dark surroundings.
- (d) The Town may specify certain hours within which illumination of signs or exterior light fixtures is permitted or prohibited.

### 9.3 DESIGN REVIEW PROCESS

- (1) APPLICATION AND SCHEDULING. Before or upon application for a building permit, the applicant shall be advised by the Town Clerk whether compliance with this Chapter is required. If required, the applicant shall be notified of such requirement, and an application shall be transmitted by the applicant to the Town Clerk, with appropriate fees and plans as provided in this Chapter. The Town Clerk, upon determining that the application is complete, shall place the application on the agenda of the next regular Plan Commission meeting scheduled at least seven days from the date upon which the Town Clerk determines that the application is complete.
- (2) PLAN COMMISSION REVIEW. The Plan Commission shall review the application and submitted plans to determine whether the development complies with the provisions of this Chapter. As part of its review, the Plan Commission may consult with staff, consultants, and officials of the town, county, state, fire and emergency medical services departments, or other agencies.
- (3) PLAN COMMISSION ACTION.
  - (a) The Plan Commission may, whenever it determines that the application presents issues of unusual complexity or generates significant potential impact within the area, cause a public hearing to be held regarding the application. Plan Commission review may be combined with related reviews for rezoning, conditional use permit, land division, or other land use approvals.
  - (b) Following its review, the Plan Commission shall take action to approve, conditionally approve, or reject the application and submitted plans. Such action

shall take place within 60 days of the submittal of a complete application, unless the deadline is extended by agreement of the Plan Commission and the applicant.

(c) Failure of the Plan Commission to act within this period or any mutually agreed extension shall be interpreted as approval of the application and submitted plans as presented.

(d) Plan Commission action may be in the form of a copy of the minutes of the Plan Commission meeting at which such action was taken. In the case of a rejection, the Commission shall list the reasons with respect to non-compliance with one or more provision of this Chapter.

(4) PROJECT COMMENCEMENT. No building permit shall be issued and no development project under the jurisdiction of this Chapter shall commence construction until the building inspector has received, in writing, Plan Commission approval of the application and submitted plans (or Town Board approval if the decision was appealed), and all conditions of approval that reasonably could have been satisfied have in fact been satisfied. The property owner shall be responsible for installing and maintaining all site improvements in conformance with the approved plans and all conditions.

(5) APPEALS. Final actions of the Plan Commission under this Chapter shall be appealable as administrative interpretations to the Town Board.

#### 9.4 PLAN SUBMITTAL REQUIREMENTS

(1) GENERALLY.

(a) All applications for design review shall contain or include the plans listed in this section, and such other information relating thereto as the Town Clerk or the Plan Commission may deem necessary for consideration of the development.

(b) Ten copies of all materials shall be submitted.

(c) All plans shall be drawn to a recognized scale, and include a north arrow, date of preparation, and contact information.

(2) SITE PLAN. Including, where applicable:

(a) Lot area.

(b) All existing and proposed lot lines, labeling dimensions.

(c) Wetlands.

- (d) Shoreland zoning areas.
- (e) Floodplains.
- (f) Slopes of greater than 12 percent.
- (g) Current zoning of the site.
- (h) Existing and proposed buildings, indicating gross floor area and capacity.
- (i) Other structures.
- (j) Required minimum setbacks for buildings and other structures.
- (k) Parking lot.
- (l) Calculations for determining the number of off-street parking spaces as required by the Dane County Zoning Ordinance.
- (m) Loading area.
- (n) Vehicle and pedestrian circulation and driveway areas.
- (o) Proposed ingress and egress to the site.
- (p) Outdoor storage areas.
- (q) Screened dumpsters.
- (r) Adjacent streets and land uses, including all buildings within 50 feet of the site's boundaries.

(3) LANDSCAPE PLAN. Including:

- (a) All existing trees with a trunk diameter at breast height of over six inches or a height of over 30 feet and the limits of woodlots within which at least 50 percent of the trees meet at least one of these two size criteria.
- (b) Proposed protection measures for all such trees or portions of woodlots to be retained.
- (c) All proposed new landscape plantings for the site, indicating their locations, quantities, species, size at time of planting, and size at maturity.

(4) GRADING, EROSION CONTROL, AND STORMWATER PLANS. As required to meet all applicable town, county, and state requirements, and including existing and proposed surface elevations of the lot.

(5) BUILDING ELEVATIONS. Depicting and describing the dimensions, colors, and materials proposed for all exterior building sides and roofs, along with building mounted lighting, signs, and mechanical units. The Plan Commission may also require building material samples.

(6) SIGN PLAN. Including the location, height, dimensions, color, materials, lighting and sign copy area of all proposed exterior signage.

(7) EXTERIOR LIGHTING PLAN. Illustrating the location, height, type, design, orientation, anchorage, and wattage of all proposed outdoor lighting, and including a photometric plan for projects proposed to have more than three outdoor lighting fixtures of greater than 150 watts. A photometric plan is generally prepared by a lighting professional, and shows spot illumination levels at regularly spaced intervals on the lot and at all lot lines, along with average proposed illumination levels on the lot as a whole.

## 9.5 ADMINISTRATION.

(1) WAIVERS AND MODIFICATIONS. Where the Plan Commission finds that extraordinary or undo hardship may result from strict compliance with this Chapter and/or that the purpose of this Chapter may be better served by an alternate approach, the Commission may approve waivers or modifications to one or more provisions of this Chapter, other than requirements of State law, Dane County ordinance, or other town ordinance, and only to the extent a waiver or modification is found to be just and proper. The Plan Commission may grant such relief only where it will not be detrimental to the public good, impair the purpose of this chapter, or impair the desirable general development of the community in accordance with the Comprehensive Plan.

### (2) FEES.

(a) The applicant shall be required to submit a design review fee and rezoning fee (if required) prescribed in the Fee Schedule to the Town Clerk along with the application.

(b) Any out-of-pocket expenses incurred by the Town or its Plan Commission, including consultant fees (engineering, legal or planning), costs of maps, public hearing notices, or other related expenses shall be reimbursed by the applicant.

(c) All such out-of-pocket expenses shall be paid by the applicant prior to issuance of the building permit.



(3) PENALTIES. Any person who shall violate this Chapter shall, upon conviction, be subject to forfeiture as prescribed in the Fee Schedule. Each day each violation continues shall constitute a separate offense. Nothing in this section shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter.

9.6 SEVERABILITY. In the event that a court should determine that a portion of this ordinance is invalid, such invalidity shall not affect the other provisions of this ordinance.