



CITY OF WAUWATOSA

COMMON COUNCIL

MINUTES • FEBRUARY 19, 2013

Regular Meeting

Common Council Chambers

7:30 PM

7725 West North Avenue, Wauwatosa, WI 53213

PRESENT: Alds. Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson, Berdan, Birschel, Causier, Donegan -15

EXCUSED: Ald. Ewerdt

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Mr. Porter, Public Works Director; Mr. Ruggini, Finance Director; Police Chief Weber; Ms. Enders, Development Director; Ms. Szudy, Principal Planner; Ms. Ledesma, City Clerk

Mayor Ehley in the Chair

1. Approval of previous minutes

It was moved by Ald. McBride, seconded by Ald. Organ that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -15

APPOINTMENTS BY THE MAYOR

OLD BUSINESS

1. Ordinance repealing and recreating Chapter 24 of the Wauwatosa Municipal Code pertaining to a new zoning code for the city

Committee of the Whole met prior to Council and recommended approval 15-0

ORDINANCE O-13-2

AN ORDINANCE MOVING CERTAIN SUBSECTIONS OF TITLE 24, AMENDING CODE SECTION REFERENCING TITLE 24, AND REPEALING AND RECREATING IN ITS ENTIRETY WAUWATOSA CODE TITLE 24 RELATING TO A NEW ZONING CODE FOR THE CITY OF WAUWATOSA

The Common Council of the City of Wauwatosa do ordain as follows:

Part I. Chapter 24.54 of the Wauwatosa Municipal Code relating to Design Review Boards is hereby renumbered in its entirety to Chapter 15.10 of the Wauwatosa Municipal Code, and all references in the Wauwatosa Municipal Code to Chapter 24.54 or any of its subsections shall be amended to reflect the new numbering.

Part II. Chapter 24.56 of the Wauwatosa Municipal Code is hereby renumbered in its entirety as Chapter 17.02 of the Wauwatosa Municipal Code, and all references in the Wauwatosa Municipal Code to Chapter 24.56 or any of its subsections shall be amended to reflect the new numbering.

Part III. Title 17 of the Wauwatosa Municipal Code is hereby renamed to "DIVISIONS AND SUBDIVISIONS OF LAND"

Part IV. Title 24 of the Wauwatosa Municipal Code is hereby repealed in its entirety and recreated to read as follows:

[SEE ATTACHMENT]

Part V. Section 6.50.080 of the Wauwatosa Municipal Code is hereby amended by deleting the words “from the board of zoning appeals”.

Part VI. Section 15.02.120 G. 6. of the Wauwatosa Municipal Code is hereby amended by changing the reference to “Chapter 24.57” to read “Section 24.13.030”.

Part VII. Sections 15.02.170 A. 3. and 15.02.170 F. of the Wauwatosa Municipal Code are both hereby amended by changing the reference to “Chapter 24.47” to read “Section 24.13.010”.

Part VIII. The definition of “Business District” in Section 15.14.020 of the Wauwatosa Municipal Code is hereby amended to read as follows:

“Business district” means those geographical areas identified in the Zoning Map defined at Sec. 24.01.110 A. of the City of Wauwatosa Code of Ordinances by any district designation other than a Residential (“R”) designation.

Part IX. Section 15.16.010 is hereby amended by changing the reference to “Section 25.54.020” to read “Section 15.10.020”.

Part X. Section 15.28.060 D. of the Wauwatosa Municipal Code is hereby amended by changing the reference to “Chapter 24.55” to read “Section 24.16.100 D.”.

Part XI. This ordinance shall take effect two weeks following publication of notice pursuant to Sec. 66.0103(1), Wis. Stats.

It was moved by Ald. Roznowski, seconded by Ald. Pantuso to adopt the foregoing ordinance. -15

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Jeffrey Roznowski, Alderman |
| SECONDER: | Bobby Pantuso, Alderman |
| AYES: | Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

ATTACHMENT

APPLICATIONS, COMMUNICATIONS, ETC.

1. Notices of Claims: Deborah Siever, 10229 Milwaukee Avenue; Roger A. Morrow, 922 N. Robertson, Dustin Sawejka, 2402 N. 82nd Street

City Attorney

2. Claim for Public Improvement Lien submitted by Atty. Jeremy Geisel on behalf of Rodriguez Construction Company with respect to Project #12-98

City Attorney

3. Letter from James Paetsch, Milwaukee 7, 756 N. Milwaukee Street, Milwaukee, encouraging the City to support ABB's commitment to become the anchor tenant at the Innovation Park campus as it is an "A-list" global company that will employ citizens in high-skill, high-wage jobs

Add to existing file

4. Communication from the Mayor's office listing the City's 2012 accomplishments

Place on file

5. Letter from Supr. Jim "Luigi" Schmitt supporting the economic development planned for the northeast quadrant of the Milwaukee County grounds

Add to existing file

6. Letter from Russ Drover, 9116 Jackson Park Blvd., regarding revision to Chapter 24 of the Wauwatosa Municipal Code

Add to existing file

FROM THE COMMITTEE ON BUDGET & FINANCE

1. Resolution approving a level 3 fund transfer recognizing a \$50,000 site assessment grant from the WI Economic Development Corporation

Committee recommended approval 7-0

RESOLUTION R-13-30

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT a Level 3 fund transfer to recognize \$50,000 in revenue from the Site Assessment Grant to be used as part of environmental remediation to be utilized in Account 01-241-4500-000 and an expense of an equal amount in 01-171-5980-025 be and hereby is approved.

It was moved by Ald. Wilson, seconded by Ald. Donegan to approve the foregoing resolution. -15

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Craig Wilson, Alderman |
| SECONDER: | Peter Donegan, Alderman |
| AYES: | Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

2. Resolution approving a Level 3 fund transfer of negative \$167,617 to reclassify Water Utility expenses

Committee recommended approval 8-0

RESOLUTION R-13-31

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT a level 3 fund transfer in the sum of \$167,617.00 to reclassify Water Utility expenses listed below be and hereby is approved:

Original Accounts (From)

| | |
|---|-------------|
| 50-663-1000-900 Meter Expense - Other | \$41,300.00 |
| 50-676-1000-900 Meters Maint. - Other | 45,865.00 |
| 50-902-1000-900 Meter Reading Exp. - Other | 34,118.00 |
| 50-903-1000-900 Customer Records-Exp. - Other | 46,334.00 |

New Account (To)

| | |
|---|-----------|
| 50-663-1000-940 Meter Expense San. Swr Offset | 41,300.00 |
| 50-676-1000-940 Meter Maint. San.Swr Offset | 45,865.00 |
| 50-902-1000-940 Meter Reading Exp. San.Swr Offset | 34,118.00 |
| 50-903-1000-940 Customer Records Exp. San.Swr Off | 46,334.00 |

It was moved by Ald. Wilson, seconded by Ald. Donegan to approve the foregoing resolution. -15

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Craig Wilson, Alderman |
| SECONDER: | Peter Donegan, Alderman |
| AYES: | Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

3. Resolution amending the Tax Incremental Finance District #6 Project Plan

Committee recommended approval 5-2-1

RESOLUTION R-13-32

WHEREAS, the City Plan Commission and Common Council of the City of Wauwatosa approved the creation of, the boundaries, and the project plan for Tax Incremental District No. 6, City of Wauwatosa, Wisconsin, dated September, 2010; and

WHEREAS, the Community Development Authority has proposed the Project Plan Amendment for Tax Incremental District No. 6, City of Wauwatosa, Wisconsin, in accordance with the provisions and requirements of Wisconsin Statutes Sections 66.1105(4)(h)1. to allow the addition of project costs; and

WHEREAS, the Community Development Authority, on February 4, 2013, after proper notice to the public and to the other local governmental entities having power to levy taxes on property within Tax Incremental District No. 6, has held a public hearing at which interested parties were provided a reasonable opportunity to express their views on the proposed amendment of the above-described Tax Incremental Finance District in accordance with Section 66.1105, Wisconsin Statutes; and

WHEREAS, the City of Wauwatosa (the "City") has determined that the use of Tax Incremental Financing is necessary to promote development and redevelopment within the City; and

WHEREAS, the Community Development Authority of the City of Wauwatosa has prepared a project plan amendment that includes:

- A statement listing the kind, number and location of all proposed public works or improvements within the district;
- an economic feasibility study;

- a detailed list of estimated project costs;
- a description of the methods of financing all estimated project costs;
- the time when the related costs or monetary obligations are to be incurred;
- a map showing existing uses and condition of real property in the district;
- a map showing proposed improvements and uses in the district;
- proposed changes of zoning ordinances, master plan, if any, maps, building codes and city ordinances;
- a list of estimated non-project costs;
- a statement of the proposed method for the relocation of any persons to be displaced;
- an indication as to how creation and subsequent modification of the tax incremental district promotes the orderly development of the city/village;
- an analysis of the overlying taxing districts;
- a map showing the district boundaries; and
- an opinion of the city attorney advising whether the plan is complete and complies with s. 66.1105(4)(f), Wisconsin Statutes.

NOW, THEREFORE, BE IT RESOLVED: by the Common Council of the City of Wauwatosa that the Project Plan for Tax Incremental District No. 6, City of Wauwatosa, Wisconsin, dated September 2010, be amended so as to allow the addition of certain project costs in accordance Section 66.1105(4)(h)1., Wisconsin State Statutes.

NOW, THEREFORE, BE IT RESOLVED: by the Common Council of the City of Wauwatosa, Milwaukee County, Wisconsin that:

1. The boundaries of "Tax Incremental District No. 6, City of Wauwatosa" have not been modified with this amendment.
2. The Common Council finds and declares that:
 - a. Not less than 50% of the area occupied by real property within Tax Incremental District No. 6 is suitable for blight and rehabilitation.
 - b. The improvement of Tax Incremental District No. 6 is likely to significantly enhance the value of substantially all of the other real property in the district.
 - c. The project costs relate directly to promoting redevelopment and rehabilitation, consistent with the purpose for which the district was created.
 - d. The equalized value of taxable property of Tax Incremental District No. 6, plus the value increment of all existing districts, does not exceed 12% of the total equalized value of taxable property within the City.
 - e. The District promotes orderly development in the City.

BE IT FURTHER RESOLVED: that the Common Council determines that the Project Plan Amendment for Tax Incremental District No. 6, which is attached hereto as Exhibit "A", is feasible and in conformance with the City's Comprehensive Plan; and

BE IT FURTHER RESOLVED: that the Project Plan Amendment for Tax Incremental District No. 6 attached hereto as Exhibit "A" is approved.

It was moved by Ald. Wilson, seconded by Ald. Donegan to approve the foregoing resolution and to include a directive to staff to come back to the Budget and Finance Committee within the next two meeting cycles with parameters that reflect a long-term strategy with regard to developer assistance for the property. Ayes 14, Noes 1 (Hanson)

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| RESULT: | ADOPTED [14 TO 1] |
| MOVER: | Craig Wilson, Alderman |
| SECONDER: | Peter Donegan, Alderman |
| AYES: | Berdan, Birschel, Causier, Donegan, Dubinski, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| NAYS: | Hanson |
| EXCUSED: | Ewerdt |

4. Bills and claims

BILLS AND CLAIMS FOR THE PERIOD 2/6/13 - 2/19/13 --

The Committee on Budget and Finance hereby reports to the Common Council that it has examined the accounts of bills and claims and hereby certifies the same as correct and recommends that each of said accounts be allowed and paid.

Total bills and claims for 2/6/13 - 2/19/13: \$3,191,412.03

It was moved by Ald. Causier, seconded by Ald. Dubinski that each and every account of bills and claims be allowed and ordered paid. Roll call vote, Ayes 14, Present 1 (Donegan)

FROM THE BOARD OF PUBLIC WORKS

1. Resolution approving a Conveyance of Rights in land document for storm and sanitary sewers in advance of the 2013 paving of Mayfair Road from I-94 - Watertown Plank Road

Board recommended approval 5-0

RESOLUTION R-13-33

WHEREAS, the Wisconsin Department of Transportation has requested a conveyance of certain rights of land over which the City of Wauwatosa holds an easement for sanitary and storm sewer uses; and

WHEREAS, the specific locations and nature of those rights being conveyed are described in the "Conveyance of Rights in Land" document at N. Mayfair Road from I-94 to Watertown Plank Road which was presented to the Board of Public Works at its meeting of February 18, 2013; and

WHEREAS, approval of the Conveyance of Rights in Land document is in the best interest of the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to execute the "Conveyance of Rights in Land" in advance of the 2013 paving of N. Mayfair Road from I-94 to Watertown Plank Road presented by the Wisconsin Department of Transportation in preparation for future work related to the Zoo Interchange Project in the City of Wauwatosa.

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Tim Hanson, Alderman |
| SECONDER: | Donald Birschel, Alderman |
| AYES: | Berdan, Birschel, Causter, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

2. Resolution approving a Conveyance of Rights in Land document for storm and sanitary sewers in advance of the 2013 paving of N. Glenview Avenue from the south city limits to a point south of W. Avon Court

Board recommended approval 5-0

RESOLUTION R-13-34

WHEREAS, the Wisconsin Department of Transportation has requested a conveyance of certain rights in land over which the City of Wauwatosa holds an easement for sanitary and storm sewer purposes; and

WHEREAS, the specific locations and nature of those rights being conveyed are described in the "Conveyance of Rights in Land" document for Glenview Avenue which was presented to the Board of Public Works at its meeting of February 18, 2013; and

WHEREAS, approval of the Conveyance of Rights in Land document is in the best interest of the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to execute the "Conveyance of Rights in Land" in advance of the 2013 paving of Glenview Avenue from the south city limits to south of West Avon Court presented by the Wisconsin Department of Transportation in preparation for future work related to the Zoo Interchange Project in the City of Wauwatosa

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Tim Hanson, Alderman |
| SECONDER: | Donald Birschel, Alderman |
| AYES: | Berdan, Birschel, Causter, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

3. Resolution approving an encroachment application by Patient Dog, LLC, d/b/a Alterra East Tosa, 6745 W. Wells Street, for an awning adjacent to the sidewalk on N. 68th Street, subject to the execution of a hold harmless agreement

Board recommended approval 5-0

RESOLUTION R-13-35

BE IT RESOLVED by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to Patient Dog, LLC, d/b/a Alterra, East Tosa, 6745 W. Wells Street, Wauwatosa, WI, to encroach onto City right-of-way with an awning, subject to the applicant executing unto the City of Wauwatosa an indenture setting forth the terms, provisions and conditions relating to the granting of the aforesaid permission by said City to said applicant and, also, subject to approval of the Design Review Board.

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Tim Hanson, Alderman |
| SECONDER: | Donald Birschel, Alderman |
| AYES: | Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

4. Resolution authorizing an agreement with John Onopa, 4465 N. 100th Street, granting a permanent easement to the city for a storm sewer and related equipment

Board recommended approval 5-0

RESOLUTION R-13-36

WHEREAS, the City of Wauwatosa construction project has required that the City of Wauwatosa obtain an easement for storm sewer purposes on 100th Street; and

WHEREAS, the property owner has agreed and executed the easement document presented to the Board of Public Works at its meeting of February 18, 2013;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to accept the easement and enter into the proposed easement agreement for the following parcel:

Parcel #221-9958-002 1165 N. 100th Street

The above address is located in the City of Wauwatosa.

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Tim Hanson, Alderman |
| SECONDER: | Donald Birschel, Alderman |
| AYES: | Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

5. Resolution authorizing an agreement with Keith and Robyn Grover, 10333 W. Ruby Avenue, granting the city a permanent easement for a storm sewer and related equipment

Board recommended approval 5-0

RESOLUTION R-13-37

WHEREAS, the City of Wauwatosa construction project has required that the City of Wauwatosa obtain an easement for storm sewer purposes on West Ruby Avenue; and

WHEREAS, the property owner has agreed and executed the easement document presented to the Board of Public Works at its meeting of February 18, 2013;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to accept the easement and enter into the proposed easement agreement for the following parcel:

Parcel #221-9958-03 10333 W. Ruby Avenue

The above address is located in the City of Wauwatosa.

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Donald Birschel, Tim Hanson |
| AYES: | Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

6. Resolution placing the 2012 street improvements on the tax roll

Board recommended approval 5-0

RESOLUTION R-13-38

WHEREAS, the Common Council of the City of Wauwatosa did, by resolution passed and dated December 20, 2011, approve and adopt a report of the Board of Public Works in connection with repaving, and work appurtenant thereto, in the following streets:

| Street & Location | Ald. Dist. | Exist & (Prop.) Width | Pavement Constr. Type | Ass'd. Sdwk. Work |
|---|------------|-----------------------|-----------------------|-------------------|
| 101 th Street from Ruby Avenue to Courtland Avenue | 8 | 30' | C | No |
| Capitol Drive from Mayfair Road to 124 th Street | 8 | Varies | C | Yes |
| Mayfair Road from Walnut Road to Burleigh Street | 2,6,7 | 36'-28'- 36' | C | Yes |

WHEREAS, the construction of the improvement above-described having now been completed in the aforementioned streets, it is the desire of the Board of Public Works to place the special assessments on the tax roll.

WHEREAS, it is the desire of the Board of Public Works to adjust the assessments for approaches and service walks, contained in said report, in relation to the costs of construction involved.

WHEREAS, the Director of Public Works has prepared amended special assessments taking into account the aforementioned differences.

NOW, THEREFORE, BE IT RESOLVED, By the Common Council of the City of Wauwatosa, Wisconsin, as follows:

Section 1. That the special assessments for paving set forth in the aforesaid reports of the Board of Public Works, approved by resolution passed and dated as listed are hereby directed to be entered upon the tax roll as hereinafter set forth and as reiterated in the special assessments attached hereto.

Section 2. That the attached amended special assessments for approaches and service walks, against the respective lots, tracts, and parcels of land abutting on the aforementioned streets be and the same are hereby approved and adopted and are directed to be entered upon the tax roll as hereinafter set forth.

Section 3. That the owners of the respective parcels of land fronting or abutting the street improvements on which public hearings have been held and preliminary assessments have been confirmed, shall have payment of the special assessments scheduled as follows:

(a) Each special assessment and special charge, pursuant to Section 66.0627 of the Wisconsin Statutes, levied in an amount of \$200 or less against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in one installment.

(B) Each special assessment for improvements levied in an amount exceeding \$200. Against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in five equal annual installments of principal together with interest at the rate of twelve percent (12%) per year or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the sale of corporate purpose bonds, which include the project which is the subject of the special assessment, whichever figure is less, on the unpaid balance of said assessment. Individual assessments shall run concurrently except as provided under Section 3.08.040 of the City Code.

(C) Each special assessment levied against any parcel of land in the City of Wauwatosa for the installation of sanitary sewer main or water main or construction of permanent street pavement shall not be entered in the tax roll until all installments of special assessments for sanitary sewer or water main or construction of permanent street pavement levied previously against the same parcel of land have been entered into the tax rolls and have been paid. Such subsequent special assessment shall be deferred and only interest at the rate of twelve percent (12%) per year, or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the issuance of General Obligation Debt, which include the project which is the subject of the special assessment, whichever figure is less, on such subsequent special assessment shall be carried into the tax rolls in addition to the scheduled installments of such prior assessments. After the last installment of such prior special assessment has been entered in the tax rolls, installments of the subsequent special assessment shall, beginning with the next subsequent tax roll, be entered in the tax rolls pursuant to Section 3.08.030 of the City Code.

(D) Whenever special assessments are levied against the frontage and side of a corner parcel of land in the City of Wauwatosa for the installation of sanitary sewers or water mains or construction of permanent pavements arising out of the same public works project, such special assessments levied against a corner parcel of land shall be deemed to be two separate special assessments, and the special assessment levied against the frontage of the corner parcel of land shall first be scheduled on the tax rolls for payment as provided in Section 3.08.030 of the City Code and the special assessment levied against the side of the corner parcel of land shall be scheduled on the tax rolls pursuant to (c) above, following such scheduling of the special assessment levied against the frontage of the corner parcel of land.

(E) Notwithstanding the provisions of (c) and (d) above, any owners of parcels of land assessed may at their option elect to pay both the scheduled installments of prior assessments as well as scheduled installments of subsequent special assessments on the same tax rolls as entered on those tax rolls pursuant to Section 3.08.030 of the City Code.

(F) If, after special assessments have been placed on the tax rolls in installments or otherwise, the taxpayer fails to pay the same within the time allowed for payment of general taxes, the same shall become delinquent and shall be treated in the same manner and subject to the same laws as delinquent general property taxes.

Section 4. That the City Clerk publish the installment assessment notice, as by Section 66.54 of the Wisconsin Statutes provided, including therein that the owners of the property benefited by said improvement may elect within thirty (30) days from the date of said notice to pay the said assessment on their property on or before the next succeeding November 1.

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| RESULT: | ADOPTED [UNANIMOUS] |
| MOVER: | Tim Hanson, Alderman |
| SECONDER: | Donald Birschel, Alderman |
| AYES: | Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

7. 2012 Annual Report of the Board of Public Works

Board recommended approval 5-0

FROM THE BOARD OF PUBLIC WORKS -

The Board of Public Works, to whom was referred the 2012 Annual Report of the Board of Public Works, recommends to the Common Council that the report be accepted and placed on file.

BOARD OF PUBLIC WORKS

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| RESULT: | PLACED ON FILE [UNANIMOUS] |
| MOVER: | Tim Hanson, Alderman |
| SECONDER: | Donald Birschel, Alderman |
| AYES: | Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson |
| EXCUSED: | Ewerdt |

Carla A. Ledesma
 Carla A. Ledesma, CMC, City Clerk

Zoning Code Amendment

| | | |
|--------------|---|-------------|
| 24.01 | Legal Framework | 01-1 |
| 24.01.010 | Official Name (Title)..... | 01-1 |
| 24.01.020 | Effective Date | 01-1 |
| 24.01.030 | Authority | 01-1 |
| 24.01.040 | Applicability and Jurisdiction | 01-1 |
| 24.01.050 | Comprehensive Plan..... | 01-1 |
| 24.01.060 | Purposes | 01-1 |
| 24.01.070 | Minimum Requirements; Compliance Required..... | 01-2 |
| 24.01.080 | Compliance Required..... | 01-2 |
| 24.01.090 | Conflicting Provisions..... | 01-2 |
| 24.01.100 | Rules of Language and Ordinance Construction..... | 01-2 |
| 24.01.110 | Zoning Map | 01-4 |
| 24.01.120 | Transitional Provisions..... | 01-5 |
| 24.01.130 | Severability..... | 01-7 |
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| 24.02 | Residential Districts..... | 02-1 |
| 24.02.010 | General | 02-1 |
| 24.02.020 | Allowed Uses..... | 02-2 |
| 24.02.030 | Lot and Building Regulations | 02-2 |
| 24.02.040 | Other Regulations | 02-3 |
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| 24.03 | Commercial Districts..... | 03-1 |
| 24.03.010 | General | 03-1 |
| 24.03.020 | Allowed Uses..... | 03-1 |
| 24.03.030 | Lot and Building Regulations | 03-1 |
| 24.03.040 | Other Regulations | 03-2 |
| | | |
| 24.04 | Industrial Districts..... | 04-1 |
| 24.04.010 | General | 04-1 |
| 24.04.020 | Allowed Uses..... | 04-1 |
| 24.04.030 | Lot and Building Regulations | 04-1 |
| 24.04.040 | Other Regulations | 04-2 |
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| 24.05 | Overlay Districts..... | 05-1 |
| 24.05.010 | General | 05-1 |
| 24.05.020 | /MAY, Mayfair Corridor Overlay | 05-1 |
| 24.05.030 | /NOR, North Avenue Overlay | 05-1 |
| 24.05.040 | /PUD, Planned Unit Development Overlay | 05-2 |
| 24.05.050 | /HIS, Historic Overlay..... | 05-4 |
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| 24.06 | Special Purpose Districts..... | 06-1 |
| 24.06.010 | General | 06-1 |
| 24.06.020 | SP-CON, Conservation District | 06-1 |
| 24.06.030 | SP-POS, Parks and Open Space District | 06-2 |
| 24.06.040 | SP-PUB, Public Facilities District..... | 06-2 |
| 24.06.050 | SP-INS, Institutions District | 06-2 |
| 24.06.060 | SP-MED, Medical Center District..... | 06-3 |
| 24.06.070 | SP-RP, Research Park District..... | 06-3 |
| 24.06.080 | SP-PKG, Parking Support District..... | 06-6 |
| 24.06.090 | Residential Planned Development District (Obsolete) | 06-7 |
| 24.06.100 | Business Planned Development District (Obsolete)..... | 06-7 |

Communication: ATTACHMENT (OLD BUSINESS)

| | | |
|--------------|---|-------------|
| 24.06.110 | Generally Applicable Regulations..... | 06-7 |
| 24.07 | Allowed Uses | 07-1 |
| 24.07.010 | General | 07-1 |
| 24.07.020 | Understanding the Use Table..... | 07-1 |
| 24.07.030 | Use Table..... | 07-1 |
| 24.08 | Use Classifications | 08-1 |
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| 24.08.020 | Residential Use Category | 08-2 |
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24.01.010 Official Name (Title)

The official name of Title 24 is the “Zoning Ordinance of the City of Wauwatosa, Wisconsin.” For convenience, it is referred to throughout Title 24 as the “zoning ordinance.”

24.01.020 Effective Date

The provisions of this zoning ordinance become effective on and compliance with its provisions is mandatory beginning March 21, 2013, except as otherwise expressly stated.

24.01.030 Authority

This zoning ordinance is adopted pursuant to the powers granted and limitations imposed by Wisconsin law, including Section 62.23(7) and Section 236.45 of the Wisconsin Statutes.

24.01.040 Applicability and Jurisdiction

The regulations of this zoning ordinance apply to all development, public or private, within the corporate limits of the City of Wauwatosa, except as provided by state or federal law or otherwise expressly stated in this zoning ordinance.

24.01.050 Comprehensive Plan

The *City of Wauwatosa Comprehensive Plan, 2008-2030* is adopted as the Comprehensive Plan of the City of Wauwatosa pursuant to Section 66.1001(4)(c) of the Wisconsin Statutes and as the master plan pursuant to Section 62.23(3) of the Wisconsin Statutes. The document, as certified in its current form, is available for public review at the department of community development and in the office of the city clerk.

24.01.060 Purposes

This zoning ordinance is adopted to help:

- A. promote land use and development patterns that are consistent with the city’s comprehensive plan and of adopted neighborhood and special area plans;
- B. protect the public health, safety and general welfare;
- C. ensure safety from fire, flooding, pollution, contamination and other dangers;
- D. maintain and promote safe pedestrian, bicycle and vehicular circulation;
- E. minimize congestion in public rights-of-way through the regulation of off-street parking, maneuvering and loading;
- F. ensure the provision of adequate open space for light, air, fire safety and recreation;
- G. protect environmentally sensitive areas;

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- H. remove obstacles and provide incentives for energy conservation, renewable energy, green infrastructure stormwater treatment practices and other sustainable development practices;
- I. promote the conservation, protection, restoration and enhancement of historic and cultural resources;
- J. facilitate the adequate, efficient and cost-effective provision of infrastructure and other public services and facilities;
- K. preserve the natural scenic beauty and aesthetic desirability of the city;
- L. encourage reinvestment in established neighborhoods while protecting their unique characteristics;
- M. stabilize and protect property values; and
- N. encourage innovative project design in the city, including developments that incorporate a mix of residential and nonresidential uses.

24.01.070 Minimum Requirements; Compliance Required

- A. The provisions of this zoning ordinance are the minimum requirements deemed necessary to carry out the zoning ordinance's stated purpose and intent.
- B. In addition to the requirements of this zoning ordinance, all uses and development must comply with all other applicable city, state and federal regulations.
- C. All references in the zoning ordinance to other city, state, or federal regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility for the city to enforce state or federal regulations.

24.01.080 Compliance Required

Except as otherwise expressly provided in this zoning ordinance:

- A. A building or structure may not be erected, moved, reconstructed, extended or structurally altered for any purpose other than one that is allowed in the subject zoning district.
- B. Land may not be used for any purpose other than one that is allowed in the subject zoning district.
- C. Buildings, structures and land may be used and arranged only in compliance with the requirements specified in this zoning ordinance.

24.01.090 Conflicting Provisions

- A. **Conflict with State or Federal Regulations**
If the provisions of this zoning ordinance are inconsistent with those of the state or federal government, the more restrictive provision will control, to the extent allowed by law. The more restrictive provision is the one that imposes more stringent controls.
- B. **Conflict with Other City Regulations**
If the provisions of this zoning ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the city, the more restrictive provision will control unless otherwise expressly stated. The more restrictive provision is the one that imposes more stringent controls.
- C. **Conflict with Private Agreements and Covenants**
This zoning ordinance is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this zoning ordinance impose a greater restriction than imposed by a private agreement or covenant, the provisions of this zoning ordinance control.

24.01.100 Rules of Language and Ordinance Construction

- A. **Meanings and Intent**
The language of the zoning ordinance must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in this zoning ordinance (see, for example, Sec. 24.18.020) have the specific meanings assigned, unless the context expressly indicates another

meaning. Words that are not expressly defined in this ordinance have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

B. Computation of Time

1. References to "days" are to calendar days unless otherwise expressly stated. References to "business days" are references to regular city government working days, excluding Saturdays, Sundays and holidays observed by city government.
2. The time in which an act is to be completed is computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday observed by city government, that day is excluded.
3. A day concludes at the close of business and any materials received after that time will be considered to have been received the following day.

C. Tenses and Usage

1. Words used in the singular include the plural. The reverse is also true.
2. Words used in the present tense include the future tense. The reverse is also true.
3. The words "must," "will," "shall" and "may not" are mandatory.
4. The word "may" is permissive, and "should" is advisory, not mandatory or required.
5. When used with numbers, "up to x," "not more than x" and "a maximum of x" all include "x."
6. The word "person" includes a firm, association, organization, partnership, trust company or corporation, as well as an individual.
7. The words "used" and "occupied" include "intended, designed or arranged to be used or occupied."
8. The word "lot" includes "plat" or "parcel."

D. Conjunctions

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

1. "and" indicates that all connected items or provisions apply; and
2. "or" indicates that the connected items or provisions may apply singularly or in combination.

E. Headings and Illustrations

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this zoning ordinance. In case of any difference of meaning or implication between the text of this zoning ordinance and any heading, drawing, table, figure, or illustration, the text controls.

F. Current Versions and Citations

All references to other city, state, or federal regulations in the zoning ordinance refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, zoning ordinance requirements for compliance are no longer in effect.

G. Lists and Examples

Unless otherwise expressly indicated, lists of items or examples that use "including," "such as," or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

H. Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of this zoning ordinance expressly prohibit such a delegation.

I. Public Officials and Agencies

All employees, public officials, bodies and agencies to which references are made are those of the City of Wauwatosa unless otherwise expressly stated.

24.01.110 Zoning Map

A. Establishment

The location and boundaries of the zoning districts established by this zoning ordinance are shown on a geographic coverage layer entitled "Zoning" that is maintained as part of the city's geographic information system (GIS) under the direction of the zoning administrator. This "Zoning" geographic coverage layer constitutes Wauwatosa's official zoning map. The official zoning map—together with all notations, references, data and other information shown on the map—is adopted and incorporated into this zoning ordinance. It is as much a part of this zoning ordinance as if actually depicted within its pages.

B. Maintenance and Updates

The zoning administrator is responsible for directing revisions to the official zoning map to reflect its amendment as soon as possible after the effective date of zoning map amendments (rezonings). No unauthorized person may alter or modify the official zoning map. The zoning administrator may authorize printed copies of the official zoning map to be produced and maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

C. District Boundaries

When the zoning map shows a zoning district boundary as following a particular feature, or reflects a clear intent that the boundary follows the feature, the boundary will be construed as following that feature as it actually exists.

D. Map Interpretations

Where any uncertainty exists about a zoning boundary, the actual location of the boundary will be determined by the zoning administrator using the following rules of interpretation:

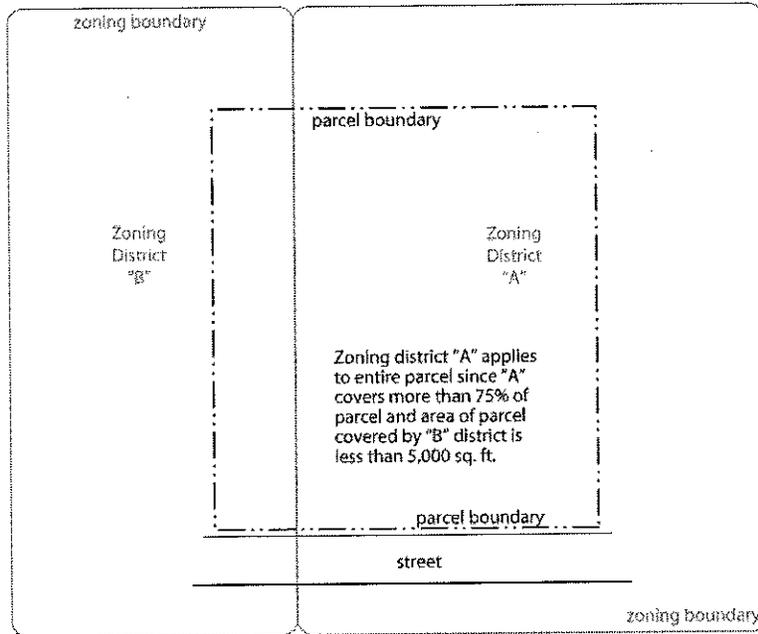
1. A boundary shown on the zoning map as approximately following a river, stream, lake or other watercourse will be construed as following the actual centerline of the watercourse. If, subsequent to the establishment of the boundary, the centerline of the watercourse should move as a result of natural processes (flooding, erosion, sedimentation, etc.), the boundary will be construed as moving with the centerline of the watercourse.
2. A boundary shown on the zoning map as approximately following a ridge line or topographic contour line will be construed as following the actual ridge line or contour line. If, subsequent to the establishment of the boundary, the ridge line or contour line should move as a result of natural processes (erosion, slippage, subsidence, etc.), the boundary will be construed as moving with the ridge line or contour line.
3. A boundary shown on the zoning map as approximately following lot lines or other parcel boundaries assigned by the city assessor will be construed as following such lot lines or parcel boundaries.
4. A boundary shown on the zoning map as approximately following a street or railroad line will be construed as following the centerline of the street or railroad right-of-way.
5. A boundary shown on the zoning map as approximately following the boundary of an adjacent municipality will be construed as following that boundary.
6. A boundary shown on the zoning map as approximately parallel to, or as an apparent extension of, a feature described above will be construed as being actually parallel to, or an extension of, the feature.
7. Zoning boundaries that do not coincide with a property line, parcel boundary, landmark or particular feature will be determined with a scale.

E. Split-Zoned Parcels

1. The zoning map may not be amended to classify a single parcel into 2 or more base zoning districts.

2. The split zoning of any newly created parcel (into more than one base zoning district classification) is prohibited.
3. The following regulations apply to existing parcels that are classified in 2 or more base zoning classifications:
 - a. For existing and proposed uses and structures, the more restrictive provisions of the applicable zoning districts apply to the entire parcel except when one base zoning district applies to at least 75% of the total parcel area and the remainder of the parcel is less than 5,000 square feet in area. The regulations of the zoning district that apply to the larger portion of the parcel apply to the entire parcel.
 - b. Building setbacks do not apply along base zoning district boundary lines that split a parcel under single ownership.
 - c. If any use, building or structure rendered nonconforming by the split-zoned parcel provisions of this section is accidentally damaged or destroyed it may be reestablished, as long as the reestablishment does not increase the extent of nonconformity.

Figure 01-1: Split-zoned Parcel



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24.01.120 Transitional Provisions

The provisions of this section address the transition from the previous zoning ordinance (the one in effect before the effective date specified in Sec. 24.01.020) to this zoning ordinance.

A. Zoning District Map Symbol Conversions

The zoning district names and map symbols in effect before the effective date specified in Sec. 24.01.020 are converted as follows:

| Proposed District Name | | Existing District Name | |
|------------------------|----------------------------|------------------------|-------------------------|
| RESIDENTIAL | | RESIDENTIAL | |
| R1-15 | Single-unit Residential-15 | Estate | Single Family Residence |
| R1-9 | Single-unit Residential-9 | AAA | Single Family Residence |
| R1-6 | Single-unit Residential-6 | AA | Single Family Residence |
| R2 | Two-unit Residential | BB | Two Family Residence |
| R4 | Multi-unit Residential | CC | Four Family Residence |
| R8 | Multi-unit Residential | DD | Eight Family Residence |
| COMMERCIAL | | COMMERCIAL | |
| CO | Office | AA | Professional Office |
| | | AA | Medical Clinic |

| Proposed District Name | | Existing District Name | |
|------------------------|----------------------------|------------------------|--|
| C1 | Neighborhood/Village Trade | | Trade Village Trade |
| C2 | General Commercial | AA | Business |
| | | AA | Commercial |
| INDUSTRIAL | | INDUSTRIAL | |
| M1 | Light Industrial | AA | Light Manufacturing |
| M2 | Heavy Industrial | AA | Industrial |
| OVERLAY | | OVERLAY | |
| /MAY | Mayfair Road Overlay | None | (/MAY is new overlay) |
| /NOR | North Avenue Overlay | None | (/NOR is new overlay) |
| /PUD | Planned Unit Development | None | (/PUD is new overlay) |
| /HIS | Historic Overlay | None | (/HIS is new overlay) |
| SPECIAL PURPOSE | | SPECIAL PURPOSE | |
| SP-CON | Conservation | | Conservancy |
| SP-PUB | Public Facilities | | Municipal Center & Public Works |
| SP-RP | Research Park | | Research Park Planned Development District |
| SP-INS | Institutions | AA | Institutions |
| SP-MED | Medical Center | | Medical Ctr. & Institutions |
| SP-PKG | Parking Support | | Off-Street Parking |
| SP-POS | Parks and Open Space | | Parks and Open Space Cemetery |
| None | (Obsolete District) | RPD | Residential Planned Development |
| None | (Obsolete District) | BPD | Business Planned Development |

B. Applications, Permits and Approvals

- Any building, development or structure for which a building permit was issued or a complete permit application had been accepted for processing before the effective date specified in Sec. 24.01.020 may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not comply with provisions of this zoning ordinance. If the building is not commenced and completed within the time allowed under the original building permit, the building, development or structure may be constructed, completed and occupied only if it complies with the standards of this zoning ordinance.
- Applications for special use, conditional use, temporary use, variance or other zoning approvals that were submitted in complete form and are pending approval on the effective date specified in Sec. 24.01.020 must be reviewed wholly under the terms of the zoning ordinance in effect immediately before the effective date specified in Sec. 24.01.020. Building permits for construction and development approved under such zoning approvals may be issued in accordance with Sec. 24.01.120B.3.
- Building permits may be issued for construction or development approved under Sec. 24.01.120B.2, even if such building, development or structure does not fully comply with provisions of this zoning ordinance. If building is not commenced and completed within the time allowed under the building permit, then the building, development or structure may be constructed, completed and occupied only if it complies with the standards of this zoning ordinance.
- When a use classified as a conditional use under this zoning ordinance exists as an approved special use, approved conditional use or permitted use on the effective date specified in Sec. 24.01.020, that use will be considered a lawfully established conditional use under this zoning ordinance. When any amendment to this zoning ordinance changes the classification of a permitted use to a conditional use, any use lawfully established before such amendment will be considered a lawfully established conditional use after the effective date of the amendment. A lawfully established existing use that is not allowed as a conditional use or permitted use in the district in which the use is now located will be considered a nonconforming use and will be subject to all applicable regulations of Chapter 24.15.

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C. Violations Continue

1. Any violation of the previous zoning ordinance will continue to be a violation under this zoning ordinance and be subject to penalties and enforcement under Sec. 24.17.020.
2. If the use, development, construction or other activity that was a violation under the previous ordinance complies with the express terms of this zoning ordinance, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date specified in Sec. 24.01.020.
3. The adoption of this zoning ordinance does not affect any pending or future prosecution of, or action to abate, violations of the previous ordinance that occurred before the effective date specified in Sec. 24.01.020.

D. Nonconformities

1. Any nonconformity under the previous zoning ordinance will also be a nonconformity under this zoning ordinance, as long as the nonconforming situation continues to exist.
2. If, however, a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this zoning ordinance, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.
3. A situation that did not constitute a (lawful) nonconforming situation under the previously adopted zoning ordinance does not achieve (lawful) nonconforming status under this zoning ordinance merely by repeal of the previous zoning ordinance.

24.01.130 Severability

If any portion of this zoning ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the zoning ordinance and in no way affects the validity of the remainder of the zoning ordinance.

24.02 | Residential Districts

| | | |
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| 24.02.030 | Lot and Building Regulations | 02-2 |
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24.02.010 General

A. The Districts

The city’s residential zoning districts are listed below. When this zoning ordinance refers to “residential” zoning districts or “R” districts, it is referring to these districts.

| Zoning District | Map Symbol | Formerly Known As |
|----------------------------|------------|---------------------------------|
| Single-unit Residential-15 | R1-15 | Estate, Single-family Residence |
| Single-unit Residential-9 | R1-9 | AAA, Single-family Residence |
| Single-unit Residential-6 | R1-6 | AA, Single-family Residence |
| Two-unit Residential | R2 | BB, Two-family Residence |
| Multi-unit Residential | R4 | CC, Four-family Residence |
| Multi-unit Residential | R8 | DD, Eight-family Residence |

B. District Names and Map Symbols

The proposed district names/map symbols are intended to provide a general indication of what is allowed in the respective district. The first letter, “R,” denotes the residential orientation of the district. The numeral immediately following the “R” is a shorthand reference to the allowed housing type, with “1” representing a single dwelling unit, “2” representing a two-unit residential building (e.g., duplex or two-flat) and so on. The R1 single-dwelling districts include a density or lot size indicator following the dash. The R1-9 district, for example, refers to a single-dwelling residential zoning district that generally allows one dwelling unit on a lot with at least 9,000 square feet of lot area.

C. Purposes

Wauwatosa’s residential zoning districts are primarily intended to create, maintain and promote a variety of housing and lifestyle opportunities for individual households and to maintain the desired physical character of existing neighborhoods. While the districts primarily accommodate residential use types, some nonresidential uses are also allowed. The R district standards provide development flexibility, while at the same time helping to ensure that new development is compatible with the city’s many neighborhoods. In addition, the regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed.

1. R1, Single-unit Residential Districts

The R1 districts are primarily intended to accommodate detached houses and to preserve the character of low-density residential neighborhoods.

2. R2, Two-unit Residential District

The R2 district is primarily intended to accommodate detached houses, semi-detached houses and two-unit residential buildings and to provide for a mix of low-density housing types within a single neighborhood area.

3. R4, Multi-unit Residential

The R4 district is primarily intended to accommodate detached houses, semi-detached houses, two-unit residential buildings and small (maximum 4-unit) multi-unit residential buildings. The district helps provide a mix of low- and moderate-density housing choice within a single neighborhood area.

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4. R8, Multi-unit Residential District

The R8 district is primarily intended to accommodate detached houses, semi-detached houses, two-unit residential buildings and multi-unit residential buildings. The district helps provide a mix of low- and moderate-density housing choice within a single neighborhood area.

24.02.020 Allowed Uses

Principal uses are allowed in residential zoning districts in accordance with the use table of Sec. 24.07.030.

24.02.030 Lot and Building Regulations

A. General

This section establishes basic lot and building regulations that apply in R districts. These regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed; they are not to be construed as a guarantee that maximum allowed densities and development yields can be achieved on every lot. Other factors, such as topography, the presence of floodplains or protected resources, off-street parking, landscaping requirements and other factors may work to further limit actual development potential.

B. Basic Standards

The lot and building standards of the following table apply to all principal and accessory uses allowed in R districts, except as otherwise expressly stated. General exceptions to these standards and rules for measuring compliance can be found in Sec. 24.18.030.

| Lot and Building Standards | DISTRICTS | | | | | |
|--|-----------|-------|-------|-------|-------|-------|
| | R1-15 | R1-9 | R1-6 | R2 | R4 | R8 |
| Minimum Lot Area (square feet) | | | | | | |
| Detached house | 15,000 | 9,000 | 6,000 | 6,000 | 6,000 | 6,000 |
| Two-unit building | NA | NA | NA | 7,200 | 7,200 | 7,200 |
| Multi-unit building (min. lot area per unit)[1] | NA | NA | NA | NA | 1,600 | 1,600 |
| Minimum Lot Width (frontage) (feet) | | | | | | |
| Corner lot | 125 | 85 | 60 | 60 | 60 | 60 |
| Interior lot | 125 | 75 | 50 | 50 | 50 | 50 |
| Minimum Setbacks | | | | | | |
| Front (feet) | 35[2] | 35[2] | 30[2] | 25[2] | 25[2] | 25[2] |
| Side, Street (% of lot width) | 20[3] | 20[3] | 20[3] | 20[3] | 20[3] | 20[3] |
| Side, Interior one side/both sides combined (feet) | 5/10 | 5/10 | 3/9 | 3/9 | 3/9 | 3/9 |
| Rear (% of lot depth) | 20[4] | 20[4] | 20[4] | 20[4] | 20[4] | 20[4] |
| Accessory buildings | | | | | | |
| Rear and interior side (feet) | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 |
| Alley (feet) | 5 | 5 | 5 | 5 | 5 | 5 |
| Max. Building Coverage (% of lot area) | | | | | | |
| All principal and accessory buildings combined | | | | | | |
| Corner lot | 35 | 42 | 42 | 42 | 42 | 60 |
| Interior lot | 35 | 37 | 37 | 37 | 37 | 50 |
| Accessory buildings[5] | 12 | 12 | 12 | 12 | 12 | 12 |
| Maximum Height (feet) | | | | | | |
| Principal buildings | 35[6] | 35[6] | 35[6] | 35[6] | 35[6] | 35[6] |
| Accessory buildings[7] | 16 | 16 | 16 | 16 | 16 | 16 |

[1] This minimum lot area per unit standard applies only to multi-unit buildings. The regulation does not apply in districts that do not allow multi-unit buildings.

[2] Setback "averaging" is allowed in some cases, See Sec. 24.18.030E, i.e.

[3] Not required to exceed 15 feet.

[4] Must be at least 15 feet, but not required to exceed 25 feet.

[5] Not to exceed 720 square feet

[6] Permitted public and civic buildings (e.g., schools and religious assembly) may be up to 60 feet in height. One additional foot for front, side and rear setback is required for each foot of building height above 35 feet.

[7] Accessory building heights of up to 20 feet may be approved by the zoning administrator if the administrator determines that the additional height is necessary to accommodate a roof pitch consistent with the architectural style of the principal building and that the additional height will not be used to create "habitable floor area," as that term is defined in Wisconsin Administrative Code Chapter 301 et. seq.

24.02.040 Other Regulations

Uses and development in residential districts are subject to all other applicable regulations and standards of this zoning ordinance, including the following:

- A. Nonconformities**
See Chapter 24.15.
- B. Accessory Uses and Structures**
See Chapter 24.10.
- C. Parking and Loading**
See Chapter 24.11.
- D. Landscaping and Screening**
See Chapter 24.12.
- E. Temporary Uses**
See Sec. 24.10.080.

24.03 | Commercial Districts

| | | |
|-----------|------------------------------------|------|
| 24.03.010 | General | 03-1 |
| 24.03.020 | Allowed Uses..... | 03-1 |
| 24.03.030 | Lot and Building Regulations | 03-1 |
| 24.03.040 | Other Regulations | 03-2 |

24.03.010 General

A. The Districts

The city’s commercial zoning districts are listed below. When this zoning ordinance refers to “commercial” zoning districts or “C” districts, it is referring to these districts.

| Zoning District | Abbreviation/Map Symbol | Formerly Known As |
|----------------------------|-------------------------|------------------------|
| Office | CO | AA Professional Office |
| | | AA Medical Clinic |
| Neighborhood/Village Trade | C1 | Trade |
| | | Village Trade |
| General Commercial | C2 | AA Business |
| | | AA Commercial |

B. Purposes

Wauwatosa’s commercial zoning districts are primarily intended to accommodate and promote neighborhood- and community-serving business and commercial (e.g., retail, service, office) uses, as well as vertical mixed-use development consisting of nonresidential uses on the ground floor and residential uses on the upper floors of the same building. Encouraging mixed-use development can help reduce vehicle travel demand and provide increased housing choice and transit-oriented densities.

1. CO, Office Commercial

The CO, Office Commercial district is primarily intended to office uses.

2. C1, Neighborhood & Village Commercial

The C1, Neighborhood & Village Commercial district is primarily intended to accommodate mixed-use development and small-scale, neighborhood-serving retail and service uses in pedestrian-oriented storefront buildings.

3. C2, General Commercial

The C2, General Commercial district accommodates a broad range of business and commercial uses, often in the physical form of shopping centers, large-format retail and other destination-oriented uses in which a large percentage of customers will arrive by automobile.

24.03.020 Allowed Uses

Principal uses are allowed in commercial zoning districts in accordance with the use table of Sec. [24.07.030](#).

24.03.030 Lot and Building Regulations

A. General

This section establishes basic lot and building regulations that apply in C districts. These regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed; they are not to be construed as a guarantee that maximum allowed densities and development yields can be achieved on every lot. Other factors, such as topography, the presence of floodplains or protected resources, off-street parking, landscaping requirements and other factors may work to further limit actual development potential.

B. Basic Standards

The following lot and building standards apply to all principal and accessory uses allowed in C districts, except as otherwise expressly stated in this zoning ordinance. General exceptions to these standards and rules for measuring compliance can be found in Sec. 24.18.030.

| Lot and Building Standards | DISTRICTS | | |
|--|-----------|---------|---------|
| | CO | C1 | C2 |
| Minimum Lot Area (square feet) | 7,200 | None | None |
| Minimum Lot Area Per Unit (square feet)[1] | NA | 1,000 | 1,000 |
| Minimum Lot Width (feet) | 60 | None | None |
| Minimum Setbacks (feet) | | | |
| Front | 10[2] | 0 | 10 |
| Street Side | 5 | 0 | 5 |
| Interior Side | 3[3] | 0 | 3[3] |
| Rear | 25 | 0 | 10[4] |
| Rear and Interior Side (Accessory Buildings) | 1.5 | 0 | 3 |
| Rear Alley (Accessory Buildings) | 5 | 5 | 10 |
| Maximum Height (feet) | | | |
| Principal Buildings | 35 | 40 | No max. |
| Accessory Buildings | 20 | 20 | 20 |
| Maximum Building Coverage (% of lot area) | | | |
| Interior Lots | 35 | No max. | No max. |
| Corner Lots | 40 | No max. | No max. |

- [1] This standard applies to vertical mixed-use buildings. It also applies to multi-unit residential buildings approved through the conditional use process.
- [2] If abutting a zoning district that requires a greater front setback, the abutting district's (greater) front setback applies.
- [3] No side setback is required abutting another C-zoned lot occupied by a building with no side setback along the shared lot line.
- [4] No rear setback required on lot abutting railroad right-of-way.

24.03.040 Other Regulations

Uses and development in commercial districts are subject to all other applicable regulations and standards of this zoning ordinance, including the following:

- A. Drive-through and Drive-in Facilities**
Drive-through and drive-in facilities require conditional use approval in all C districts. They are also subject to the regulations of Sec. 24.11.100.
- B. Large-format Retail Developments**
Individual freestanding buildings and group developments with a cumulative gross floor area of 50,000 square feet or more of retail sales area are subject to the large-format retail development regulations of Sec. 24.09.090.
- C. Nonconformities**
See Chapter 24.15.
- D. Accessory Uses and Structures**
See Chapter 24.10.
- E. Parking and Loading**
 - 1. Parking spaces may not be located in front or street side setbacks.
 - 2. Loading docks must be set back at least 10 feet from alleys and 20 feet from all street rights-of-way.
 - 3. See also the general off-street parking and loading regulations of Chapter 24.11.
- F. Landscaping and Screening**
See Chapter 24.12.
- G. Temporary Uses**
See Sec. 24.10.080.

24.04 | Industrial Districts

| | | |
|-----------|-----------------------------------|------|
| 24.04.010 | General..... | 04-1 |
| 24.04.020 | Allowed Uses..... | 04-1 |
| 24.04.030 | Lot and Building Regulations..... | 04-1 |
| 24.04.040 | Other Regulations..... | 04-2 |

24.04.010 General

A. The Districts

The city's industrial zoning districts are listed below. When this zoning ordinance refers to "industrial" zoning districts or "M" districts, it is referring to these districts.

| Zoning District | Map Symbol | Formerly Known As |
|------------------|------------|------------------------|
| Light Industrial | M1 | AA Light Manufacturing |
| Heavy Industrial | M2 | AA Industrial |

B. Purposes

Wauwatosa's industrial zoning districts are primarily intended to accommodate and promote industrial, manufacturing and employment-generating uses.

1. Light Industrial

The M1 district is primarily intended to accommodate low-impact industrial uses and industrial park developments that have few if any visual or operational impacts.

2. Heavy Industrial

The M2 district is primarily intended to accommodate high-impact industrial uses in locations that will not cause adverse impacts on residential uses.

24.04.020 Allowed Uses

Principal uses are allowed in industrial zoning districts in accordance with the use table of Sec. 24.07.030.

24.04.030 Lot and Building Regulations

A. General

This section establishes basic lot and building regulations that apply in M districts. These regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed; they are not to be construed as a guarantee that maximum allowed densities and development yields can be achieved on every lot. Other factors, such as topography, the presence of floodplains or protected resources, off-street parking, landscaping requirements and other factors may work to further limit actual development potential.

B. Basic Standards

The lot and building standards of the following table apply to all principal and accessory uses allowed in M districts, except as otherwise expressly stated in this zoning ordinance. General exceptions to these standards and rules for measuring compliance can be found in Sec. 24.18.030.

| Lot and Building Standards | DISTRICTS | |
|--|-----------|---------|
| | M1 | M2 |
| Minimum Setbacks (feet) | | |
| Front | 10[1] | 25 |
| Side, Street | 10 | 25 |
| Side, Interior | 10[2] | 10 |
| Rear | 25 | 25 |
| Maximum Height (feet) | No max. | No max. |
| Maximum Building Coverage (% of lot area) | 80 | 80 |

Communication: ATTACHMENT (OLD BUSINESS)

- [1] Minimum front setback is 25 feet if any portion of the opposing block face is zoned residential.
- [2] Minimum interior side setback abutting R-zoned lot is 25 feet.

24.04.040 Other Regulations

Uses and development in industrial districts are subject to all other applicable regulations and standards of this zoning ordinance, including the following:

- A. Nonconformities**
See Chapter 24.15.
- B. Accessory Uses and Structures**
See Chapter 24.10.
- C. Parking and Loading**
 - 1. Loading docks must be set back at least 10 feet from alleys and 20 feet from all street rights-of-way.
 - 2. See also the general parking and loading regulations of Chapter 24.11.
- D. Landscaping and Screening**
See Chapter 24.12.
- E. Temporary Uses**
See Sec. 24.10.080.
- F. Outdoor Storage**
Outdoor storage activities in the M1 district require conditional use approval in accordance with Sec. 24.16.040.

24.05 | Overlay Districts

| | | |
|-----------|--|------|
| 24.05.010 | General | 05-1 |
| 24.05.020 | /MAY, Mayfair Corridor Overlay | 05-1 |
| 24.05.030 | /NOR, North Avenue Overlay | 05-1 |
| 24.05.040 | /PUD, Planned Unit Development Overlay | 05-2 |
| 24.05.050 | /HIS, Historic Overlay..... | 05-4 |

24.05.010 General

A. Establishment

Overlay zoning districts may be established, amended or removed only in accordance with the zoning map amendment procedures of Sec. 24.16.030.

B. Interpretation

Overlay zoning district regulations apply in combination with underlying (base) zoning district regulations and all other applicable standards of this zoning ordinance. All applicable regulations of the underlying base zoning district apply to property in an overlay zoning district unless otherwise expressly stated. When overlay district standards conflict with standards that otherwise apply in the underlying, base zoning district, the regulations of the overlay zoning district govern.

24.05.020 /MAY, Mayfair Corridor Overlay

A. Purpose

The /MAY, Mayfair Road Corridor Overlay district is intended to help protect the appearance and operational (transportation) function of the Mayfair Road corridor.

B. Minimum Building Height

Buildings within the /MAY Overlay district must be at least 2 stories and 24 feet in height.

24.05.030 /NOR, North Avenue Overlay

A. Purpose

The /NOR, North Avenue Overlay district regulations are intended to help implement the *East Tosa North Avenue Plan*.

B. Prohibited Uses

The following uses and activities are prohibited in the /NOR Overlay district:

1. Automobile sales and leasing;
2. Automobile storage services;
3. Convenient cash businesses (Sec. 24.18.020)
4. Gun shops;
5. Outdoor storage of materials; and
6. Pawnbrokers.

C. Build-to Line

No more than 50% of any new principal building may be set back more than 15 feet from the North Avenue right-of-way line.

D. Ground-Floor Glazed Area

The following requirements apply to all new construction and building additions.

1. Windows or other glazed area must cover at least 50% of the public street-facing ground floor building wall. Darkly tinted, mirrored or highly reflective glazing may not be counted toward minimum glazed area requirements. On corner parcels, this 40% glazed area requirement ap-

plies only along the primary street. In the event that these minimum glazed area requirements conflict with city building (energy) code requirements, the building (energy) code governs.

2. Glazed area requirements apply to that area of the ground floor building wall facing a public street up to the finished ceiling height of the first floor building space.
3. Display windows that do not provide views into the interior of the building may be counted towards satisfying up to 50% of the minimum glazed area requirements, provided that they are internally illuminated and are at least 2 feet in depth.
4. The bottom of any window or product display window used to satisfy these glazed area requirements may not be more than 30 inches above the finished grade of the first floor building space.

E. Doors and Entrances

The following requirements apply to all new construction and building additions.

1. Buildings must have a working public entrance facing the primary street. Entrances at building corners may be used to satisfy this requirement.
2. Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas or courtyard entrances to a cluster of shops or businesses.

F. Ground Floor Area

Nonresidential uses in the North Avenue Overlay district may not exceed a ground floor gross floor area of 5,000 square feet unless approved as a conditional use in accordance with Sec. 24.16.040.

G. Hours of Operation

1. Business hours of operation are restricted to 6:00 a.m. until 11:00 p.m. Additional hours of operation may be designated through the conditional use permit process, provided that the common council finds as follows:
 - a. Additional hours fall within times that are reasonable and customary for that type of business, and
 - b. Additional hours will not have a negative impact on adjacent residential, commercial or other properties.
2. Businesses that were approved through the conditional use or special use approval process prior to November 8, 2006 for hours of operation outside the 6:00 a.m. to 11:00 p.m. time period may continue to operate with such hours of operation as long as the conditional use or special use permit remains in force.

24.05.040 /PUD, Planned Unit Development Overlay

A. Purpose

1. General

The /PUD, Planned Unit Development Overlay district is intended to accommodate development that may be difficult if not impossible to carry out under otherwise applicable zoning district standards. Examples of the types of development that may benefit from the PUD overlay district include the following:

a. Enhanced Protection of Natural Resource Areas

Developments that offer enhanced protection of natural resources and sensitive environmental features, including streams, water bodies, floodplains, wetlands, steep slopes and woodlands.

b. Energy Conservation/Sustainability

Developments that achieve extremely high levels of energy conservation and developments that achieve extremely high levels of sustainability, as evidenced by commitment to attain at least LEED Gold or equivalent ratings by recognized green building organizations.

c. Traditional Urban Development

Developments characterized by parcel configurations, street patterns, streetscapes and neighborhood amenities commonly found in urban neighborhoods platted or otherwise created before the 1950s.

d. Mixed-use Development

Developments that contain a complementary mix of residential and nonresidential uses.

2. Objectives

Different types of PUDs will promote different planning goals. In general, however, PUDs are intended to promote the following objectives:

- a. implementation of and consistency with the city's adopted plans and policies;
- b. flexibility and creativity in responding to changing social, economic and market conditions allowing greater public benefits than could be achieved using conventional zoning and development regulations;
- c. efficient and economical provision of public facilities and services;
- d. economic opportunity and environmental and social equity for residents;
- e. variety in housing types and sizes to accommodate households of all ages, sizes, incomes and lifestyle choices;
- f. compact, mixed-use development patterns where residential, commercial, civic and open spaces are located in close proximity to one another;
- g. a coordinated transportation system that includes an inter-connected hierarchy of facilities for pedestrians, bicycles and vehicles;
- h. compatibility of buildings and other improvements as determined by their arrangement, massing, form, character and landscaping;
- i. the protection and enhancement of open space amenities and natural resource features such as tree canopy, native vegetation, wetland and stream buffer area and hydric soils in the development design;
- j. the incorporation of sustainable development features including green infrastructure practices in landscapes and parking area, to maximize the aesthetic and water quality benefits of stormwater management practices; and
- k. attractive, high-quality landscaping, lighting, architecture and signage, including the use of native landscaping, that reflects the unique character of the development.

B. Procedure

PUDs must be reviewed and approved in accordance with the procedures of Sec. 24.16.050. Applications must be signed by all property owners of record.

C. Zoning Map

Approved PUDs must be identified on the zoning map by appending the map symbol "/PUD" as a suffix to the base zoning district classification, as in "R8/PUD."

D. Developer's Statement of Intent

Each PUD application must include a written explanation from the applicant describing the community benefits of the proposed development and how the proposed development provides greater benefits to the city than would a development carried out in accordance with otherwise applicable zoning ordinance standards. The statement must also include a comparison of the proposed development with the standards of the base zoning district.

E. Approval Criteria

A /PUD overlay zoning district may be approved only when the common council determines that the proposed PUD would result in a greater benefit to the city as a whole than would development under conventional zoning district regulations.

F. Standards Eligible for Modification

Unless otherwise expressly approved by the common council as part of the PUD approval process, PUDs are subject to all applicable standards of this zoning ordinance. The common council is authorized to approve PUDs that deviate from strict compliance with specified standards if they determine that the resulting development satisfies the approval criteria of Sec. 24.05.040E. PUDs may not deviate from compliance with Title 14 (Fire Prevention) or Title 15 (Buildings and Construction) of the city code of ordinances.

G. Allowed Uses

The uses to be allowed in a PUD must be identified as part of the PUD approval process along with all applicable conditions or supplemental use regulations that apply to such uses. Regardless of the underlying zoning, the common council may approve a mix of use types within a PUD as a means of accommodating mixed-use developments and developments with a broader range of housing types and housing options than allowed by the underlying zoning district.

H. Lot Size

Minimum lot area and width standards of the base zoning district may be reduced as part of the PUD approval, provided that lot sizes are adequate to safely accommodate all proposed buildings and site features.

I. Residential Density

The allowable residential density of the base zoning district may be changed if the common council determines that such a change is warranted to support the public benefit likely to result from the proposed development and that the resulting density can be supported by existing and planned public facilities and services.

J. Setbacks

The minimum setback standards of the base zoning district may be reduced as part of the PUD approval.

K. Height

The common council may allow an increase in allowable building heights if it determines that such an increase is warranted to support the public benefit likely to result from the proposed development.

L. Parking and Loading

Off-street parking and loading requirements may be modified when the common council determines that modified requirements are in keeping with projected parking and loading demand of the proposed development, that other means of meeting access demand will be provided or that the requested modifications will better meet the purpose of the PUD overlay.

M. Streets

Alternatives to otherwise "standard" street cross-sections and designs may be approved when the common council determines that such alternative designs would better meet the purpose of the PUD overlay, while still providing a safe and efficient traffic circulation system.

24.05.050 /HIS, Historic Overlay

A. Purpose

It is declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character of special architectural or historic interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people. The purposes of the historic overlay district and of all the historic preservation regulations of this zoning ordinance are as follows:

1. effect and accomplish the protection, enhancement and perpetuation of such improvements, sites and districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history;
2. safeguard the city's historic and cultural heritage, as embodied and reflected in such historic structures, sites and districts;
3. foster civic pride in the notable accomplishments of the past;
4. stabilize and improve property values;

5. protect and enhance the city's attractions to residents, tourists and visitors and serve as a support and stimulus to business and industry;
6. improve and enhance the visual and aesthetic character of the city; and
7. educate the public regarding the need and desirability of a city historic preservation program and its enhancement of the quality of life.

B. Uses

The use regulations of the underlying zoning district govern. The /HIS overlay district does not impose any additional use restrictions.

C. Development/Design Standards

1. In establishing an /HIS district, the historic preservation commission and plan commission are authorized to propose and the common council is authorized to adopt, district-specific development and design standards to guide development and redevelopment within individual /HIS districts. When development and design standards have been established, each application for new construction or alteration of an existing building within the designated /HIS must comply with those standards.
2. The following general development/design guidelines apply in /HIS districts unless otherwise expressly stated:
 - a. all new structures should be constructed to a height visually compatible with the building and environment with which they are visually related;
 - b. the gross volume of any new structure should be visually compatible with the buildings and environment with which it is visually related;
 - c. in the street elevation of a building, the proportion between the width and height in the facade should be visually compatible with the building and environment with which it is visually related;
 - d. the proportions and relationships between doors and windows in the street facade should be visually compatible with the buildings and environment with which it is visually related;
 - e. the rhythm of solids to voids, created by openings in the facade, should be visually compatible with the buildings and environment with which it is visually related;
 - f. the existing rhythm created by existing buildings masses and spaces between the buildings should be preserved;
 - g. the materials used in the final facade should be visually compatible with the buildings and environment with which it is visually related;
 - h. the texture inherent in the facade should be visually compatible with the buildings and environment with which it is visually related;
 - i. colors and patterns used on the facade (especially trim) should be visually compatible with the buildings and environment with which it is visually related;
 - j. the design of the roof should be visually compatible with the buildings and environment with which it is visually related;
 - k. the landscape plan should be sensitive to the individual building, its occupants and their needs. Further, the landscape treatment should be visually compatible with the buildings and environment with which it is visually related;
 - l. the street facade should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected; and
 - m. architectural elements should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

D. Maintenance Requirements

1. The maintenance requirements of this subsection are established to prevent the demolition of a building, structure or improvement by neglecting it and permitting damage to it by weather or vandalism. For the purpose of these provisions, "improvement" means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.
2. Historic structures, historic sites and improvements in an historic district must be maintained consistent with the provisions of this zoning ordinance. Maintenance requirements include keeping in good repair all exterior portions of structures, sites and improvements and all interior portions that, if not maintained, may cause the exterior portions to fall into a state of disrepair, including but not limited to:
 - a. The deterioration of exterior walls or other vertical supports;
 - b. The deterioration of roofs or other horizontal members;
 - c. The deterioration of external chimneys;
 - d. The deterioration or crumbling of exterior plasters or mortar;
 - e. The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
 - f. The peeling of paint, rotting, holes and other forms of decay;
 - g. The deterioration of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping;
 - h. The deterioration of any features so as to create or permit the creation of any hazardous, unsanitary or unsafe conditions;
 - i. All interior portions thereof which may cause the exterior to deteriorate or become damaged or otherwise to fall into a state of disrepair.

E. Other Codes and Ordinances

Insofar as they are applicable to a historic structure, historic site or improvement in a historic district, any provision of the plumbing code, the minimum housing and property maintenance code, building code, heating, ventilating and air conditioning code and outdoor signs and outdoor advertising structures regulations of the general ordinances may be varied or waived, on application, by the board having such jurisdiction over such regulations, provided such variance or waiver does not endanger public health or safety.

F. Establishment of /HIS Overlay Districts

Historic overlay districts may be established only in accordance with the procedures of Sec. 24.16.090.

G. Requirement for a Certificate of Appropriateness

The review and approval procedures and criteria for issuing certificates of appropriateness within designated /HIS districts are specified in Sec. 24.16.100.

H. Recognition of Historic Structures, Sites and Districts

Once an historic structure, site or district has been properly designated, the historic preservation commission may cause to be prepared and erected on the property, a suitable plaque declaring that the property is a historic structure, site or district. Plaques must be placed so that they are clearly visible to passing pedestrians. The plaque must state the accepted name of the historic property, the date of its construction of significance, and other information that the historic preservation commission deems appropriate.

24.06 | Special Purpose Districts

| | | |
|-----------|---|------|
| 24.06.010 | General | 06-1 |
| 24.06.020 | SP-CON, Conservation District | 06-1 |
| 24.06.030 | SP-POS, Parks and Open Space District | 06-2 |
| 24.06.040 | SP-PUB, Public Facilities District..... | 06-2 |
| 24.06.050 | SP-INS, Institutions District | 06-2 |
| 24.06.060 | SP-MED, Medical Center District..... | 06-3 |
| 24.06.070 | SP-RP, Research Park District..... | 06-3 |
| 24.06.080 | SP-PKG, Parking Support District..... | 06-6 |
| 24.06.090 | Residential Planned Development District (Obsolete) | 06-7 |
| 24.06.100 | Business Planned Development District (Obsolete)..... | 06-7 |
| 24.06.110 | Generally Applicable Regulations..... | 06-7 |

24.06.010 General

A. Special Purpose Districts

Like overlay zoning districts, special purpose zoning districts are tools for dealing with special situations or accomplishing special planning and zoning goals. Unlike overlay districts, special purpose districts are base zoning classifications; they do not “over-lay” other base zoning districts.

B. The Districts

The city’s special purpose zoning districts are listed below. When this zoning ordinance refers to “special purpose” zoning districts or “SP” districts, it is referring to these districts.

| Zoning District | Map Symbol | Formerly Known As |
|----------------------|------------|-----------------------------------|
| Conservation | SP-CON | Conservancy |
| Parks and Open Space | SP-POS | Parks and Open Space Cemetery |
| Public Facilities | SP-PUB | Municipal Center and Public Works |
| Institutions | SP-INS | Institutions |
| Medical Center | SP-MED | Medical Center and Institutions |
| Research Park | SP-RP | Research Park Planned Development |
| Parking Support | SP-PKG | Off-Street Parking |

24.06.020 SP-CON, Conservation District

A. Purpose

The SP-CON district is primarily intended to accommodate natural resource conservation, open space and passive, public recreation uses.

B. Uses

Principal uses are allowed in SP-CON districts in accordance with the use table of Sec. 24.07.030.

C. Lot and Building Standards

The lot and building standards of the following table apply to all principal and accessory uses allowed in the SP-CON district, except as otherwise expressly stated in this zoning ordinance. General exceptions to these standards and rules for measuring compliance can be found in Sec. 24.18.030. In approving a conditional use, the common council may impose greater restrictions and additional limitations, such as lot area, lot width and lot coverage.

| Lot and Building Standards | SP-CON |
|--------------------------------|--------|
| Minimum Setbacks (feet) | |
| Front | 100 |
| Side, Street | 100 |
| Side, Interior | 100 |
| Rear | 100 |
| Maximum Height (feet) | |

Communication: ATTACHMENT (OLD BUSINESS)

| Lot and Building Standards | SP-CON |
|----------------------------|--------|
| Principal Buildings | 35 |
| Accessory Buildings | 20 |

24.06.030 SP-POS, Parks and Open Space District

A. Purpose

The SP-POS district is primarily intended to accommodate public parks, open spaces and recreation uses and public entertainment and spectator sport venues.

B. Uses

Principal uses are allowed in SP-POS districts in accordance with the use table of Sec. 24.07.030.

C. Lot and Building Standards

The lot and building standards of the following table apply to all principal and accessory uses allowed in the SP-POS district, except as otherwise expressly stated in this zoning ordinance. General exceptions to these standards and rules for measuring compliance can be found in Sec. 24.18.030. In approving a conditional use, the common council may impose greater restrictions and additional limitations, such as lot area, lot width and lot coverage.

| Lot and Building Standards | SP-POS |
|--------------------------------|---------|
| Minimum Setbacks (feet) | |
| Front | 100 |
| Side, Street | 100 |
| Side, Interior | 100 |
| Rear | 100 |
| Maximum Height (feet) | |
| Principal Buildings | No max. |
| Accessory Buildings | 20 |

24.06.040 SP-PUB, Public Facilities District

A. Purpose

The SP-PUB district is primarily intended to accommodate municipal facilities and other public works and services uses.

B. Uses

Principal uses are allowed in SP-PUB districts in accordance with the use table of Sec. 24.07.030.

C. Lot and Building Standards

The lot and building standards of the following table apply to all principal and accessory uses allowed in the SP-PUB district, except as otherwise expressly stated in this zoning ordinance. General exceptions to these standards and rules for measuring compliance can be found in Sec. 24.18.030.

| Lot and Building Standards | |
|---|--------|
| Minimum Lot Area (square feet) | 10,000 |
| Minimum Lot Width (feet) | 100 |
| Minimum Setbacks (feet) | |
| Front | 25 |
| Side, Street | 25 |
| Side, Interior | 25 |
| Rear | 25 |
| Maximum Height (feet) | |
| Principal Buildings | 35 |
| Accessory Buildings | 20 |
| Maximum Building Coverage (% of lot area) | 80 |

24.06.050 SP-INS, Institutions District

A. Uses

Principal uses are allowed in SP-INS districts in accordance with the use table of Sec. 24.07.030.

B. Lot and Building Standards

The lot and building standards of the following table apply to all principal and accessory uses allowed in the SP-INS district, except as otherwise expressly stated in this zoning ordinance. General exceptions to these standards and rules for measuring compliance can be found in Sec. 24.18.030.

| Lot and Building Standards | SP-INS |
|--|---------------|
| Minimum Lot Area (square feet) | 9,000 |
| Minimum Lot Width (feet) | 80 |
| Minimum Setbacks (feet) | |
| Front | 25 |
| Side, Street | 15 |
| Side, Interior | 10[1] |
| Rear | 24[1] |
| Maximum Height (feet) | |
| Principal Buildings | No Max. |
| Accessory Buildings | 20 |
| Maximum Building Coverage (% of lot area) | |
| Interior Lot | 35 |
| Corner Lot | 40 |

[1] Plus one foot for each foot of building height above 35 feet.

24.06.060 SP-MED, Medical Center District

A. Uses

Principal uses are allowed in SP-MED districts in accordance with the use table of Sec. 24.07.030.

B. Lot and Building Standards

The lot and building standards of the following table apply to all principal and accessory uses allowed in the SP-MED district, except as otherwise expressly stated in this zoning ordinance. General exceptions to these standards and rules for measuring compliance can be found in Sec. 24.18.030.

| Lot and Building Standards | SP-MED |
|--|---------------|
| Minimum Lot Area (square feet) | 10,000 |
| Minimum Lot Width (feet) | 100 |
| Minimum Setbacks (feet) | |
| Front | 25 |
| Side, Street | 25 |
| Side, Interior | 25[1] |
| Rear | 25[1] |
| Maximum Height (feet) | |
| Principal Buildings | No Max. |
| Accessory Buildings | 50 |
| Maximum Building Coverage (% of lot area) | |
| Interior Lot | 35 |
| Corner Lot | 40 |

[1] Plus one foot for each foot of building height above 35 feet.

24.06.070 SP-RP, Research Park District

A. Purpose

The SP-RP district is intended to establish and regulate uses in conjunction with the authority of the Milwaukee County Research Park Corporation consisting of research and development facilities, certain specialized manufacturing operations of a non-nuisance type, offices and professional support activities and services and prototype business incubators; all to be located in an aesthetic environment conducive to innovative and technological advancement and new job formation. Development within the research park must be in general conformance with the approved master plan for the site and must respect protective covenants established to promote a quality environment.

B. Permitted Uses

The following uses are permitted as of right in the SP-RP district:

- I. Automatic temperature controls

2. Biological products
3. Business and laboratory incubators
4. Business and management consulting services
5. Computer programming services
6. Dental laboratory services
7. Commercial testing laboratories
8. Drugs, chemical and allied products
9. Data processing
10. Educational and scientific research services
11. Educational services
12. Electrical machinery, equipment and supplies
13. Electrical transmission and distribution equipment
14. Electric and steam and chilled water generation plants and related facilities
15. Electrometallurgical products
16. Electronic components and accessories
17. Electronic control equipment
18. Engineering and architectural services
19. Engineering, laboratory and scientific and research instruments and associated equipment
20. Exhibition halls
21. Facilities management services
22. Fabricated metal products
23. Finance, insurance and real estate services
24. Food and kindred products
25. Forestry activities and related services
26. Horticultural services
27. Hotels and motels
28. Industrial inorganic and organic chemicals
29. Instruments for measuring, controlling and indicating physical characteristics
30. Mechanical measuring and controlling instruments (except automatic temperature controls)
31. Medical and health services
32. Medical laboratory services
33. Medical research, technology and development
34. Medical scientific research facilities
35. Medicinal chemicals and botanical products
36. Miscellaneous plastic products
37. Motion picture production
38. Office buildings
39. Office computing and accounting machines
40. Optical instruments and lenses

41. Orthopedic, prosthetic and surgical appliances
42. Pharmaceutical preparations
43. Photographic equipment supplies
44. Plastics materials and synthetic resins, synthetic rubber, synthetic and other manmade fibers
45. Printing and publishing
46. Professional, scientific and controlling instruments
47. Research, development and testing services
48. Resources production and extraction
49. Stenographic services and other duplicating and mailing services
50. Surgical, medical and dental instruments
51. Technical training facilities
52. X-ray apparatus and tubes: medical, industrial, research and control

C. Conditional Uses

The following uses may be allowed in the SP-RP district if reviewed and approved in accordance with the conditional use permit procedures of Sec. 24.16.040. Such uses must be accessory to permitted principal uses in each building and may not to exceed 30% of the building's gross floor area.

1. Banking services and related functions
2. Barber services
3. Beauty services
4. Day care centers
5. Eating places
6. Groceries
7. Heliport landing/takeoff pads
8. Laundry and dry-cleaning pickup stations only
9. Office supplies and equipment
10. Off-street parking
11. Recreation centers
12. Telephone relay towers (microwave)
13. Television transmitting stations and relay towers
14. Water storage

D. Minimum Ground Floor Area

The minimum ground floor area is 8,000 square feet, unless a smaller area is approved by the common council on the final plan.

E. Floor Area Ratio

Floor area ratios may not exceed 0.75.

F. Maximum Lot Coverage

Buildings may not cover more than 50% of the gross site area.

G. Lot Area

Lots must have a minimum area of one acre.

H. Lot Width

Lots must have a minimum width of 100 feet.

I. Setbacks

Minimum building setbacks are as follows:

1. From property line (50 feet from curblines) on Mayfair, Watertown Plank and Wisconsin: 25 feet
2. From property line at highway 45: 100 feet
3. From shared property line within the park: 25 feet
4. From curblines of internal streets other than main street: 40 feet
5. From curblines of main street: 25 feet
6. From creek and water feature: 60 feet

J. Height

Within 300 feet of the curblines of Mayfair Road and Wisconsin Avenue, building heights may not exceed 100 feet. Other areas of the park have no set maximum height limit.

K. Design Review

Design review is the responsibility of a special board authorized for this purpose. Design review must occur before final plan review by the common council.

L. Final Plan Review

Final plan review must be conducted by the common council. Changes and amendments to approved developments prior to or during construction must be reviewed and approved as follows:

1. Changes in the approved final development plan must be reviewed by the special board authorized as a project review board and returned to the common council if 40% or more of the members present consider the change to be a variance to the approved plan and/or that it does not meet the intent of conditions and restrictions placed on the approved plan.
2. Minor changes in the location, siting and height of buildings and structures may be authorized by the development director.

24.06.080 SP-PKG, Parking Support District

A. Purpose

The SP-PKG district is primarily intended to accommodate off-street parking areas bordering the C-1 district while protecting nearby residential areas from adverse impacts associated with spillover parking into residential neighborhoods.

B. Uses

At-grade and below-grade, accessory and non-accessory parking of private vehicles and commercial vehicles with a maximum rated capacity of ¾ ton are the only uses permitted in the SP-PKG district. All such uses require review and approval in accordance with the conditional use procedures of Sec. 24.16.040.

C. Regulations

1. No part of any parking lot, except fencing and landscaping, may be located within 7 feet of any lot line adjoining an R-zoned lot, nor may any motor vehicle be parked or located less than 7 feet from any street line nor less than 10 feet from any residential dwelling.
2. Parking lots may not be used for vehicle repair work or servicing of any kind, or for the sale, display, demonstration, or advertising of merchandise or service of any kind or for the storage of motor vehicles, mechanical equipment or materials. Signs containing a commercial message are prohibited.
3. Maintenance, use and operation of a parking lot must be in accordance with the conditional use approval and permit. In the event of violation, the permit may be revoked by the city after 10 days written notice to the permit holder. The parking lot may not be used after permit revocation until reinstatement of the permit is granted.
4. Buildings above grade are not permitted in the SP-PKG district. Signage or other identifying structures on the property must be approved as part of the conditional use approval.

5. Landscaping, screening, lighting and fencing must be designated on the conditional use plan with respect to size, type and specifications and must be replaced with identical stock or materials which are acceptable substitutes upon approval of the board of public works when damage or deterioration should occur.

24.06.090 Residential Planned Development District (Obsolete)

No applications may be accepted for rezoning to the Residential Planned Development district. Land classified in the Residential Planned Development district on the effective date specified in Sec. 24.01.020 may be used and developed in accordance with the Residential Planned Development district regulations in effect immediately preceding the effective date specified in Sec. 24.01.020 or in accordance with an approved PUD plan.

24.06.100 Business Planned Development District (Obsolete)

No applications may be accepted for rezoning to Business Planned Development district. Land classified in the Business Planned Development district on the effective date specified in Sec. 24.01.020 may be used and developed in accordance with the Business Planned Development district regulations in effect immediately preceding the effective date specified in Sec. 24.01.020 or in accordance with an approved PUD plan.

24.06.110 Generally Applicable Regulations

Uses and development in all SP districts are subject to all other applicable regulations and standards of this zoning ordinance, including the following:

- A. **Nonconformities**
See Chapter 24.15.
- B. **Accessory Uses and Structures**
See Chapter 24.10.
- C. **Parking and Loading**
See Chapter 24.11.
- D. **Landscaping and Screening**
See Chapter 24.12.
- E. **Temporary Uses**
See Sec. 24.10.080.

24.07 | Allowed Uses

| | | |
|-----------|----------------------------------|------|
| 24.07.010 | General | 07-1 |
| 24.07.020 | Understanding the Use Table..... | 07-1 |
| 24.07.030 | Use Table..... | 07-1 |

24.07.010 General

Principal uses are allowed in residential, commercial and industrial zoning districts in accordance with use table of Sec. 24.07.030.

24.07.020 Understanding the Use Table

A. Use Classification System

For the purpose of this zoning ordinance, uses are classified into use categories and subcategories. These are described and defined in Chapter 24.08. Use categories and subcategories are identified in the first column of the use tables. In some cases, specific use types are listed in addition to the use categories and subcategories.

B. Permitted Uses

Uses identified with a “P” in the use tables are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable standards of this zoning ordinance.

C. Conditional Uses

Uses identified with a “C” in the use table may be allowed if reviewed and approved in accordance with the conditional use permit procedures of Sec. 24.16.040. Conditional uses are subject to compliance with any use-specific standards identified in the final column of the table and with all other applicable regulations of this zoning ordinance.

D. Prohibited Uses

Uses identified with an “-” are expressly prohibited. Uses that are not listed in the use table are also prohibited.

E. Use Standards

The “standards” column of use table identifies use-specific standards that apply to some uses. Unless otherwise expressly stated, compliance with such standards is required regardless of whether the use is permitted as-of-right or requires conditional use approval.

F. Accessory Uses

Uses classified as accessory uses, such as home occupations, are not included in the use table. Customary accessory uses are permitted in conjunction with allowed principal uses, provided they comply with all applicable regulations of Chapter 24.10.

24.07.030 Use Table

The following table identifies principal uses allowed in residential, commercial and industrial zoning districts. See Sec. 24.07.020 for information about how to interpret the use table.

| USE CATEGORY Use Subcategory (See Chapter 24.08 or Cntrl + click on term for definition) - Specific Use Type (See Ch. 24.08 or Cntrl + click on term for definition) | DISTRICTS | | | | | | | | | | | | | | Use Regulations | | | | |
|--|-----------|------|------|-----|-----|-----|----|----|----|----|----|--------|--------|--------|-----------------|--------|--------|---------|--------|
| | RI-15 | RI-9 | RI-6 | R-2 | R-4 | R-8 | C0 | C1 | C2 | M1 | M2 | SP-CON | SP-POS | SP-PUB | | SP-INS | SP-MED | SP-RFII | SP-PKG |
| RESIDENTIAL | | | | | | | | | | | | | | | | | | | |
| Household Living | | | | | | | | | | | | | | | | | | | |
| - Detached House | P | P | P | P | P | P | - | C | - | - | - | - | - | - | - | - | - | - | - |
| - Semi-detached House | - | - | - | P | P | P | - | C | - | - | - | - | - | - | - | - | - | - | - |

Communication: ATTACHMENT (OLD BUSINESS)

| USE CATEGORY Use Subcategory (See Chapter 24.08 or Cntrl + click on term for definition) - Specific Use Type (See Ch. 24.08 or Cntrl + click on term for definition) | DISTRICTS | | | | | | | | | | | | | | | | Use Regulations | | |
|--|-----------|------|------|-----|-----|-----|----|----|----|----|----|--------|--------|--------|--------|--------|--------------------|---------|--------|
| | RI-15 | RI-9 | RI-6 | R-2 | R-4 | R-8 | C0 | C1 | C2 | M1 | M2 | SP-CON | SP-POS | SP-PUB | SP-INS | SP-MED | | SP-RP11 | SP-PKG |
| - Two-unit House | - | - | - | P | P | P | - | C | - | - | - | - | - | - | - | - | - | - | - |
| - Attached House | - | - | - | - | P | P | - | C | - | - | - | - | - | - | - | - | - | - | - |
| - Multi-unit Building | - | - | - | - | P | P | - | P | - | - | - | - | - | - | - | - | - | - | - |
| - Mixed-use Building, Vertical | - | - | - | - | - | - | - | P | P | - | - | - | - | - | - | - | - | - | - |
| Group Living (except as indicated below) | - | - | - | - | C | C | - | P | - | - | - | - | - | - | - | C | C | - | - |
| - Adult Family Home | P/C | P/C | P/C | P/C | P/C | P/C | - | C | - | - | - | - | - | - | - | C | C | - | - |
| - Community Living Arrangement | P/C | P/C | P/C | P/C | P/C | P/C | - | C | - | - | - | - | - | - | - | C | C | - | - |
| - Foster Home/Treatment Foster Home | P | P | P | P | P | P | - | C | - | - | - | - | - | - | - | C | C | - | - |
| PUBLIC & CIVIC | | | | | | | | | | | | | | | | | | | |
| College/University | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | P | - | - |
| Day Care | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| - Up to 6 children or adults | P | P | P | P | P | P | P | P | P | - | - | - | C | - | C | C | - | - | - |
| - More than 6 children or adults | - | - | - | - | - | C | P | P | C | - | - | - | C | - | C | C | - | - | - |
| Detention and Correctional Facilities | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C |
| Fraternal, Labor, Membership Organization | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | C | - | - | - |
| Hospital | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | P | - | - |
| Library/Cultural Exhibit | - | C | C | C | C | C | P | P | P | - | - | C | C | - | C | C | - | - | - |
| Park/Recreation/Open Space (except as indicated below) | - | - | - | - | - | - | - | - | - | - | - | C | C | C | C | C | - | - | - |
| - Community or Recreation Center | - | C | C | C | C | C | - | C | P | - | - | C | C | C | C | C | - | - | - |
| - General Recreation Park/Playground | - | C | C | C | C | C | - | - | - | - | - | C | C | C | C | C | - | - | - |
| - Golf Course (min. 5,000 yards) | - | C | C | C | C | C | - | - | - | - | - | C | C | C | C | C | - | - | - |
| - Swimming Pool | - | C | C | C | C | C | - | - | - | - | - | C | C | C | C | C | - | - | - |
| - Tennis Court | C | C | C | C | C | C | - | - | - | - | - | C | C | C | C | C | - | - | - |
| Religious Assembly | C | C | C | C | C | C | - | C | C | - | - | - | - | - | - | C | C | - | - |
| Safety Services | C | C | C | C | C | C | C | C | C | C | C | - | - | P | C | C | - | - | - |
| School | - | C | C | C | C | C | - | C | - | - | - | C | C | - | C | C | - | - | - |
| Utilities & Services | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| - Minor | P | P | P | P | P | P | P | P | P | P | P | C | C | P | C | C | - | - | - |
| - Major | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | - | - | - |
| COMMERCIAL | | | | | | | | | | | | | | | | | | | |
| Animal Services | - | - | - | - | - | - | - | P | P | - | - | - | - | - | - | - | - | - | - |
| - Sales & Grooming | - | - | - | - | - | - | - | - | - | C | C | - | - | - | - | - | - | - | - |
| - Shelter or Boarding Kennel | - | - | - | - | - | - | - | C | P | P | P | - | - | - | - | - | - | - | - |
| - Veterinary | - | - | - | - | - | - | - | C | P | P | P | - | - | - | - | - | - | - | - |
| Artist Work or Sales Space | - | - | - | - | - | - | - | P | P | P | P | - | - | - | - | - | - | - | - |
| Building Maintenance Service | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | - |
| Business Equipment Sales & Service | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | - |
| Business Support Service | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | - |
| - Trade/Vocational/Technical School | - | - | - | - | - | - | C | - | P | C | - | - | - | - | - | - | - | - | - |
| Communication Service Establishments | - | - | - | - | - | - | C | C | P | P | P | - | - | - | - | - | - | - | - |
| Construction Sales & Service | - | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | - |
| Eating & Drinking Establishments | - | - | - | - | - | - | - | C | C | C | - | - | - | C | - | - | - | - | - |
| - Restaurant | - | - | - | - | - | - | - | C | C | C | - | - | - | C | - | - | - | - | - |
| - Bar or Tavern | - | - | - | - | - | - | - | C | C | C | - | - | - | C | - | - | - | - | - |
| Entertainment & Spectator Sports (except as indicated below) | - | - | - | - | - | - | - | C | C | - | - | - | - | C | - | - | - | - | - |
| - Amphitheater | - | C | C | C | C | C | C | C | - | - | - | - | C | C | - | - | - | - | - |
| - Aquarium or Planetarium | - | C | C | C | C | C | C | C | - | - | - | - | C | C | - | - | - | - | - |
| - Auditorium | - | C | C | C | C | C | C | C | - | - | - | - | C | C | - | - | - | - | - |
| - Stadium and Athletic Fields (accessory to schools only in R districts) | - | C | C | C | C | C | C | C | - | - | - | - | C | C | - | - | - | - | - |
| Financial Services (except as indicated below) | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | - | - |
| - Convenient Cash Business | - | - | - | - | - | - | - | - | - | C | - | - | - | - | - | - | - | - | - |
| Food & Beverage Retail Sales | - | - | - | - | - | - | - | - | P | P | C | - | - | - | - | - | - | - | - |
| - Grocery Store | - | - | - | - | - | - | - | - | P | P | C | - | - | - | - | - | - | - | - |

Communication: ATTACHMENT (OLD BUSINESS)

| USE CATEGORY Use Subcategory (See Chapter 24.08 or Cntrl + click on term for definition) - Specific Use Type (See Ch. 24.08 or Cntrl + click on term for definition) | DISTRICTS | | | | | | | | | | | | | | | | Use Regulations | | | |
|--|-----------|------|------|-----|-----|-----|----|----|----|----|----|--------|--------|--------|--------|--------|--------------------|---------|--------|--------------|
| | R1-15 | R1-9 | R1-6 | R-2 | R-4 | R-8 | CO | C1 | C2 | M1 | M2 | SP-CON | SP-POS | SP-PUB | SP-INS | SP-MED | | SP-RPLI | SP-PKG | |
| - Liquor/Wine/Beer Store | - | - | - | - | - | - | - | C | C | C | - | - | - | - | - | - | - | - | - | - |
| Funeral & Interment Services | | | | | | | | | | | | | | | | | | | | |
| - Cemetery/Columbarium/Mausoleum | - | - | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | - | - | - |
| - Cremating | - | - | - | - | - | - | - | - | C | P | P | - | - | - | - | - | - | - | - | - |
| - Undertaking/Funeral Services | - | - | - | - | - | - | - | P | P | - | - | - | - | - | - | - | - | - | - | - |
| Lodging | | | | | | | | | | | | | | | | | | | | |
| - Bed & Breakfast | - | - | C | C | C | C | - | C | - | - | - | - | - | - | - | - | - | - | - | - 24.09.030 |
| - Hotel/Motel | - | - | - | - | - | - | - | C | C | - | - | - | - | - | - | - | - | - | - | - |
| - Campground | - | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | - | - | - | - |
| Office, Administrative, Professional | | | | | | | | | | | | | | | | | | | | |
| Office or Clinic, Medical | | | | | | | | | | | | | | | | | | | | |
| - Office or Clinic, Medical | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | C | P | - | - | - |
| Parking, Non-Accessory | | | | | | | | | | | | | | | | | | | | |
| - Parking, Non-Accessory | - | - | - | - | - | - | - | C | P | P | P | - | - | - | P | - | C | - | - | - 24.06.080B |
| Personal Improvement Service | | | | | | | | | | | | | | | | | | | | |
| - Personal Improvement Service | - | - | - | - | - | - | - | P | P | P | - | - | - | - | - | - | - | - | - | C |
| Repair or Laundry Service, Consumer | | | | | | | | | | | | | | | | | | | | |
| - Repair or Laundry Service, Consumer | - | - | - | - | - | - | - | C | P | P | P | P | - | - | - | - | - | - | - | - |
| Research Service | | | | | | | | | | | | | | | | | | | | |
| - Research Service | - | - | - | - | - | - | - | P | P | P | P | - | - | - | - | - | - | - | P | - |
| Retail Sales (except as indicated below) | | | | | | | | | | | | | | | | | | | | |
| - Antiques, Resale Shops, Second-hand Merchandise | - | - | - | - | - | - | - | - | C | C | - | - | - | - | - | - | - | - | - | - |
| - Cigarette, Cigar or Tobacco Store | - | - | - | - | - | - | - | - | C | C | - | - | - | - | - | - | - | - | - | - |
| - Cigarette & Tobacco Product Sales (ancillary) | - | - | - | - | - | - | - | - | C | P | P | P | - | - | - | - | - | - | - | - |
| - Large-Format Retail | - | - | - | - | - | - | - | - | C | - | - | - | - | - | - | - | - | - | - | - 24.09.090 |
| Sports & Recreation, Participant | | | | | | | | | | | | | | | | | | | | |
| - Indoor | - | - | - | - | - | - | - | C | C | C | C | - | - | - | - | - | - | - | C | - 24.09.030 |
| - Outdoor | - | - | - | - | - | - | - | C | C | C | C | - | - | - | - | - | - | - | C | - |
| Vehicle Sales & Service | | | | | | | | | | | | | | | | | | | | |
| - Auto Wash/Cleaning Service | - | - | - | - | - | - | - | - | C | P | P | - | - | C | - | - | - | - | - | - 7.46.120 |
| - Auto Fueling Station | - | - | - | - | - | - | - | - | C | P | P | - | - | C | - | - | - | - | - | - |
| - Heavy Vehicles and Equipment, Sales/Rentals | - | - | - | - | - | - | - | - | C | P | P | - | - | - | - | - | - | - | - | - |
| - Light Vehicles and Equipment, Sales/Rentals | - | - | - | - | - | - | - | - | C | P | P | - | - | - | - | - | - | - | - | - 6.78 |
| - Motor Vehicle Repair, Limited | - | - | - | - | - | - | - | - | P | P | P | - | - | C | - | - | - | - | - | - |
| - Motor Vehicle Repair, General | - | - | - | - | - | - | - | - | P | P | P | - | - | C | - | - | - | - | - | - |
| - Vehicle Storage & Towing | - | - | - | - | - | - | - | - | C | P | P | - | - | - | - | - | - | - | - | - |
| INDUSTRIAL | | | | | | | | | | | | | | | | | | | | |
| Manufacturing & Industrial Services, Artisan | | | | | | | | | | | | | | | | | | | | |
| - Manufacturing & Industrial Services, Artisan | - | - | - | - | - | - | - | - | P | P | P | P | - | - | P | - | - | - | - | - |
| Manufacturing & Industrial Services, Limited | | | | | | | | | | | | | | | | | | | | |
| - Manufacturing & Industrial Services, Limited | - | - | - | - | - | - | - | - | - | - | P | P | - | - | P | - | - | - | - | - |
| Manufacturing & Industrial Services, General | | | | | | | | | | | | | | | | | | | | |
| - Manufacturing & Industrial Services, General | - | - | - | - | - | - | - | - | - | C | P | - | - | - | - | - | - | - | - | - |
| Manufacturing & Industrial Services, Intensive | | | | | | | | | | | | | | | | | | | | |
| - Manufacturing & Industrial Services, Intensive | - | - | - | - | - | - | - | - | - | - | C | - | - | - | - | - | - | - | - | - |
| Recycling Service | | | | | | | | | | | | | | | | | | | | |
| - Limited | - | - | - | - | - | - | - | - | - | P | P | P | - | - | P | - | - | - | - | - |
| - General | - | - | - | - | - | - | - | - | - | - | - | P | - | - | C | - | - | - | - | - |
| Residential Storage Warehouses | | | | | | | | | | | | | | | | | | | | |
| - Residential Storage Warehouses | - | - | - | - | - | - | - | - | - | - | P | P | - | - | - | - | - | - | - | - |
| Warehousing, Wholesaling & Freight Movement | | | | | | | | | | | | | | | | | | | | |
| - Limited | - | - | - | - | - | - | - | - | - | - | P | P | - | - | P | - | - | - | - | - |
| - General | - | - | - | - | - | - | - | - | - | - | - | C | - | - | C | - | - | - | - | - |
| Waste-Related Use | | | | | | | | | | | | | | | | | | | | |
| - Waste-Related Use | - | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - | - | - | - | - |
| AGRICULTURAL | | | | | | | | | | | | | | | | | | | | |
| Apiary | | | | | | | | | | | | | | | | | | | | |
| - Apiary | P | P | P | P | P | P | P | P | P | P | P | P | C | C | P | C | C | C | C | - |
| Community Garden | | | | | | | | | | | | | | | | | | | | |
| - Community Garden | C | C | C | C | C | C | C | C | P | P | P | P | - | C | P | C | C | C | C | - |
| Farmer's Market | | | | | | | | | | | | | | | | | | | | |
| - Farmer's Market | C | C | C | C | C | C | C | C | P | P | P | P | - | C | P | C | C | C | C | - |
| Nurseries & Greenhouses | | | | | | | | | | | | | | | | | | | | |
| - Nurseries & Greenhouses | - | - | C | - | - | - | - | - | - | P | P | - | C | C | C | C | C | C | C | - |

Communication: ATTACHMENT (OLD BUSINESS)

| USE CATEGORY Use Subcategory (See Chapter 24.08 or Cntrl + click on term for definition) - Specific Use Type (See Ch. 24.08 or Cntrl + click on term for definition) | DISTRICTS | | | | | | | | | | | | | | Use Regulations | | | | | |
|--|-----------|------|------|-----|-----|-----|-----|-----|-----|----|----|-------|--------|--------|-----------------|--------|---------|---------|--------|-----------|
| | RI-15 | RI-9 | RI-6 | R-2 | R-4 | R-8 | CO | CI | C2 | M1 | M2 | SP-CO | SP-POS | SP-PUB | | SP-INS | SP-ATED | SP-RETI | SP-PKG | |
| MISCELLANEOUS | | | | | | | | | | | | | | | | | | | | |
| Wireless Communication Facilities | | | | | | | | | | | | | | | | | | | | |
| - Co-located | [2] | [2] | [2] | [2] | [2] | [2] | [2] | P | P | P | P | - | - | P | - | - | - | - | - | 24.09.110 |
| - Freestanding | [3] | [3] | [3] | [3] | [3] | [3] | [3] | [3] | [3] | C | C | - | - | C | - | - | - | - | - | 24.09.110 |
| Drive-through or Drive-in Facilities | - | - | - | - | - | - | C | C | C | C | C | - | - | - | - | - | - | - | - | 24.11.100 |
| Helipad | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | C | - | - | - |

- [1] See Sec. 24.06.070 for a list of permitted and conditional uses in the SP-RP district.
- [2] Co-located antennas are permitted on city-owned property and school district-owned property.
- [3] Freestanding antennas may be approved as conditional uses on city-owned property and school district-owned property.

24.08 | Use Classifications

| | | |
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24.08.010 General

A. Use Classification System

This zoning ordinance classifies principal land uses into 5 major groupings, which are referred to as use categories:

1. Residential
2. Public and Civic
3. Commercial
4. Industrial
5. Agricultural

B. Use Subcategories

Each use category is further divided into more specific “subcategories.” Use subcategories classify principal land uses and activities based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions.

C. Specific Uses

Some use subcategories are further broken down to identify specific use, business or activity types that are regulated differently than the parent subcategory as a whole.

D. Use-related Definitions

Use categories and subcategories are identified in the first column of the use tables. Use-related definitions of uses are included in the second column of the table.

E. Determination of Use Categories and Subcategories

1. The Zoning Administrator is authorized to classify uses on the basis of the use category and subcategory descriptions of this section.
2. When a use cannot be readily classified into a use category/subcategory or appears to fit into multiple categories/subcategories, The Zoning Administrator is authorized to determine the most similar, and thus most appropriate, use category/subcategory based on the actual or projected characteristics of the principal use or activity in relationship to the use category and subcategory descriptions provided in this section. In making such determinations, the Zoning Administrator is authorized to consider:
 - a. the types of activities that will occur in conjunction with the use;
 - b. the types of equipment and processes to be used;
 - c. the existence, number and frequency of residents, customers or employees; and
 - d. parking demands associated with the use and other factors deemed relevant to a use determination.

Communication: ATTACHMENT (OLD BUSINESS)

3. If a use can reasonably be classified in multiple categories, subcategories or specific use types, the Zoning Administrator must categorize the use in the category, subcategory or specific use type that provides the most exact, narrowest and appropriate match.
4. If the Zoning Administrator is unable to determine the appropriate use category for a proposed use, the Zoning Administrator is authorized to deny the permit request. This decision may be appealed in accordance with Sec. 24.16.110.

24.08.020 Residential Use Category

The residential use category includes uses that provide living accommodations to one or more persons.

A. Household Living

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging.

1. Detached House

A principal residential building containing one dwelling unit located on a single lot with private yards on all sides

2. Semi-detached House

A residential building containing 2 dwelling units, each located on its own lot with a common or abutting wall along shared lot lines. Each dwelling unit has its own external entrance.

3. Two-unit House

A residential building containing 2 dwelling units, both of which are located on the same single lot (also referred to as a “duplex” or “two-flat”). The dwelling units within a two-unit building are attached and may be located on separate floors or side-by-side.

4. Attached House

A residential building containing 3 or more dwelling units, each located on its own lot with a common or abutting wall along shared lot lines. Each dwelling unit has its own external entrance.

5. Multi-unit Building

A residential building containing 3 or more dwelling units that share common walls and/or common floors/ceilings.

6. Mixed-use Building, Vertical

A building in which commercial uses occupy the ground floor and dwelling units occupy at one or more upper floors.

B. Group Living

Residential occupancy of a dwelling by other than a “household,” typically providing communal kitchen/dining facilities. Examples of group living uses include but are not limited to fraternities, sororities, convents, monasteries and nursing homes.

1. Adult Family Home

See Section 50.01(1), Wisconsin Statutes

2. Community Living Arrangement

See Section 46.03(22), Wisconsin Statutes

3. Foster Home/Treatment Foster Home

See Sections 48.02(6) and 48.02(17q), Wisconsin Statutes

24.08.030 Public and Civic Use Category

The public and civic use category includes uses that provide public or quasi-public services. The public and civic use category includes the following use subcategories:

A. College/University

Colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. They are certified by the state or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks. Examples include universities, liberal arts

colleges, community colleges, nursing and medical schools not accessory to a hospital, conservatories and seminaries. Business and trade schools are classified in "Business Support Services Subcategory."

- B. Day Care**
Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day.
- C. Detention and Correctional Facilities**
Facilities for the judicially required detention or incarceration of people. Inmates and detainees are under 24-hour supervision by peace officers, except when on an approved leave. Examples include prisons, jails, probation centers and juvenile detention homes.
- D. Fraternal, Labor, Membership Organization**
The use of a building or parcel by a fraternal, labor or membership-based, not-for-profit organization that restricts access to its facility to bona fide, annual dues-paying members and their occasional guests.
- E. Hospital**
Uses providing medical or surgical care to patients and offering inpatient (overnight) care and that may include helipads as an accessory use.
- F. Library/Cultural Exhibit**
Preservation, exhibition and collection of objects in one or more of the arts and sciences, for the purpose of viewing, study or reading. Typical uses include museums and lending libraries.
- G. Park/Recreation/Open Space**
Recreational, social, or multi-purpose uses associated with public parks, public open spaces, public community centers, public play fields, public or private golf courses, nature centers, educational or interpretative centers or exhibits, monuments or other public recreation areas or buildings.
- H. Religious Assembly**
Religious (including funeral) services involving public assembly such as customarily occur in synagogues, temples, mosques and churches.
- I. Safety Services**
Public safety services that provide fire, police or life protection, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations and ambulance services.
- J. School**
Public and private schools at the primary, elementary, junior high, or high school level that provide state-mandated basic education.
- K. Utilities & Services**
 - 1. Minor**
Infrastructure services that need to be located in the area where the service is provided. Minor utilities and services generally do not have regular employees at the site and typically have few if any impacts on surrounding areas. Typical uses include water and sewer pump stations; water towers and reservoirs; water conveyance systems; stormwater facilities, retrofits and conveyance systems; dry detention and constructed wetlands; telephone switching equipment and emergency communication broadcast facilities. Bus passenger facilities for local or sub-regional service are classified as "minor utilities and services."
 - 2. Major**
Infrastructure services that typically have substantial land-use impacts on surrounding areas. Typical uses include but are not limited to electrical substations; water and wastewater treatment facilities, major water storage facilities and electric generation plants. Also included are utility-scale solar energy facilities.

24.08.040 Commercial Use Category

The commercial use category includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use category includes the following use subcategories.

- A. Animal Services**
The following are animal services use types:
- 1. Sales & Grooming**
Sales and grooming of dogs, cats and similar small animals. Typical uses include pet stores, dog bathing and clipping salons and pet grooming shops.
 - 2. Shelter or Boarding Kennel**
Animal shelters and kennel services for dogs, cats and small animals. Typical uses include boarding kennels, pet resorts/hotels, dog training centers, doggy or pet day cares and animal rescue shelters.
 - 3. Veterinary**
Typical uses include pet clinics, dog and cat hospitals and animal hospitals.
- B. Artist Work or Sales Space**
Floor space devoted to the production, showing, or sale of art. Typical uses include art galleries, artist and photography studios, but not including art museums. Art museums are classified in the "Libraries and Cultural Exhibits" use subcategory.
- C. Building Maintenance Service**
Provision of maintenance and custodial services to commercial and industrial establishments. Typical uses include janitorial, landscape maintenance and window cleaning services. Also includes exterminator services for residential, commercial or industrial applications.
- D. Business Equipment Sales & Service**
Sales, rental, or repair of office, professional and service equipment and supplies to companies rather than to individuals. Excludes vehicle and heavy equipment sales or service. Typical uses include office equipment and supply firms, small business machine repair shops and hotel equipment and supply firms.
- E. Business Support Service**
Provision of clerical, employment, protective, or minor processing services to firms rather than individuals. Typical uses include employment agencies and telephone answering services and technical, vocational and trade schools. Trade or vocational schools that involve outdoor storage or manufacturing processes are not considered business support services but rather are to be classified in the "Industrial" use category.
- F. Communication Service Establishments**
Broadcasting and other information relay services accomplished through use of electronic and telephonic mechanisms. Excludes services classified as "major utilities and services" and "Minor Utilities." Typical uses include recording studios, television and radio studios, telecommunication service centers and telegraph service offices.
- G. Construction Sales & Service**
Construction and development activities and related storage on parcels other than construction or development sites. Typical uses include tool and equipment rental or sales and building contracting/construction businesses. Uses that involve office or administrative functions only, with no on-site equipment or vehicle storage, are classified as offices.
- H. Eating & Drinking Establishments**
Provision of prepared food and/or beverages for on-premises consumption and which may include delivery or take-out service.
- 1. Restaurant**
An establishment primarily engaged in serving prepared food to the public and in which sales of such prepared foods and meals constitutes at least 65% of the establishment's gross income. Typical uses include cafes, quality restaurants, quick-service restaurants, coffee shops and ice cream stores.
 - 2. Bar or Tavern**
An establishment that is primarily engaged in serving alcoholic liquor for consumption on the premises and in which the serving of prepared food and meals constitutes less than 65% of the establishment's gross income. Includes bars and taverns that that manufacture fermented malt

beverages or distilled spirits for on-premise consumption or off-premise consumption through sales directly to the consumer (no on-premise wholesaling or distribution).

I. Entertainment & Spectator Sports

Provision of cultural, entertainment, athletic and other events to spectators, such as occurs in theaters, cinemas, auditoriums and stadiums.

J. Financial Services

Financial or securities brokerage services. Typical uses include banks, savings and loans, consumer investment businesses and convenient cash businesses.

I. Convenient Cash Business

A business licensed pursuant to Wis. Stats. Secs. 218.05 or 138.09, engaged in the "payday loan business," "title loan business," "currency exchange business" (also known as "check cashing"), or any other substantially similar business. Convenient cash businesses do not include financial institutions as defined below. For purposes of this use definition, the following terms have means ascribed:

- a. "Business" includes an individual or individuals, firm, partnership, association, corporation, limited liability company or any other business entity.
- b. "Currency exchange business" means in accordance with Sec. 218.05, Wis. Stats. any business except banks incorporated under the laws of this state and national banks organized pursuant to the laws of the United States and any credit union operating under Ch. 186, Wis. Stats. pursuant to a certificate of authority from the Wisconsin commissioner of credit unions, engaged in the business of and providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. This term does not include any person engaged in the business of transporting for hire, bullion, currency, securities, negotiable or nonnegotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any business in this state, who in the course of such business or profession and, as an incident thereto, cashes checks, drafts, money orders or other evidences of money.
- c. "Financial institutions" means any business authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan associations and credit unions. This term does not include a currency exchange, payday loan business or a title loan business.
- d. "Payday loan business" means a business that provides unsecured loans with an initial term of ninety-one days or less in which the amount borrowed does not exceed two thousand dollars and is usually for a period from the time of the loan until the borrowers next payday for which the lender charges either fees or interest for the loan.
- e. "Title loan business" includes any business providing loans to individuals in exchange for receiving title to the borrower's motor vehicle as collateral.

K. Food & Beverage Retail Sales

Retail sale of food and beverages for home consumption. Typical uses include groceries, liquor stores and wine stores.

L. Funeral & Interment Services

Provision of services involving the care, preparation or disposition of the dead.

1. Cemetery/Columbarium/Mausoleum

Land or facilities used for burial of the dead, including pet cemeteries.

2. Cremating

Crematory services involving the purification and reduction of the human body by fire. Typical uses include crematories and crematoriums.

- 3. Undertaking/Funeral Services**
Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries. Note: funeral services (without undertaking) are also allowed as “religious assembly” uses.
- M. Lodging**
Provision of lodging services on a temporary basis with incidental food, drink and other sales and services intended for the convenience of guests.
- 1. Bed & Breakfast**
A detached house in which the owner offers overnight accommodations and meal service to guests for compensation.
 - 2. Hotel/Motel**
An establishment, other than a Bed and Breakfast, in which short-term lodging is offered for compensation and that may or may not include the service of one or more meals to guests. Typical uses include hotels and motels.
- N. Office, Administrative, Professional**
Professional, governmental, executive, management or administrative offices of private organizations or government agencies. Typical uses include administrative offices, law offices, architectural firms, insurance companies and government offices. Also includes travel agencies, tax preparation office and similar consumer service businesses.
- O. Office or Clinic, Medical**
Personal health services including prevention, diagnosis and treatment, rehabilitation services provided by physicians, dentists, nurses and other health personnel and medical testing and analysis services. Typical uses include medical and dental offices, including chiropractic offices, physical and massage therapy offices, psychologist and psychiatrist offices, health maintenance organizations, blood banks, plasma centers and government-operated health centers. Excludes use types more specifically classified, such as hospitals.
- P. Parking, Non-Accessory**
Parking that is not provided to comply with minimum off-street parking requirements and that is not provided exclusively to serve occupants of or visitors to a particular use, but rather is available to the public at-large. A facility that provides both accessory parking and non-accessory parking is classified as non-accessory parking.
- Q. Personal Improvement Service**
Informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include hair salons, barber shops, beauty shops, nail salons, yoga or dance studios, personal training services, driving schools and martial arts studios. Health clubs are classified as “sports and recreation, participant.”
- R. Repair or Laundry Service, Consumer**
Provision of repair, dry cleaning or laundry services to individuals and households, but not to firms. Excludes vehicle and equipment repair. Typical uses include laundry/dry cleaning drop-off stations (with no dry cleaning on the premises), self-service laundries, appliance repair shops, locksmiths, shoe and apparel repair and musical instrument repair.
- S. Research Service**
An establishment that conducts educational, scientific, high-technology or medical research not involving the mass production, distribution or sale of products. Research services do not produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property. Research-related establishments that do produce such external impacts are classified as “manufacturing, production and industrial services.”
- T. Retail Sales**
Businesses involved in the sale, lease or rent of new or used products, merchandise to consumers. Typical uses include drug stores, grocery stores, department stores and apparel stores.

1. **Cigarette, Cigar or Tobacco Store**
Businesses primarily involved in the sale of cigarettes, cigars, tobacco products or smoking material or equipment. This does not include businesses that sell cigarettes, cigars or tobacco products as an ancillary part of an allowed retail use.
 2. **Cigarette & Tobacco Product Sales (ancillary)**
Cigarette & tobacco product sales are considered ancillary if such products occupy no more than 25% of the available retail floor space of the premises and if such sales account for no more than 25% of the gross sales receipts of the business.
 3. **Large-Format Retail**
Individual freestanding buildings and group developments with a cumulative gross floor area of 50,000 square feet or more of retail sales area
- U. Sports & Recreation, Participant**
Provision of sports or recreation primarily by and for participants. (Spectators, if any, are incidental, present on a nonrecurring basis). Examples include bowling alleys, health clubs, skating rinks, bingo halls, billiard parlors, driving ranges and miniature golf courses, shooting and archery ranges and batting cages.
- V. Vehicle Sales & Service**
Sales of motor vehicles or services related to motor vehicles. The following are vehicle sales and service use types:
1. **Auto Wash/Cleaning Service**
A building or site containing facilities for washing automobiles. It may use automatic production line methods—a chain conveyor, blower, steam cleaning device, or other mechanical device—or it may provide space, water and equipment for hand washing, cleaning or detailing of automobiles, whether by the customer or the operator.
 2. **Auto Fueling Station**
Uses engaged in retail sales of personal automobile and vehicle fuels including electric vehicle charging stations. Note: Level 1 (slow-charging) and level 2 (medium) battery charging stations are considered accessory uses and are not regulated as auto fueling stations.
 3. **Heavy Vehicles and Equipment, Sales/Rentals**
Sale, retail or wholesale and/or rental from the premises of heavy construction equipment, trucks and aircraft, together with incidental maintenance. Typical uses include heavy construction equipment dealers and tractor trailer sales.
 4. **Light Vehicles and Equipment, Sales/Rentals**
Sale, retail, wholesale, or rental from the premises of autos, noncommercial trucks, motorcycles, trailers of less than 10,000 lbs. gross cargo weight, recreational vehicles and boat dealers, together with incidental maintenance. Typical uses include automobile and boat dealers, car rental agencies and recreational vehicle sales and rental agencies. For the purposes of this zoning ordinance, the sales or display for sale of more than 2 vehicles on a single parcel is classified as a "light equipment sales/rental" use.
 5. **Motor Vehicle Repair, Limited**
A vehicle repair establishment that provides lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle. Customers generally wait in the car or at the establishment while the service is performed. Examples include quick lube services. Also includes vehicle repair establishments that provide replacement of passenger vehicle parts or repairs that do not involve body work or painting or require removal of the engine head or pan, engine transmission or differential. Examples include tire, muffler and transmission shops.
 6. **Motor Vehicle Repair, General**
Any vehicle repair activity other than "limited motor vehicle repair." Examples include repair or servicing of commercial vehicles or heavy equipment or body work, painting, or major repairs to passenger vehicles.

7. Vehicle Storage & Towing

Storage of operating motor vehicles or vehicle towing services. Typical uses include towing services, private parking tow-aways (tow lots), impound yards and fleet storage yards. Includes the use of a site for temporary storage of motor vehicles for a period of not more than 15 days, not including temporary storage facilities for vehicles that are to be sold, rented, salvaged, dismantled, repaired or returned to owners upon payment of towing and storage fees.

24.08.050 Industrial Use Category

The industrial use category includes uses that produce goods from extracted materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced. It also includes uses that store or distribute materials or goods in large quantities. The industrial use category includes the following use subcategories:

A. Manufacturing & Industrial Services, Artisan

On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage and occupying no more than 3,500 square feet of gross floor area. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts or very small-scale manufacturing uses that have no negative external impacts on surrounding properties.

B. Manufacturing & Industrial Services, Limited

Manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: breweries, distilleries, catering establishments, printing and related support activities; machinery manufacturing; food processing and manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties. Also includes "artisan manufacturing/production" type uses that do not comply with the enclosed building, floor area and/or outside operations/storage criteria that apply to artisan manufacturing/production uses.

C. Manufacturing & Industrial Services, General

1. Manufacturing of finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Typical uses include: textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; and fabricated metal product manufacturing. Also includes medical, scientific or technology-related research establishments that produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.

2. Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products or by-products. Typical uses include: welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photofinishing laboratories. Excludes uses classified as "repair or laundry services."

D. Manufacturing & Industrial Services, Intensive

Manufacturing of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins and radioactive materials.

E. Recycling Service

Any building, portion of building or area in which recyclable material is collected, stored, or processed for the purpose of marketing the material for use as raw material in the manufacturing process of new, reused or reconstituted products.

1. **Limited**
A recycling facility in which recyclable materials are temporarily stored or collected, or processed by manual separation. (Note: consumer-oriented collection boxes for newspapers, cans and glass items are considered an accessory use and may be allowed in any zoning district.)
2. **General**
A recycling facility that, in addition to any activity permitted as part of a limited recycling service, engages in processing of recyclable materials such as cleaning, bundling, compacting or packing of recyclable materials.

F. Residential Storage Warehouses
Storage or warehousing service within a building for individuals to store personal effects and for businesses to store materials for operation of an industrial or commercial enterprise elsewhere. Incidental uses in a residential storage warehouse may include the repair and maintenance of stored materials by the tenant; but in no case may storage spaces in a residential storage warehouse facility function as living space or an independent retail, wholesale, business, or service use. Spaces may not be used for workshops, hobby shops, manufacturing, or similar uses. Human occupancy is limited to that required to transport, arrange and maintain stored materials.

G. Warehousing, Wholesaling & Freight Movement

1. **Limited**
Wholesale sales of goods and materials in association with a retail sales (storefront) business. Typical uses include businesses involved in retail and wholesale sales of materials and equipment to other businesses and to the general public.
2. **General**
Storage, wholesale sales and distribution of materials and equipment. Typical uses include storage warehouses, moving and storage firms, trucking or cartage operations, truck staging or storage areas, wholesale sales of materials and equipment to parties other than the general public.

H. Waste-Related Use

Waste-related uses are characterized by the receiving of solid or liquid wastes from other users and sites for transfer to another location; by the collection of sanitary wastes, or other approved waste materials for on-site disposal; or by the manufacture or production of goods or energy from the composting of organic material. Typical uses include sanitary landfills, demolition debris landfills, solid waste separation facilities and transfer stations.

24.08.060 Agricultural Use Category

The agricultural use category includes the following subcategories:

- A. Apiary**
The keeping of beehives of honey bees and the collection of honey.
- B. Community Garden**
Land used for vegetable, fruit or flower gardening by individuals or groups who may or may not own or lease the subject land.
- C. Farmer's Market**
An outdoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one or more producers where:
 1. At least 75% of the displayed inventory of products sold consists of farm products or value-added farm products; and
 2. At least 75% of the vendors during the market's hours of operation are producers, or family members or employees or agents of producers.
- D. Nurseries & Greenhouses**
A principal use involving propagation and growth of plants in containers or in the ground for wholesale sales and distribution.

24.08.070 Miscellaneous Uses

A. Wireless Communication Facilities

Facilities related to the use of the radio frequency spectrum for the purposes of transmitting or receiving cellular telephone transmissions or radio and television signals. Typical uses include cell towers and antennas, radio towers and antennas, television towers and antennas, telephone exchanges, micro-wave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities.

1. Co-located

A wireless communication facility that is attached to an existing pole, tower or other structure.

2. Freestanding

A tower, monopole, or other structure erected to support wireless communication antennas.

B. Drive-through or Drive-in Facilities

Any use with drive-through lanes or service occupants of a motor vehicle.

24.09 | Supplementary Use Regulations

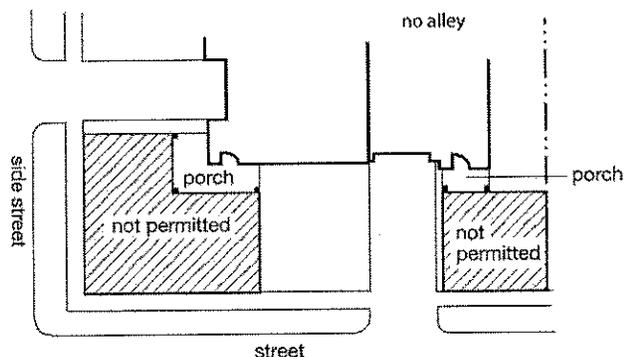
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24.09.010 Adult Family Home

- A. Adult family homes that are licensed, operated or permitted under the authority of the State of Wisconsin are permitted as of right in R districts if they are located at least 1,500 feet from all existing adult family homes.
- B. Adult family homes that are licensed, operated or permitted under the authority of the State of Wisconsin and that are located closer than 1,500 feet to existing adult family homes may be approved as a conditional use in accordance with Sec. 24.16.040.

24.09.020 Attached and Semi-Attached Houses

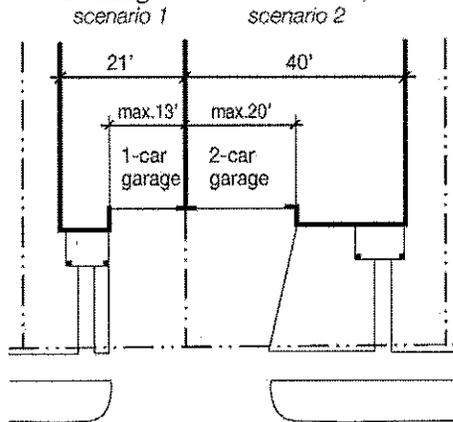
- A. **Applicability**
Attached and semi-attached houses are subject to all applicable regulations of this zoning ordinance except as modified or supplemented by the attached and semi-attached house building regulations of this section.
- B. **Side Setbacks**
No side setback is required for common or abutting walls. Otherwise, the minimum side setback requirements of the subject zoning district apply.
- C. **Number of Units**
No more than 8 attached dwelling units may be included in a single attached house structure.
- D. **Parking and Access**
 - 1. Access to parking spaces and garages must be from the alley for all parcels abutting an alley.
 - 2. For parcels without alley access, driveways, parking and other vehicular use areas may not be located between the porch or main building entrance and the street.



- 3. When parking is provided in a garage that faces a street, the following standards must be met:

Communication: ATTACHMENT (OLD BUSINESS)

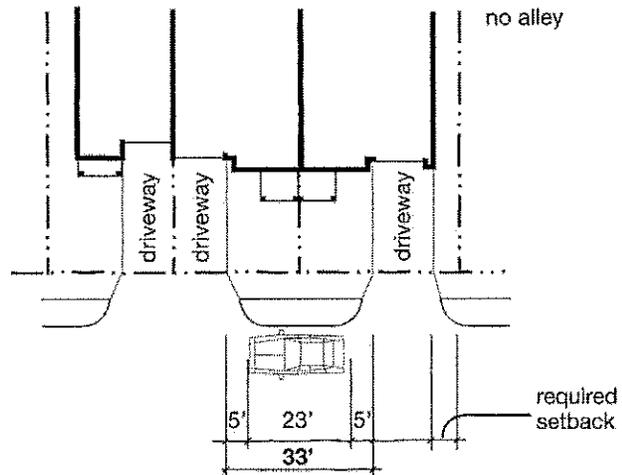
- a. The garage width may not exceed 50% of the street-facing façade of each attached dwelling unit or 13 linear feet, whichever is greater (see diagram).



Scenario 1: single-car garage: $21' \text{ facade} \times 0.5 = 10'6''$
 $10'6'' < 13$, maximum garage width = 13'

Scenario 2: 2-car garage: $40' \text{ facade} \times 0.5 = 20'$
 $20' > 13'$, maximum garage width = 20'

- b. An attached and semi-attached house structure may have no more than 2 individual garage doors or carport entrances in succession on a street-facing façade.
- c. Garages and carports must be set back at least 20 feet from all property lines that abut a street. Garages and carports must be recessed as least 4 feet from street-facing façade of the building.
- d. When garages or carports are paired (abutting), driveways must be combined and centered on the property line between dwelling units providing access to the garages or carports. There must be a minimum of 33 feet distance between single or paired driveways, measured along the front property line, unless otherwise approved by the zoning administrator (see diagram).



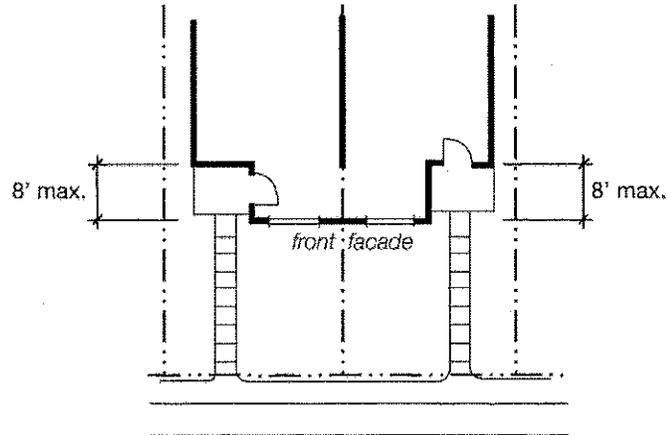
- e. The width of all driveway approaches must meet city engineering standards.

E. Building Design

I. Entry Treatment

- a. Each dwelling unit must have a separate ground-floor entrance that is clearly defined and highly visible on the building façade that faces a public street or a right-of-way oth-

er than an alley. The front door must be within 8 feet of the building's front façade. The door may be at any angle to the street as long as the other entrance standards are met.



- b. Each front entrance must include a porch or covered entry. A pedestrian walkway must connect each front entrance to the street. A door that leads directly into a garage does not qualify as a front entrance.

2. Glazing

Each attached and semi-attached house dwelling unit must provide windows or glazed area equal to at least 15% of the building façade that faces a public street or a right-of-way other than an alley. Glazing in (vehicle) garage doors do not count towards meeting these glazing requirements.

3. Building Modulation

The following façade modulation requirements apply to the front façade of all attached house structures when the buildings directly face a public street (other than an alley):

- a. Exterior walls may not exceed 32 feet in (horizontal) length without modulation.
- b. The modulation depth must be at least 2 feet.
- c. Modulation may be achieved through such techniques and features as:
 - (1) recessed or projecting wall offsets;
 - (2) entryways;
 - (3) porch or canopy structures including columns or piers;
 - (4) balconies;
 - (5) dormers; or
 - (6) other prominent architectural features that serve to provide dimension and break up large expanses of wall area.

24.09.030 Bed & Breakfast

Bed and breakfast may be approved in R-2, R-4 and R-8 districts in accordance with conditional use procedures of Sec. 24.16.040. Such uses must comply with all of the following requirements:

- A. bed and breakfasts must be located at least 1,500 feet from all existing bed and breakfast uses; and
- B. the maximum number of guest rooms must be established by the common council as part of the conditional use approval process.

24.09.040 Community Living Arrangements

A. Facilities Permitted as of Right

Community living arrangement that are licensed, operated or permitted under the authority of the State of Wisconsin are permitted as of right in R districts, provided that they comply with all of the following requirements:

1. the community living arrangement is limited to a maximum capacity of 8 or fewer persons;
2. the community living arrangement must be located at least 1,500 feet from all existing community living arrangements;
3. the applicant must provide written documentation of the capacity of the community living arrangement; and
4. the total capacity of all community living arrangements within the aldermanic district in which they are located may not exceed 25 persons or 1% of the population of the district, whichever is greater.

B. Facilities Subject to Conditional Use Approval

Community living arrangement that are licensed, operated or permitted under the authority of the State of Wisconsin, but that do not comply with all of the requirements of Sec. 24.09.040A may be approved as a conditional use in accordance with Sec. 24.16.040.

1. Criteria for Determining Over-Concentration

When applying the general conditional use review criteria and standards of Sec. 24.16.040G to a conditional use permit application for community living arrangements, the common council must find that the proposed conditional use will not create an over-concentration of community living arrangement facilities that could create an institutional setting or seriously strain the existing social structure or resources of the community. The following considerations are relevant to this over-concentration determination and finding:

- a. distance separating the proposed community living arrangement from other such facilities;
- b. capacity of the community living arrangement in relation to the total capacity of all the community living arrangements in the community;
- c. impact on the community of other community living arrangements;
- d. success or failure of integration into communities of other community living arrangements operated by the individual or group seeking the conditional use permit;
- e. ability of the community to meet the special needs, if any, of the proposed facility.

2. Facilities for Persons with Disabilities

a. When considering a conditional use permit application for a community living arrangement serving persons with disabilities and when the facility is proposed to be located more than 1,000 feet from another community living arrangement serving persons with disabilities, it must be presumed by the common council that the conditional use permit review criteria and standards of Sec. 24.16.040G and Sec. 24.09.040B.1 have been met unless the record establishes the contrary by evidence that is clear, satisfactory and convincing.

b. When considering a conditional use permit application for a community living arrangement serving persons with disabilities and when the facility is proposed to be located within 1,000 feet of another community living arrangement serving persons with disabilities, the common council must presume that the proposed conditional use will create an over-concentration of community living arrangements and institutional setting that is contrary to the purpose for which community residential programs were established and seriously strains the existing social structure and resources of the community. No conditional use permit may be approved in such case unless the applicant demonstrates by evidence that is clear, satisfactory and convincing that such an over-concentration will not result.

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3. State Inspection and Review

As a condition of any conditional use permit application for a community living arrangement, the zoning administrator must request an inspection the proposed facility and a review of the proposed program pursuant to Section 46.03(22)(b) of the Wisconsin Statutes. No community living arrangement use may commence until the inspection and review has been completed by the state.

4. Identification of Client Group

Every conditional use application for a community living arrangement must identify the client group being served by the facility. Any change in the client group being served by the facility is considered a major amendment to the approved conditional use permit and requires approval of a new conditional use permit in accordance with the procedures of this section.

5. Community Advisory Committee

No conditional use application may be considered by the plan commission or common council unless the owner or operator of the facility first establishes and maintains a community advisory committee and reviews the operation of the proposed facility with the community advisory committee. These requirements may be considered to have been met upon a showing by the applicant that a good faith effort has been made by the owner or operator to establish the community advisory committee.

24.09.050 Convenient Cash Businesses

A. Purpose

1. The purpose of this section is to provide for the regulation of convenient cash businesses and other similar establishments.
2. It is recognized that convenient cash businesses have the potential to be harmful to the public welfare, both in regards to the community harmony and with respect to potential effects on the quality, aesthetics and functional aspects of the community. The purpose of regulating convenient cash services is to ensure compatibility with surrounding uses and properties and to avoid an unchecked proliferation of convenient cash services that may result in the displacement of other necessary commercial and financial services.
3. Such businesses tailor their services to make them attractive to persons experiencing unfavorable economic circumstances, often aggravating those circumstances. Additionally, it has been found that through their business practices, convenient cash businesses are susceptible to attracting criminals seeking to commit robberies. Finally, when clustered in an area or strung out along an arterial street, such concentration creates an unwarranted negative impression regarding the economic vitality of a commercial district and the community at large. Based on their proliferation, their susceptibility to crime and the negative effects of their proliferation, the common council finds that the health, safety and welfare of the residents of the City of Wauwatosa should be protected by legislation limiting the geographic proliferation of convenient cash businesses.
4. It is therefore the intent of this zoning ordinance to regulate the locations and hours of operation of convenient cash businesses in the City of Wauwatosa.

B. Location and Operation of Convenient Cash Businesses

1. Convenient cash businesses may not be located within 2,500 feet of any other convenient cash business.
2. Convenient cash businesses may not be located within 250 feet of a residential district, as measured by the shortest line between the parcel to be occupied by the proposed convenient cash facility and the property line of the nearest R-zoned property.
3. Convenient cash businesses may not operate between the hours of 9:00 p.m. and 9:00 a.m.
4. Businesses must keep a glass entrance and exit doors with all windows clear of any signs or advertisements.
5. The building or portion thereof that is dedicated to the convenient cash use must have a minimum size of 1,500 square feet of building floor area.

6. All convenient cash businesses must purchase and provide to the City of Wauwatosa, based upon specifications provided by the city, one outdoor surveillance camera and wireless subscription module (total cost not to exceed \$5,000) to be positioned in close proximity to the business at a location determined by the city. The city will be the owner of this equipment and be responsible for its repair and maintenance.
7. The applicant must provide a security plan that addresses the following:
 - a. limits on amount of cash immediately available for withdrawal;
 - b. lighting plan for the business showing both exterior and interior lighting;
 - c. plans for maintaining visibility into the interior of the check cashing facility;
 - d. plans for security of the check cashing area of the facility;
 - e. a program for graffiti and litter abatement;
 - f. hours of operation; and
 - g. use of security guards and cameras.
8. The convenient cash business should work with the city and the police department to allow specific access by the police department to interior security cameras in the event of an emergency.
9. Conditional use permit application fees for businesses regulated pursuant to this section must be increased above normal fees in an amount sufficient to fund notices to all property owners within 250 feet of the parcel on which the proposed convenient cash business is to be located.

24.09.060 Foster Home or Treatment Foster Home

- A. Foster homes and treatment foster homes that are not owned by a corporation, child welfare agency, religious assembly, association or public agency are permitted as of right in R districts, provided that they comply with all of the following requirements:
 1. the foster home or treatment foster home must be licensed, operated or permitted under the authority of the Wisconsin Department of Health and Family Services; and
 2. the foster home or treatment foster home must be the primary domicile of the foster parent or treatment foster parent.
- B. Foster homes and treatment foster homes that are owned by a corporation, child welfare agency, religious assembly, association or public agency are permitted as of right in R districts, provided that they comply with all of the following requirements:
 1. the foster home or treatment foster home must be licensed, operated or permitted under the authority of the Wisconsin Department of Health and Family Services;
 2. the proposed foster home or treatment foster home must be located at least 1,500 feet from an existing foster home or treatment foster home; and
 3. the total capacity of all foster homes and treatment foster homes within the aldermanic district in which they are located may not exceed 1% of the total population of the district.
- C. Foster homes and foster treatment homes that are licensed, operated or permitted under the authority of the State of Wisconsin, but that do not comply with all of the requirements of Sec. 24.09.060A or Sec. 24.09.060B, as applicable, may be approved as a conditional use in accordance with Sec. 24.16.040.

24.09.070 Multi-unit Building

The maximum number of dwelling units allowed within multi-unit residential buildings is limited in R4 and R8 districts, as follows:

- A. **R4 District**
No more than 4 dwelling units is allowed in a single building or on a single lot in the R4 district.

B. R8 District

No more than 8 dwelling units is allowed in a single building or on a single lot in the R8 district.

24.09.080 Community Garden

Community gardens are subject to the following regulations.

- A.** A community garden area may be divided into separate garden plots for cultivation by one or more individuals or may be farmed collectively by members of the group.
- B.** Community garden group members may or may not reside on the subject property.
- C.** Community gardens are subject to all front and street side setback regulations of the zoning district in which they are located.
- D.** Any structure used in conjunction with a community garden must comply with the following requirements:
 - 1.** Be located at least 10 feet from any property line.
 - 2.** If the total area of structures used in conjunction with a community garden does not exceed 80 square feet, the structures are not considered accessory buildings. Otherwise, all structures used for community gardens are accessory buildings and must comply with the applicable accessory use and structure regulations of Chapter 24.10.
 - 3.** The following are not considered structures for the purposes of this section: benches, bike racks, cold-frames, hoop houses, raised/accessible planting beds, compost or waste bins, picnic tables, garden art, rain barrels or other rainwater harvesting systems and children's play areas.
- E.** The site must be designed and maintained so that water and fertilizer will not drain onto adjacent property.
- F.** Sales and donation activities may occur only in locations where retail sales or agricultural product sales are an allowed use, provided that on-site sale and donation of crops grown on the community garden site may be authorized as a temporary use in accordance with Sec. 24.10.080.
- G.** The operator of a community garden must maintain the property in productive use during the growing season.
- H.** At the end of each growing season annual vegetation must be cut down to a height of not more than 6 inches above ground level.

24.09.090 Large-format Retail Developments

- A. Purpose**

The large-format retail development regulations of this section apply design standards and additional conditions to large commercial developments in order to ensure that such developments are properly located and compatible with the surrounding area and community character and that such developments do not negatively affect the city and property owners. These large developments should present high-quality materials and design, promote pedestrian-friendly environments, encourage incorporate effective stormwater management practices to minimize impervious area and prevent water quality and flooding impacts and ensure that the development is beneficial to the community.
- B. Applicability**

The large-format retail development regulations of this section apply to individual freestanding buildings and group developments with a cumulative gross floor area of 50,000 square feet or more of retail sales area, including all structures and outdoor sales areas within the development and regardless of diverse lotting, use or tenancy.
- C. Development Agreement**

Any development agreement approved by the common council pursuant to these regulations must conform as closely as possible to these standards, but the common council is granted the flexibility to consider the unique requirements of the individual development.

D. Conditional Use and PUD Approvals

Conditional use approval or planned unit development (PUD) approval does not exempt large-format retail developments from the applicable large-format retail development regulations of this section.

E. Community Impact Statement

The purpose of conditional use review is to provide for detailed analysis of certain land uses which, because of their scale or intensity of use, have the potential for significant impact on the health, safety or general welfare of residents, including negative effects on the environment, abutting property values, the character of the surrounding neighborhood, demand for services and infrastructure and traffic safety.

1. At the time of submission of an application for conditional use for a property subject to the large-format retail development regulations of this section, or as otherwise required by law, the applicant must submit to the city a community impact statement, prepared to appropriate professional standards, which must evaluate the potential impact of the development upon the factors below. The scope and detail of the community impact statement is subject to the discretion of the director of community development:

- a. Traffic and parking conditions on site and within the surrounding area;
- b. Municipal utilities and services including water supply, sewage, disposal, stormwater management systems and flooding potential, police, fire protection, emergency services, schools and other city services;
- c. The physical and ecological characteristics of the site and the surrounding land, including wetlands, floodplain vegetation, wildlife habitat and other environmental conditions;
- d. The character of the community, including scenic, historic and archaeological conditions;
- e. The economic impact of the project on local businesses and residents, including number and types of jobs created, amount of local labor to be used, the amount, type and location of potential spin-off development, impact of changing land use patterns and potential for development pressure on surrounding neighborhoods.

F. The costs of all studies and investigations reasonably necessary to prepare a community impact statements required under this section must be borne by the applicant. If it becomes necessary for the city to hire outside professionals to review the impact statement, the cost of hiring the consultant(s) must be borne by the applicant.

G. Aesthetic and Visual Guidelines

Unless otherwise specifically provided in a development agreement approved by the common council, large-format retail developments must comply with the following provisions, subject to review by the design review board:

1. Smaller Retail Stores

The presence of smaller retail stores gives a center a “friendlier” appearance by creating variety, breaking up large expanses and expanding the range of the site’s activities. Windows and window displays of such stores should be used to contribute to the visual interest of exterior facades. When principal buildings contain additional, separately owned stores that occupy less than 50,000 square feet of gross floor area, with separate customer entrances:

- a. The street level facade of such stores must be transparent between the height of three feet and eight feet above the walkway grade for no less than 60% of the horizontal length of the building facade of such additional stores;
- b. Windows must be recessed and should include visually prominent sills, shutters, or other such forms of framing.

2. Facades and Exterior Walls Including Sides and Backs

- a. The building must be designed in a way that will reduce the massive scale and uniform and impersonal appearance and will provide visual interest consistent with the community’s identity, character and scale. Buildings must have at least two functional stories unless approved by the plan commission. Long building walls of at least 100 feet must

be broken up with projections or recessions of sufficient depth along all sides and in sufficient number, to reduce the unbroken massing into lengths of approximately 50 feet or less along all sides of the building. Projections from the facade can be used as an alternate approach.

- b. Along any public street frontage, the building design should include vision windows, arcades, awnings or other acceptable features along at least 60% of the building length. Arcades and other weather protection features must be of sufficient depth and height to provide a light-filled and open space along the building frontage. Architectural treatment, similar to that provided to the front facade must be provided to the sides and rear of the building to mitigate any negative view from any location off-site and any public area (e.g., parking lots, walkways, etc.) on-site. Where the facade faces adjacent residential uses, screening and buffering consisting of a mix of evergreen and deciduous trees or a fence must be installed providing at least the equivalent level of screening of an earthen berm that is at least 6 feet in height, containing at a minimum, a double row of evergreen or deciduous trees planted at intervals of 15 feet on center. The spacing and selection of trees may be modified if the landscaped area is designed for stormwater treatment, provided sufficient fencing or other visual screening is provided to achieve the equivalent level of screening. Additional landscaping or fencing may be required by the plan commission or design review board to effectively buffer adjacent land use as deemed appropriate.
3. **Detail Features**
The building must include architectural features that contribute to visual interest at the pedestrian scale and reduce the massive aesthetic effect by breaking up the building wall, front, side, or rear, with color, texture changes, wall offsets, reveals, or projecting ribs. The use of planter boxes and green wall features providing stormwater management and water quality benefits is encouraged as a means of meeting this standard.
4. **Roofs**
The roof design must provide variations in rooflines and add interest to and reduce the massive scale of, large buildings. Roof features must complement the architectural and visual character of adjoining neighborhoods. Roofs must include two or more roof planes. Parapet walls must be architecturally treated to avoid a plain, monotonous look.
5. **Materials and Color**
The buildings must have exterior building materials and colors that are aesthetically pleasing and compatible with materials and colors that are used in adjoining neighborhoods. This includes the use of high-quality materials and colors that are low-reflective, subtle, neutral, or earth tone. Examples of acceptable high-quality materials include: brick, wood, sandstone and other native stone. Certain types of colors must be avoided such as fluorescent or metallic although brighter colors in limited quantities as building trims and as accents may be considered at the discretion of the plan commission or design review board. Construction materials such as tilt-up concrete, smooth-faced concrete block, prefabricated steel panels and other similar materials must be avoided unless the exterior surface is covered with an acceptable architectural treatment.
6. **Entryways**
- a. The building design must provide design elements which clearly indicate to customers where the entrances are located and which add aesthetically pleasing character to buildings by providing highly visible customer entrances. Large retail buildings are encouraged to feature multiple entrances. Multiple entrances reduce walking distances from cars and facilitate pedestrian and bicycle access from public sidewalks. Multiple entrances also mitigate the effect of unbroken walls and neglected areas that often characterize building facades that face bordering land uses.
 - b. If a building faces multiple public or private rights-of-way, it must feature at least one customer entrance on those sides. Where the principal building faces more than two abutting public or private rights-of-way, this requirement may be interpreted to apply only to the two sides of the building facing the primary street and one secondary street. Where additional stores will be located in the principal building, each store must have at

least one exterior customer entrance, which must conform to the above requirements. The number of entrances must be addressed at the preliminary development plan stage.

7. Screening of Mechanical Equipment

Mechanical equipment must be screened to mitigate noise and views in all directions. If roof-mounted, the screen must be designed to conform architecturally to the design of the building either with varying roof planes or with parapet walls.

H. Site Design and Relationship to Surrounding Community

Unless otherwise specifically provided in a development agreement approved by the common council, all large-format retail developments must comply with the following:

1. Traffic Impacts

The applicant must have a traffic impact study prepared according to the standard traffic methodology. In addition to the general standards of the methodology, the traffic impact study must include weekend traffic generation and impact analysis. The traffic impact study must also study intersections within an area designated by the city engineer to take into account the regional traffic draw of a large-scale retail establishment.

2. Vehicular Access

The use must provide safety and protection to adjacent uses by having motor vehicles access only from an arterial, major or business district road as designated in the master plan.

3. Stormwater Management

Every application must be accompanied by a stormwater impact statement in order for the permit application to be considered. The city engineer must prescribe the form(s) and information that must be submitted to determine compliance with Title 18 of the city code of ordinances and other applicable stormwater rules. Applicants are encouraged to pursue low-impact stormwater management practices such as bioretention and pervious pavement if they are determined to be appropriate for the site by the city engineer.

4. Landscaping

Each parking area must be surrounded by a ten-foot-wide landscaped area around its edge. Shade and ornamental trees are also required in the parking areas, with the amount and placement to be determined through consultation with the city forester. Species should be suitable for their location including resistance to salt damage and appropriateness for climate. Landscaping must be in compliance with Chapter 24.12 and receive approval from the design review board.

5. Buffers

The use must provide visual and noise buffers to nearby residential uses. This can be accomplished by providing a substantial building setback from a residential use or residentially zoned property that is adjacent to the site. A landscape buffer of substantial width should be provided adjacent to the site property line where it adjoins residential uses or zones. The landscape buffer should include deciduous and evergreen trees at regular intervals to provide noise, light and visual screening. No other uses, such as, but not limited to, parking or storage, are permitted within the landscape buffer area.

6. Pedestrian Flows

The project must provide pedestrian accessibility, safety and convenience to reduce traffic impacts and enable the development to project a pedestrian-friendly, inviting image. Continuous internal pedestrian walkways, no less than 6 feet in width must be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. Sidewalks must also connect the store to transit stops on- or off-site and to nearby residential neighborhoods. If possible, walkways must connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points and must feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than 50% of their length. Sidewalks must be provided along the full length of any building along any facade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks must be located at least 6 feet from the facade of the building to provide planting beds for foundation landscaping, ex-

cept where features such as arcades or entryways are part of the facade. Internal pedestrian walkways must provide weather protection features such as awnings or arcades within 30 feet of all customer entrances, constructed parallel to the facade of the building. This is not intended to extend into the driving aisles or parking areas. All internal pedestrian walkways must be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

7. Central Features and Community Spaces

The project is to provide attractive and inviting pedestrian scale features, spaces and amenities. Entrances and parking lot locations must be functional and inviting with walkways conveniently tied to logical destinations. Bus stops should be considered internal parts of the configuration whether they are located on-site or along the street. Customer drop-off/pick-up points that may be provided should also be integrated into the design and should not conflict with traffic lanes or pedestrian paths. Special design features such as towers, arcades, porticos, light fixtures, planter walls, seating areas and other architectural features that define circulation paths and outdoor spaces must anchor pedestrian ways. Examples are outdoor plazas, patios, courtyards and window shopping areas. Each development should have at least two of these areas.

8. Outdoor Lighting

The applicant must provide an outdoor lighting report which provides information on how outdoor lighting will be accomplished to minimize impacts on adjacent properties or roadways. Outdoor lighting should provide clear visibility and a feeling of security. This can be accomplished by aiming the lights down and placing hoods on them. The light element should not protrude below the lower edge of the hood. To minimize any indirect overflow of light on adjacent residential properties, the height of any proposed parking lot light standard should be as short as possible and should stair step down to a lower height when close to residential uses or residentially used properties.

9. Outdoor Sales and Storage

Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas must be incorporated into the overall design of the building and the landscaping and must be permanently defined and screened with walls and/or fences. Materials, colors and design of screening walls and/or fences must conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering must be similar in materials and colors to those that are predominantly used on the building facade. Outdoor sales areas are considered part of the gross floor area of the retail establishment. Outdoor storage of products in an area where customers are not permitted is prohibited. This prohibition includes outdoor storage sheds and containers.

10. Delivery and Loading Spaces

a. Delivery and loading operations must be designed and located to mitigate visual and noise impacts to streets and adjoining residential neighborhoods. If there is a residential use or residentially zoned area adjacent to the site, such operations are not permitted between 9:00 p.m. and 6:00 a.m. (Chapter 7.46 of the city code of ordinances). For good cause shown, the plan commission may permit deliveries at additional times provided the applicant submits evidence that such deliveries will not negatively impact nearby residential uses. Delivery and loading areas must be substantially set back from a residential use or residentially zoned property that is adjacent to that site. A landscape buffer of substantial width should be provided adjacent to the delivery and loading area where it adjoins residential uses or zones. The landscape buffer should include evergreen shrubs and/or trees plus deciduous trees at regular intervals to provide noise, light and visual screening. If the delivery and loading spaces are located within an enclosed building or underground, no such setback and buffer area is required.

b. Delivery trucks may not be parked on the premises during nondelivery hours with motor and/or refrigerators/generators running, unless the truck noise is mitigated so that it does not significantly affect nearby residential properties.

- c. The delivery and loading areas must be screened or enclosed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways or adjacent properties. The screen must be of masonry construction and at least 10 feet high or of a design approved by the design review board to screen the noise and activity of the loading dock.

11. Accessory Uses

All accessory uses must be compatible with the proposed development and be an allowed use under AA business district zoning. The parking lot may not provide space for overnight camping, storage of vehicles, or additional activities with the exception of those uses approved under other sections of the ordinance codified in this chapter. The applicant must demonstrate that any accessory uses will not have negative impacts on adjacent residential uses, residentially zoned properties, or adjacent properties. Any accessory uses must be oriented to face away from any residential use or residentially zoned property that is adjacent to the site.

12. Temporary or Seasonal Uses

Nonenclosed areas for the storage and sale of seasonal inventory must be permanently defined and screened with walls and/or fences. Materials, colors and designs of screening walls and/or fences and the cover must conform to those used as predominant materials and colors of the building. No such sales/displays are allowed in required off-street parking areas unless reviewed and approved by the board of public works.

13. Trash Collection Area and Time Limitations

Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas should be gated and screened, recessed or enclosed so that they are not visible from adjoining properties and/or public streets. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one building is located on a site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have customer entrances. No area for outdoor storage, trash collection or compaction, loading, or other such uses may be located within 20 feet of any public street, public sidewalk or pedestrian right-of-way. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction and other service functions must be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets and no attention is attracted to the functions by the use of screening materials that are substantially different from or inferior to the principal materials of the building and landscape. In locations where applicable, refuse collection is subject to the time limitations in Section 7.46.060 of the city code of ordinances.

14. Parking Lots and Structures

Parking areas must provide safe, convenient and efficient access for vehicles and pedestrians. They must be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. Ideally, no more than 30% of the total parking provided should be located on any side facing a street unless approved by the city plan commission. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged and architectural details take on added importance. No more than 60% of the off-street parking area for the entire property may be located between the front facade within the front yard of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by outlot development and additional tree plantings and/or berms. Landscaping must be used to define parking areas, primary vehicular drives and pedestrian areas in an aesthetically and environmentally pleasing manner. Parking structure facades should achieve the same high-quality design and appearance as the buildings they serve. The parking structure's utilitarian appearance should be minimized by utilizing effective design treatments such as colonnades, arcades, awnings, street furniture and other public amenities. Compatible materials, coordinated landscaping and screening, appropriate building color, sensitive lighting and signage should all be considered for garage facades.

I. Maintenance and Reuse of Properties

- I. Unless otherwise specifically provided in a development agreement approved by the common council, all large-format retail developments are subject to the following provisions:
 - a. The owner must maintain the property in compliance with all provisions of the city code of ordinances or a plan approved as part of a development agreement approved by the common council. If the property is not found to be in compliance with the code or the approved plan, the city may take action to correct the situation, after providing the owner or operator with notice of the defective condition and an opportunity to cure the alleged defective condition. Costs of any such corrective action by the city will be assessed as a special charge against the property, to be added to the property tax bill pursuant to Section 66.0627 of the Wisconsin Statutes.
 - b. If the facility is vacated, the owner or operator, within twelve months, must submit, to the plan commission, a plan contemplating the removal or reuse of the facility. The time limit may be extended by the plan commission. If the owner or operator is unable to provide a plan which is acceptable to the plan commission, the city may utilize the Land Conservation Fund described in Section 20.14, Charter Ordinances, or other funds which may be made available for such purpose, to take whatever action is permitted by law to assure appropriate redevelopment or reuse of the facility.
 - c. Prior to issuance of a building permit for any large-format retail development, the building owner must contribute to the Land Conservation Fund described in Section 20.14, Charter Ordinances, City of Wauwatosa. The amount of contribution will be calculated based upon the number of square feet of retail space being created and must be as set forth in the consolidated fee schedule.

24.09.100 Sexually Oriented Businesses

The following uses of land are specifically prohibited except as provided under this chapter: sex bookstores, coin-operated motion picture devices showing sex movies and cabarets or any places featuring nude or semi-nude dancers, strippers or similar type entertainment.

A. Purpose and Intent

It is declared to be the purpose and intent of these sexually oriented business regulations to protect the public health, safety, welfare and morals of the community, to promote the stability of property values and impose restrictions upon those activities which pander to gross sexuality in a manner that would detract from the neighborhood, adversely affect the property values, increase crime and violence and be repugnant to the morals of the community. In recognition of the protections afforded to the citizens under the First and Fourteenth Amendments, it is not the intent of these regulations to inhibit freedom of speech or the press, but rather to deter those of low morals from imposing their lack of morals upon the rest of the community; and further recognizing that those parts of a community, which become centers of loose moral conduct, frequently become places of rowdiness, criminality and indecent behavior. It is further the belief that just as advertising is designed to stimulate one's appetite for desiring goods or a service, an overabundance of and preoccupation with sexual displays or material arouses the appetites of those so preoccupied and encourages violations of the criminal statutes involving sexual offenses and is contrary to the health, safety and welfare of the community.

B. Book Sales

No person, firm or corporation shall establish any bookstore or book department of a store in which a substantial or significant portion of its stock in trade is in books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," except as provided in Sec. 24.09.100G.

C. Sexual Device Stores

No person, firm or corporation shall operate any sexual devices store for the display or sale of sex stimulating devices, aids to sexual gratification, or devices to perform the functions of male or female genitals, or other similar articles or devices, except as provided in Sec. 24.09.100G.

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D. Mini-motion Displays

No person, firm or corporation shall offer for viewing through coin-operated motion picture devices any movie or other form of display which has significant displays of specified sexual activities, or specified anatomical areas, except as provided in Sec. 24.09.100G.

E. Motion Picture Theaters

No person, firm or corporation shall operate a movie theater distinguished or characterized by an emphasis on presenting material depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein, except as provided in Sec. 24.09.100G.

F. Cabarets

No person, firm or corporation shall feature or permit topless dancers, bottomless dancers, exotic dancers, strippers or persons engaged in specified sexual activities or similar entertainers, except as otherwise provided in Sec. 24.09.100G.

G. Exceptions

Such use or uses as prohibited by the regulations of this section may be waived; provided that such building is not located within 500 feet of any residential dwelling, rooming unit, school, hospital, church or place of worship, or stores that may be frequented by children under the age of 18. This prohibition may be waived if the person applying for the waiver files with the common council a petition of the proposed regulated use signed by 51% of the persons owning, residing, or doing business within a radius of 500 feet of the location of the proposed use. The petitioner shall attempt to contact all eligible locations within this radius and must maintain a list of all addresses at which no contact was made. A minimum of 100 responses is required. In the event that the 500 feet radius is not sufficiently populated to provide 100 residences and/or business places eligible to respond, the radius will be increased in increments of 100 feet until there is an area large enough to contain 100 eligible residences and/or business places. In addition to these conditions, such use is subject to the conditional use procedures of Sec. 24.16.040.

24.09.110 Wireless Communication Facilities

A. Freestanding Towers

1. Fencing must secure each site with accessory ground structures not to exceed dimensions of 12 feet by 20 feet with a maximum height of 10 feet.
2. Ground structures must have a stone aggregate or masonry exterior and must be in keeping with the appearance of other ground structures on each site with respect to size and exterior materials.
3. Landscaping must be incorporated at each location.
4. No more than 6 freestanding towers may be located on any site.
5. Towers and antennas may not exceed 120 feet in height.
6. All obsolete or unused facilities must be removed within 90 days of cessation of operations at the site.

B. Co-located Antennas

New antennas and repair and replacement of existing antennas that are attached or affixed to existing structures along with related electrical cabinets are allowed as of right in C and M districts and on city-owned property and school district-owned property, provided that the antenna does not project higher than 15 feet above the height of the structure to which it is attached. Antennas that project more than 15 feet above the existing structure height require conditional use approval.

C. Federal Law

The wireless communication facility regulations of this section must be applied with the constraints of the Telecommunications Act of 1996 and Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012.

24.10 | Accessory and Temporary Uses

| | | |
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24.10.010 Accessory Uses Generally

A. Allowed

Accessory uses and structures are permitted in connection with lawfully established principal uses unless otherwise expressly stated.

B. Applicable Regulations

Unless otherwise expressly stated, accessory uses and structures are subject to the same regulations and standards as apply to principal uses and structures on the subject parcel.

C. Incidental and Subordinate Nature

The zoning administrator is authorized to determine when a use, building or structure meets the definition of an accessory use or accessory structure. In order to classify a use or structure as “accessory,” the zoning administrator must determine that the use or structure:

1. is subordinate to the principal building or principal use in terms of area and/or function;
2. contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
3. is customarily found in association with the subject principal use or principal building.

D. Time of Construction and Establishment

1. Accessory buildings must be constructed in conjunction with or after the principal building. They may not be constructed or installed before the principal building.
2. Accessory uses may be established only after the principal use of the property is established.

E. Location

Accessory uses and structures must be located on the same parcel as the principal use to which they are accessory, except as otherwise expressly stated.

24.10.020 Home Occupations

A. General

Home occupations are allowed as accessory uses to principal uses in the household living category.

B. Purpose

The regulations of this section are primarily intended to ensure that home occupations in R zoning districts will not adversely affect the character and livability of the surrounding residential neighborhood. The regulations are also intended to ensure that the home occupation remains subordinate to the residential use and that the residential viability of the dwelling is maintained. The regulations recognize that many types of work can be done in a home with little or no effect on the surrounding neighborhood.

C. Applicability

Home occupations must comply with all of the standards of this section.

D. Exemptions

Uses listed in the use table of Sec. 24.07.030 (e.g., home-based day cares and bed & breakfasts) are not regulated as home occupations and are exempt from the regulations of this section.

E. Standards

A dwelling unit may be used for one or more home occupations subject to compliance with all of the following minimum standards:

1. The home occupation must be accessory and secondary to the use of a dwelling unit for residential purposes, and the home occupation may not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood. Home occupations may not, for example, produce light, noise, vibration, odor, parking demand, traffic or any exterior activity that is inconsistent with the character of a residential neighborhood in Wauwatosa.
2. There may be no external structural alterations or construction that would change the residential character of the property upon which the home occupation is located. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks and the addition of commercial-like exterior lighting.
3. No separate entrance to the building may be added to the residential building for the home occupation unless the entrance is not visible from any public street.
4. The home occupation and all related activities, including storage (other than the lawful parking or storage of vehicles), must be conducted entirely within a completely enclosed building, either the principal residential building or an allowed accessory building (e.g., detached garage).
5. Residential accessory uses conducted within garages may not take up space that provides space for meeting minimum off-street parking requirements.
6. No window display or other public display of any material or merchandise is allowed.
7. The owner of the home occupation must reside in the dwelling unit in which the home occupation is located.
8. In addition to the resident property owner, up to 2 nonresident persons, including employees, associates and customers may be present on the property at any time. This 3-person maximum limit per property applies regardless of the number of home occupations being conducted on the property.
9. Truck deliveries or pick-ups of supplies or products, associated with the home occupation, are allowed at the site of the home occupation only between 8 a.m. and 7 p.m. Vehicles used for delivery and pick-up may not include semi-tractor trailers.
10. The following uses are expressly prohibited as home occupations:
 - a. any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws and other small engines) or of large appliances (such as washing machines, dryers and refrigerators) or any other work related to automobiles and their parts;
 - b. dispatch centers or other businesses where employees come to the site and are dispatched to other locations;
 - c. rental businesses;
 - d. tow truck services;
 - e. material or equipment storage businesses;
 - f. restaurants;

- g. funeral or interment services; and
- h. animal boarding businesses.

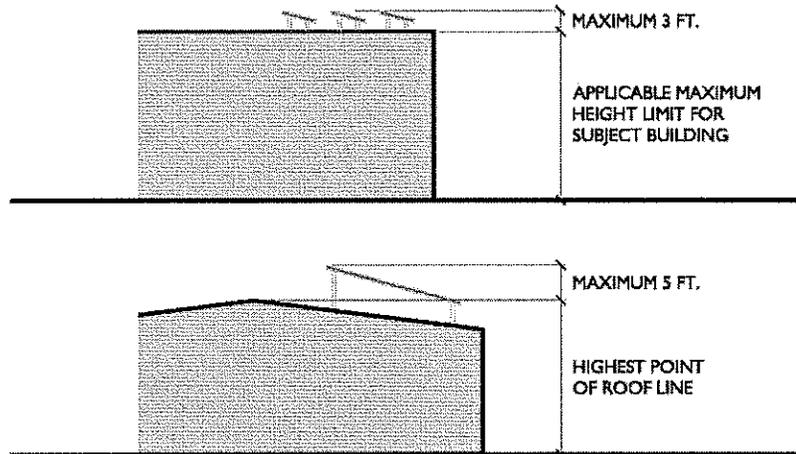
24.10.030 Accessory Solar Energy Systems

A. General

1. Accessory solar energy systems are allowed in all zoning districts. See also Section 66.0401 of the Wisconsin Statutes.
2. Accessory solar energy systems must comply with all applicable building ordinance and electrical code requirements.
3. Owners of accessory solar energy systems are solely responsible for negotiating with other property owners for any desired solar easements to protect access to sunlight. Any such easements must be recorded with the register of deeds.

B. Building-Mounted Solar Energy Systems

1. Building-mounted solar energy systems may be mounted on principal and accessory structures.
2. All applicable setback regulations apply to building-mounted solar energy systems. Systems mounted on principal structures may encroach into interior side and rear setbacks in accordance with Sec. 24.18.030F.
3. Only building-integrated and/or flush-mounted solar energy system may be installed on street-facing building elevations.
4. In residential zoning districts, solar energy systems may not extend more than 3 feet above the applicable maximum building height limit for the subject building type or more than 5 feet above the highest point of the roof line, whichever is less. In nonresidential zoning districts, solar energy systems may not extend more than 8 feet above the applicable maximum building height limit.



C. Ground-Mounted Solar Energy Systems

1. In R zoning districts, ground-mounted solar energy systems may not be located in a (front or corner side) street yard.
2. Ground-mounted solar energy systems are subject to applicable accessory building setback regulations.
3. Ground-mounted solar energy systems are subject to applicable accessory building height regulations.

24.10.040 Electric Vehicle Charging Stations

A. General

1. Private (restricted-access) EV charging stations are permitted as accessory uses in all zoning districts.
2. Public EV charging stations are permitted as accessory uses to allowed nonresidential uses in all zoning districts.

B. Parking

1. Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements.
2. Public electric vehicle charging stations must be reserved for parking and charging electric vehicles only. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that apply to any other vehicle.

C. Equipment

Vehicle charging equipment must be designed and located so as to not impede pedestrian, bicycle or wheelchair movement or create safety hazards on sidewalks.

D. Usage Fees

Property owners are not restricted from collecting a service fee for the use of an electric vehicle charging station.

E. Posted Information

1. Information must be posted identifying voltage and amperage levels and any type of use, fees, or safety information related to the electric vehicle charging station.
2. Public electric vehicle charging stations must be posted with signage indicating that the space is reserved for electric vehicle charging purposes only. For purposes of this provision, "charging" means that an electric vehicle is parked at an electric vehicle charging station and is connected to the battery charging station equipment.

F. Maintenance

Electric vehicle charging stations must be maintained in all respects, including the functioning of the equipment. A phone number or other current contact information must be provided on the equipment for reporting when it is not functioning or other problems are encountered.

24.10.050 Small Wind Energy Systems

A. Rooftop-mounted Systems

1. Where Allowed

Rooftop-mounted small wind energy systems are allowed as an accessory use in all zoning districts subject to compliance with the following regulations. See also Section 66.0401 of the Wisconsin Statutes.

2. Regulations

All rooftop-mounted small wind energy systems are subject to the following regulations:

- a. In residential districts, a maximum of one rooftop mounted small wind energy system is allowed per lot.
- b. Rooftop mounted small wind energy system may not exceed 15 feet in height above the highest point of the structure to which it is attached. Roof-mounted small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- c. Small wind energy systems may not exceed a noise level of 60 dBA, as measured at the owner's property line. The level, however, may be exceeded during short-term events, such as utility outages and severe wind storms.

- d. No rooftop-mounted small wind energy system may be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned energy generator. Off-grid systems are exempt from this requirement.
- e. Building permit applications for rooftop-mounted small wind energy systems must be accompanied by standard drawings of the wind turbine structure, including the tower and base. An engineering analysis of the system showing compliance with the building ordinance and certified by a Wisconsin-licensed design professional must be submitted. This analysis is frequently supplied by the manufacturer. A valid first generation seal is required.

B. Ground-mounted Systems

1. Where Allowed

Ground-mounted small wind energy systems are allowed as an accessory use in all zoning districts subject to compliance with the following regulations. See also Section 66.0401 of the Wisconsin Statutes.

2. Regulations

All ground-mounted small wind energy systems are subject to the following regulations:

- a. No more than one ground-mounted small wind energy system is permitted per lot.
- b. All ground-mounted small wind energy systems must be set back from all property lines a distance equivalent to at least 110% of the total system height.
- c. The blade tip of any rotor must, at its lowest point, have ground clearance of at least 15 feet.
- d. All climbing apparatus must be located at least 15 feet above the ground, and the tower must be designed to prevent climbing within the first 15 feet from the top of foundation.
- e. Building permit applications for ground-mounted small wind energy systems must be accompanied by standard drawings of the wind turbine structure, including the tower, base and footings. An engineering analysis of the system showing compliance with the building ordinance and certified by Wisconsin-licensed design professional must be submitted. This analysis is frequently supplied by the manufacturer. A valid first generation seal is required.
- f. Tower structure lighting is prohibited unless required by the Federal Aviation Administration or appropriate authority.
- g. Ground-mounted small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- h. Ground-mounted small wind energy systems may not exceed a noise level of 60dba, as measured at the owner's property line. The level, however, may be exceeded during short-term events, such as utility outages and severe wind storms.
- i. No ground-mounted small wind energy system may be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

24.10.060 Satellite Dish Antennas

- A. Satellite dish antennas up to one meter (39.4 inches) in diameter are permitted as accessory uses in all districts. They are subject to accessory building/structure setback standards.
- B. Satellite dish antennas over one meter in diameter, up to 3 meters (118.2 inches) in diameter, are permitted as accessory uses in all nonresidential districts, subject to accessory building/structure setback standards.
- C. Satellite dish antennas may be erected on the roof or attached to a principal building, provided the maximum height of the installation does not exceed the maximum allowable height of the subject

district or more than 15 feet above the top of the building on which it is to be located, whichever is less.

D. Federal Law

The wireless communication facility regulations of this section must be applied with the constraints of the Telecommunications Act of 1996 and Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012.

24.10.070 Rainwater Harvesting Systems
RESERVED

24.10.080 Temporary Uses

A. Description and Purpose

1. A temporary use is the use of property conducted from an area or structure (e.g., parking lots, lawns, trucks, tents, or other temporary structures) that does not require a building permit and that may or may not comply with the use or lot and building standards of the zoning district in which the use is located.
2. The temporary use regulations of this section are intended to permit such occasional, temporary uses and activities when consistent with the overall purposes of this zoning ordinance and when the operation of the temporary use will not be detrimental to the public health, safety or general welfare.
3. Temporary uses include temporary buildings and uses for construction purposes for a period of not more than one year.

B. Authority to Approve

1. Except as expressly stated in Sec. 24.10.080C, all temporary uses are subject to all city permits and requirements.
2. The zoning administrator is authorized to approve temporary uses that comply with the provisions of this section and to impose conditions on the operation of temporary uses that will help to ensure that they do not create unreasonable adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this zoning ordinance.
3. The zoning administrator is also authorized to require that individual temporary use requests be processed as conditional uses.

C. Exemptions

The following are permitted as temporary uses without complying with the permit requirements of this section:

1. temporary uses and structures needed as the result of a natural disaster or other health and safety emergencies during the period of the emergency;
2. temporary events or activities occurring within, or upon the grounds of, a private residence or upon the common areas of a multi-unit residential development;
3. garage sales conducted in R districts or on parcels occupied by residential dwelling units; and
4. temporary uses conducted on public property, provided such uses have been approved by the common council or other duly authorized city official.

D. Authorized Uses

Unless otherwise expressly required to be approved by the board of public works, the following may be approved by the zoning administrator as temporary uses when the zoning administrator determines that the operation of such use will be generally compatible with surrounding uses and will not be detrimental to public safety:

1. Christmas tree and similar holiday sales lots;
2. outdoor carnivals;
3. outdoor concerts, festivals and similar events;

- 4. temporary sales offices;
- 5. temporary portable storage containers, subject to Sec. 24.10.090;
- 6. auctions; and
- 7. similar uses and activities.

E. Conditions of Approval

In approving a temporary use, the zoning administrator is authorized to impose conditions on the operation of temporary uses that will help to ensure that they do not create unreasonable adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this zoning ordinance. Such conditions may include the following:

- 1. requirements for vehicle access and parking;
- 2. restrictions on hours of operation;
- 3. limitations on signs, outdoor lighting and amplified sound;
- 4. requirements for financial guarantees for cleanup and/or removal of structures or equipment; and
- 5. other conditions necessary to carry out the general purposes of this zoning ordinance.

F. Time Limit

- 1. The applicant must submit a written explanation of the length of time needed for a proposed temporary use.
- 2. The zoning administrator must establish the allowed time limit for each temporary use at the time of approval and enforce the time limit after approval.

G. Procedure

Upon receipt of a complete application for a temporary use, the zoning administrator must review the proposed use for its likely effects on surrounding properties and its compliance with the provisions of this section.

24.10.090 Temporary Portable Storage Containers

Temporary portable storage containers are an allowed temporary use. The following regulations apply to lots occupied by a dwelling unit.

- A. Temporary portable storage containers are permitted for a period not to exceed a total of 60 days within any consecutive 6-month period. However, in cases where a dwelling has been damaged by natural disaster or casualty, the zoning administrator is authorized to allow a temporary portable storage container for a longer period.
- B. Temporary portable storage containers may not exceed 8.5 feet in height or more than 260 square feet in floor area.
- C. Temporary portable storage containers may not be located in the public right-of-way or obstruct intersection or visibility.
- D. Temporary portable storage containers may not be located in a front or street side setback unless located on a driveway or other paved surface.
- E. Rail cars, semi-trailers and similar structures may not be used for temporary (or permanent) storage on parcels occupied by a dwelling unit.
- F. Signs on temporary portable storage containers must comply with all applicable city sign regulations.

24.10.100 Mobile Food Establishments

A. Allowed

Mobile food establishments are allowed in all nonresidential zoning districts, provided they are located at least 50 feet from the main public entrance to a restaurant.

B. Regulations

1. Health Department permits are required and must be kept with the mobile food establishment operator and presented to authorized city officials upon request. (See Chapter 8.3 of the city code of ordinances).
2. Operators are responsible for obtaining consent of property owners to operate on private property.
3. Operators are responsible for ensuring that all waste is disposed of in accordance with city regulations and for maintaining all areas used for food vending and customer activity in a safe and clean condition.
4. Mobile food establishments must be removed from any site at the end of each business day except as otherwise expressly approved at the time of permit issuance.
5. Operators must obey all parking and traffic laws.
6. Mobile food establishments may not obstruct pedestrian, bicycle or vehicle circulation routes.
7. If operated on public property, operators may be required to have liability insurance as approved by the city attorney and to provide a certificate of insurance naming the City of Wauwatosa as an additional insured.

24.10.110 Retail Kiosks, Vending Machines and Donation Boxes

Retail sales kiosks, vending machines and donation drop boxes are allowed only if located entirely within an enclosed building or within the exterior perimeter footprint of an allowed building.

24.11 | Parking and Loading

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24.11.010 General

A. Purpose

1. The regulations of this chapter are intended to ensure provision of off-street motor vehicle parking and loading facilities, bicycle parking areas and other transportation access facilities in rough proportion to the generalized parking and transportation demands of different land uses. By requiring such facilities, it is the intent of this chapter to help avoid the negative impacts associated with spillover parking into adjacent areas, while at the same time avoiding the negative environmental and visual impacts that can result from excessively large parking lots and other vehicular use areas.
2. The provisions of this chapter are also intended to help protect the public health, safety and general welfare by:
 - a. helping avoid and mitigate traffic congestion;
 - b. encouraging multi-modal transportation options and enhanced pedestrian and cyclist safety;
 - c. providing methods to reduce the amount of impervious surfaces associated with parking areas and to help ensure that sufficient and effective stormwater management measures are incorporated into the parking lot design in order to reduce the environmental impacts of impervious surfaces and stormwater runoff;
 - d. providing flexible methods of responding to the transportation and access demands of various land uses in different areas of the city.

B. Applicability

1. **General**
Unless otherwise expressly stated, the regulations of this chapter apply to all districts and uses.
2. **New Uses and Development**
Unless otherwise expressly stated, the regulations of this chapter apply to all new buildings constructed and all new uses established in all zoning districts.
3. **Enlargements and Expansions**
 - a. Unless otherwise expressly stated, the regulations of this chapter apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measurement used for establishing off-street parking and loading requirements.

- b. In the case of enlargements or expansions triggering requirements for additional parking or loading, additional spaces are required only to serve the enlarged or expanded area, not the entire building or use. In other words, there is no requirement to address lawfully existing parking and loading space deficits.

4. Change of Use

- a. When an existing or previous use fails to provide the number of off-street parking or loading spaces required under this ordinance and a new use is proposed the existing parking and loading (deficit) may be continued. When the number of parking or loading spaces required for the new use exceeds the number of spaces required for the use that most recently occupied the property, additional spaces are required only to make up the difference between the number of spaces required for the previous use and the number of spaces required for the new use, based on the regulations of this zoning ordinance.
- b. When a change of use is proposed within an existing building and the proposed use does not comply with the minimum off-street parking ratios of Sec. 24.11.020, the owner may apply for conditional use approval to allow the use without complying with minimum parking ratios. In considering the request, review and decision-making bodies must weigh projected parking and access needs in relation to projected mode split (i.e., auto, transit, pedestrian, bicycle) on-street and nearby availability of parking and other relevant factors that may justify the issuance of the conditional use permit. Review and decision-making bodies may consider, among other factors, the positive impacts that reduced parking ratios may have on economic development, building reuse and neighborhood preservation goals.

C. Exceptions

The board of public works is authorized to grant exceptions to the parking and loading regulations of this chapter.

24.11.020 Minimum Parking Ratios

A. C1, Neighborhood/Village Trade

The following minimum off-street motor vehicle parking requirements are applicable in the C1 district:

| Use | Minimum Motor Vehicle Parking Requirement |
|--------------------------------------|---|
| Eating & Drinking Establishments | 1 space per 500 square feet |
| Theaters/Places of Assembly | 1 space per 200 square feet |
| Groceries | 1 space per 200 square feet |
| All other office and commercial uses | 1 space per 500 square feet |
| All Other Uses | As required in Sec. 24.11.020B. |

B. All Other Districts

Except as otherwise expressly stated, off-street motor vehicle parking spaces must be provided in accordance with the following table:

| USE CATEGORY | Minimum Motor Vehicle Off-Street Parking Ratio |
|--------------------------------|--|
| Use Subcategory | |
| -Specific Use Type | |
| RESIDENTIAL | |
| Household Living | |
| -Detached House | 2.0 spaces per dwelling unit |
| -Semi-detached House | 2.0 spaces per dwelling unit |
| -Two-unit Building | 2.0 spaces per dwelling unit |
| -Attached House | 2.0 spaces per dwelling unit |
| -Multi-unit Building | |
| -Studio | 1.0 spaces per dwelling unit |
| -One Bedroom | 1.0 spaces per dwelling unit |
| -Two Bedroom | 1.5 spaces per dwelling unit |
| -Three or More Bedroom | 2.0 spaces per dwelling unit |
| -Elderly (One or More Bedroom) | 1.0 spaces per dwelling unit |
| -Mixed-use Building, Vertical | Same as Multi-unit Building |

| USE CATEGORY | Minimum Motor Vehicle Off-Street Parking Ratio |
|--|--|
| Use Subcategory | |
| -Specific Use Type | |
| Group Living | As determined by zoning administrator (See Sec. 24.11.030G) |
| PUBLIC/CIVIC | |
| College/University | As determined by zoning administrator (See Sec. 24.11.030G) |
| Day Care | 2 spaces plus 1 space per nonresident employee |
| Detention & Correctional Facilities | As determined by zoning administrator (See Sec. 24.11.030G) |
| Fraternal, Labor, Membership Organization | As determined by zoning administrator (See Sec. 24.11.030G) |
| Hospital | As determined by zoning administrator (See Sec. 24.11.030G) |
| Library/Cultural Facility | 3 spaces per 1,000 square feet |
| Park/Recreation/Open Space (except as identified below) | As determined by zoning administrator (See Sec. 24.11.030G) |
| Religious Assembly | 1 space per 8 seats |
| Safety Services | As determined by zoning administrator (See Sec. 24.11.030G) |
| School | |
| -Elementary | 1 space per employee |
| -Junior and Senior High School | 1.5 spaces per employee |
| Utilities & Services | |
| -Minor, Basic | None |
| -Major | 2 spaces plus 1 space per nonresident employee |
| COMMERCIAL | |
| Animal Services | |
| -Sales & Grooming | 2.5 spaces per 1,000 square feet |
| -Shelter or Boarding Kennel | 2 spaces per 1,000 square feet |
| -Veterinary Clinic | 4 spaces per 1,000 square feet |
| Artist Work or Sales Space | 2.5 spaces per 1,000 square feet |
| Building Maintenance Service | 1 space per employee |
| Business Equipment Sales & Service | 2.5 spaces per 1,000 square feet |
| Business Support Service | 2.5 spaces per 1,000 square feet |
| Communication Service Establishments | 2.5 spaces per 1,000 square feet |
| Construction Sales & Service | 2 spaces per 1,000 square feet |
| Drive-in or Drive-through Uses | Spaces required for principal use plus vehicle stacking spaces as required by Sec. 24.11.100 |
| Eating & Drinking Establishments | |
| -Carry-out Only | 2.5 spaces per 1,000 square feet |
| -Drive-in or Drive-through | 8 spaces per 1,000 square feet plus vehicle stacking spaces as required by Sec. 24.11.100 |
| -All Other | 8 spaces per 1,000 square feet |
| Entertainment & Spectator Sports | 1 space per 6 seats |
| Financial Services | 4 spaces per 1,000 square feet |
| Food & Beverage Retail Sales | 4 spaces per 1,000 square feet |
| Funeral & Interment Services | 1 space per 6 seats in chapel, plus one per vehicle used as part of operation |
| Lodging | 1 space per guest room plus spaces for ancillary uses (e.g., restaurant) |
| Office, Admin., Professional | 3 spaces per 1,000 square feet |
| Office or Clinic, Medical | 6.67 spaces per 1,000 square feet |
| Parking, Non-Accessory | None |
| Personal Improvement Service | 4 spaces per 1,000 square feet |
| Repair or Laundry Service, Consumer | 4 spaces per 1,000 square feet |
| Research Service | 3 spaces per 1,000 square feet |
| Residential Convenience/Support | None |
| Retail Sales (including regional malls regardless of use mix) | 4 spaces per 1,000 square feet |
| Sports & Recreation, Participant | As determined by zoning administrator (See Sec. 24.11.030G) |
| Vehicle Sales & Service | |
| -Auto Fueling Station | 1 space per gas pump (at the pump) plus 1 space per service bay |
| -Auto Wash/Cleaning Service | Vehicle stacking spaces as required by Sec. 24.11.100 |
| -Heavy Equipment Sales/Rentals | 1 space per employee plus 2 spaces per service stall/bay |
| -Light Equipment Sales/Rentals | 1 space per employee plus 2 spaces per service stall/bay |
| -Motor Vehicle Repair | 2 spaces per service bay/stall |
| -Vehicle Storage & Towing | 4 spaces plus 1 space per employee |
| INDUSTRIAL | |
| Manufacturing, Production & Industrial Services | 1 space per employee |

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| USE CATEGORY | Minimum Motor Vehicle Off-Street Parking Ratio |
|--|--|
| Use Subcategory -Specific Use Type | |
| Recycling Service | 1 space per employee |
| Residential Storage Warehouse | 1 space per 10 storage units plus 1 space per employee |
| Warehousing, Wholesaling & Freight Movement | 1 space per employee |
| Waste-Related Use | 1 space per employee |
| AGRICULTURAL | |
| Community Garden | None |
| Farmer's Market | None |
| Nurseries & Greenhouses | 2.5 spaces per 1,000 square feet of customer-accessible sales area |
| OTHER | |
| Wireless Communication Facilities | None |

24.11.030 Calculations

The following rules apply when calculating the required number of off-street parking and loading spaces required under this zoning ordinance.

- A. Multiple Uses**
Unless otherwise expressly stated, lots occupied by more than one use must provide parking and loading in an amount equal to the total of the requirements for all uses that occupy the lot.
- B. Fractions**
When measurements of the number of required spaces result in a fractional number, any fraction of less than ½ is rounded down to the next lower whole number, and any fraction of ½ or more is rounded up to the next higher whole number.
- C. Area Measurements**
All area-based (square footage) requirements must be computed on the basis of the total gross floor area devoted to such use. This includes accessory storage areas located within selling or working space such as counters, racks, interior wall thicknesses, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purpose of determining off-street parking spaces does not include floor area devoted primarily to storage purposes except as otherwise expressly stated, nor floor area for parking and loading, including ramps and maneuvering space.
- D. Seating or Occupancy**
A seat is the space intended for a single individual; in places where patrons or spectators occupy benches, pews, or other similar seating arrangements, each 20 linear inches of such seating is counted as one seat. In places without fixed seating, each 8 square feet of seating floor area is counted as one seat.
- E. Employees**
Requirements based on employees must be based on the average number of persons working on any single shift.
- F. Unlisted Uses**
Upon receiving a development application for a use not specifically listed in an off-street parking schedule, the zoning administrator is authorized to apply the off-street parking ratio specified for the listed use that is deemed most similar to the proposed use or establish a minimum off-street parking ratio for the proposed use in accordance with Sec. 24.11.030G.
- G. Establishment of Other Parking Ratios**
The zoning administrator is authorized to establish required minimum off-street parking ratios for unlisted uses and in those instances where authority to establish a requirement is expressly granted. Such ratios may be established on the basis of a similar use/parking determination (as described in Sec. 24.11.030F), on parking data provided by the applicant or information otherwise available to the zoning administrator. Parking data and studies provided by applicants must include estimates of parking demand based on reliable data collected from comparable uses or on external data from

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credible research organizations. Comparability will be determined by density, scale, bulk, area, type of activity and location.

24.11.040 Parking for Persons with Disabilities

The provisions contained in Sections 101.12, 346.503 and 346.56 of the Wisconsin Statutes and any related Wisconsin Administrative Code sections are adopted by reference and are applicable to all parking facilities.

24.11.050 Shared Parking

A. Description

Shared parking represents an arrangement in which 2 or more nonresidential uses with different peak parking periods (hours of operation) use the same off-street parking spaces to meet their minimum off-street parking requirements.

B. Authorization and Criteria

1. The zoning administrator is authorized to approve shared parking arrangements for nonresidential uses with different hours of operation.
2. The zoning administrator may permit parking required for one use to be supplied by the off-street parking spaces provided for another use if the zoning administrator determines that the uses or activities will have peak parking demands at different periods of the day or week.
3. In order to approve an alternative compliance parking plan for shared parking, the zoning administrator must find, based on competent evidence provided by the applicant, that there is no substantial conflict in the principal operating hours of the uses for which the sharing of parking is proposed.
4. A request for approval of a shared parking arrangement must be accompanied by such information determined by the zoning administrator to be necessary to evaluate the peak parking demand characteristics or difference in hours and/or days of operation, including, but not limited to, a description of the uses and their operational characteristics, a site plan and a parking study that justifies the reduction in parking requested, as prepared by a licensed professional traffic engineer or other qualified professional.

C. Location of Shared Parking

Shared parking arrangements are subject to the location standards of Sec. 24.11.060.

D. Shared Parking Agreement

1. An agreement providing for the shared use of parking areas, executed by the parties involved, must be filed with the zoning administrator in a form approved by the city attorney and recorded with the register of deeds.
2. Shared parking agreements are binding upon applicants, their successors and assigns. Amendments to parking agreements require zoning administrator approval, based on whether the proposed amendment complies with all applicable zoning ordinance provisions.
3. Shared parking privileges remain in effect only as long as the agreement, binding on all parties, remains in force. If a shared parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this chapter.

24.11.060 Location of Off-Street Parking

A. General

Except as expressly allowed by the off-site parking regulations of Sec. 24.11.060D, required off-street parking spaces must be located on the same lot as the building or use they are required to serve.

B. Residential Districts

The following regulations apply in all residential zoning districts:

1. Off-street parking spaces accessory to residential uses may be located in any setback except required front and street side setbacks. A two-unit residential building with attached garages

is allowed to have 2 of the 4 required parking spaces located on paved areas in front and/or street side setbacks.

2. No motor vehicles may be parked on property occupied by residential uses unless they are within a garage, upon a paved parking slab, or upon a paved driveway leading directly from the street to the garage or paved parking slab.

C. Parking of Commercial Vehicles in Residential Districts

1. It is the declared purpose of this section in exercising the general police powers of the city and pursuant to the authority of the city to regulate land use, to preserve and maintain the esthetic attractiveness of residential neighborhoods, and toward this end it is the considered determination of the governing body of the City of Wauwatosa that vehicles that have the appearance of being used for commercial purposes if parked on residential properties outside of a garage has a general effect of detracting from the residential character of the neighborhood. It is recognized that the use of trucks and other vehicles that in the past have been traditionally used primarily for commercial purposes have in recent years gained popularity and widespread acceptance as both recreation and passenger vehicles. Therefore, the purpose of this section is not to restrict the use or parking of all trucks, but rather to prohibit the parking of commercial trucks or vehicles outside of a garage within a residential zoning district.
2. To provide guidelines in determining whether a specific vehicle is a commercial vehicle for purposes of this section, the following characteristics must be considered although no one of such characteristics will be considered conclusive in determining whether such vehicle constitutes a commercial vehicle.
 - a. If the vehicle carries a commercial or truck registration;
 - b. If the vehicle has a commercial sign affixed, attached or painted thereof, the commercial character of the sign will be given considerable weight;
 - c. If the vehicle is ordinarily used for commercial purposes and if such use is discernible from the exterior of the vehicle;
 - d. If the gross weight of the vehicle exceeds 5,000 pounds.
3. No person, firm or corporation may park a commercial vehicle in any residential district.
4. This section is not intended to prohibit the temporary parking of commercial vehicles while they are being used to perform a service or make deliveries at the location where parked.
5. This section is not intended to prohibit the parking of vehicles within a garage within a residential district.

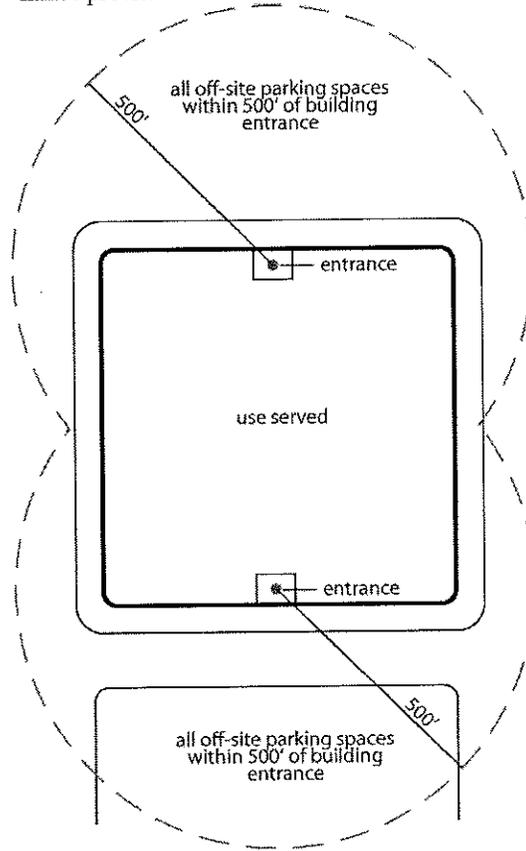
D. Off-Site Parking

1. **General**

All or a portion of required off-street parking for nonresidential uses may be provided off-site, in accordance with the provisions of this section. Required accessible parking spaces for persons with disabilities may not be located off site. Required parking for residential uses must be located on the same lot as the residential use to be served by the parking.
2. **Location**

Off-site parking areas must be located within a 500-foot radius of the use served by such parking, measured between the entrance of the use to be served and any portion of a parking space within the off-site parking lot. The off-site parking area must be located in a zoning district that allows non-accessory parking or that allows the principal use that will be served by the parking.
3. **Control of Off-Site Parking Area**
 - a. The property to be occupied by the off-site parking facilities must be under the same ownership as the lot containing the use to be served by the parking. The off-site parking area may be under separate ownership only if a legal agreement is provided to the zoning administrator guaranteeing the long-term availability of the parking. The agreement must be in a form approved by the city attorney and recorded with the register of deeds.

- b. Off-site parking agreements are binding upon applicants, their successors and assigns. Amendments to off-site parking agreements require zoning administrator approval, based on whether the proposed amendment complies with all applicable zoning ordinance provisions.



- c. Off-site parking privileges remain in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this chapter.

24.11.070 Use of Off-Street Parking Areas

- A. Off-street parking areas may be used solely for the temporary parking of licensed motor vehicles in operating condition unless otherwise approved by the board of public works.
- B. Off-street parking spaces may not be used for the display of goods for sale or lease or for storage of building materials unless otherwise approved by the board of public works.
- C. Off-street parking spaces are intended to serve residents, tenants, patrons, employees, or guests of the principal use. Off-street parking spaces required by this zoning ordinance must be maintained for the life of the principal use.
- D. No motor vehicle repair work is permitted in a parking space other than emergency roadside repair, such as changing a flat tire.

24.11.080 Bicycle Parking

- A. **General**
This section establishes regulations governing bicycle parking facilities.

B. Short-term Bicycle Parking

1. Purpose

Short-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for short time periods, including customers, clients, students and other short-term visitors.

2. Spaces Required

Short-term bicycle parking spaces are required in accordance with the following minimum ratios:

| Use | Short-term Bicycle Parking Spaces Req'd |
|----------------------------------|---|
| Multi-unit Residential | 1 space per 5 dwelling units; 1 space min. |
| Multi-unit Residential (elderly) | 1 space per 20 dwelling units; 1 space min. |
| Commercial, Public and Civic | 1 per 10 motor vehicle spaces; 1 space min. |
| Industrial | 1 per 20 motor vehicle spaces; 1 space min. |

3. Design and Location

a. General

Required bicycle parking spaces must:

- (1) consist of bike racks or lockers that are anchored so that they cannot be easily removed;
- (2) be of solid construction, resistant to rust, corrosion, hammers and saws;
- (3) allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
- (4) be designed so as not to cause damage to the bicycle;
- (5) facilitate easy locking without interference from or to adjacent bicycles; and
- (6) be in highly visible, active, well-illuminated areas that do not interfere with pedestrian movements.

b. Location

At least 50% of required bicycle parking spaces must be located within 50 feet of a customer entrance, and the remainder must be located within 100 feet of any entrance. If required bicycle parking spaces are not visible from the abutting street or the main customer entrance, signs must be posted indicating their location.

c. Size

All required bicycle parking spaces must have minimum dimensions of 2 feet in width by 6 feet in length, with a minimum overhead vertical clearance of 7 feet.

C. Long-term Bicycle Parking

1. Purpose

Long-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for long time periods, including employees and residents.

2. Incentives

Long-term bicycle parking is not required, but the board of public works is authorized to approve a reduction in vehicle parking requirements for projects that provide long-term bicycle parking spaces that:

- a. are protected from weather and access by unauthorized persons;
- b. consist of bike racks or lockers anchored so that they cannot be easily removed;
- c. are of solid construction, resistant to rust, corrosion, hammers, and saws;
- d. allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
- e. are designed so as not to cause damage to the bicycle; and

- f. facilitate easy locking without interference from or access to adjacent bicycles.

24.11.090 Motorcycle and Scooter Parking

When 20 motor vehicle parking spaces are required, motorcycle, moped or scooter parking may be substituted for up to 5 automobile parking spaces or 10% of required motor vehicle parking, whichever is less (unless otherwise approved by the board of public works). For every 4 motorcycle parking spaces provided, the automobile parking requirement is reduced by one space. Each motorcycle space must have minimum dimensions of 4 feet by 8 feet. This provision applies to existing and proposed parking lots.

24.11.100 Drive-through Facilities and Vehicle Stacking Spaces

A. Applicability

- 1. The regulations of this section apply to all uses that include drive-through facilities and to all portions of a development that comprise the drive-through facility.
- 2. The regulations apply to new developments, the addition of drive-through facilities to existing developments and the relocation of existing drive-through facilities. All drive-in and drive-through facilities require conditional use approval.

B. Parts of a Drive-through Facility

A drive-through facility is composed of two parts:

- 1. The stacking lanes (the space occupied by vehicles queuing for the service to be provided); and
- 2. The service area, where the service occurs. In uses with service windows, the service area starts at the service window. In uses where the service occurs indoors, the service area is the area within the building where the service occurs. For other facilities, such as gas pumps, air compressors and vacuum cleaning stations, the service area is the area where the vehicles are parked during the service or operation.

C. Setbacks and Landscaping

Service areas and stacking lanes on parcels abutting R zoning districts must be set back at least 15 feet and landscaped in accordance with the landscape screening requirements of Sec. 24.12.040.

D. Stacking Lanes

These regulations help ensure that there is adequate on-site maneuvering and circulation areas, that stacking vehicles do not impede safe movement of traffic and that stacking lanes will not have nuisance impacts on nearby residential uses.

- 1. All drive-through facilities must provide at least 4 stacking spaces for vehicles at the pick-up or teller window and at least 4 spaces from the order box. Each stacking space must be at least 20 feet in length.
- 2. A stacking lane is not required for accessory facilities where vehicles do not routinely queue up while waiting for the service. Examples are window washing, air compressor and vacuum cleaning stations.
- 3. Stacking lanes must be designed and laid out in accordance with all applicable ordinance requirements and engineering standards and specifications.
- 4. All stacking lanes must be clearly identified, through such means as striping, landscaping, pavement design and signs. Such identification must comply with all applicable ordinance requirements and engineering standards and specifications.

E. Noise

Speakers associated with drive-through facilities must be located and designed to minimize noise levels on nearby uses. Sound attenuation walls, landscaping or other mitigation measures may be required to ensure that the facility will not have adverse noise-related impacts on nearby residential uses.

F. Site Plans

Site plans must show the location of drive-through windows and associated facilities (for example: communications systems and access aisles), as well as adjacent residential uses.

24.11.110 Design

Parking areas must be designed and constructed in accordance with Chapter 8.44 (Parking Lots and Vehicle Storage Lots) and with applicable city engineering and board of public works standards

24.11.120 Vehicle Loading and Unloading

A. Required

1. Off-street vehicle loading and unloading areas must be provided for any new proposed public/civic, commercial or industrial use or expansion of such a use that would result in a building with a floor area of 20,000 square feet or more.
2. Off-street vehicle loading and unloading areas must be provided for any new proposed residential use or residential use expansion that would result in project containing 50 or more dwelling units.

B. Plans Required

Off-street loading plans must be submitted with site plans, conditional use permits and building permits involving any use required or proposing to provide off-street loading facilities. Plans must accurately designate the proposed off-street loading spaces, dimensions and clearance and access to the loading spaces. Plans for the design of loading areas are subject to approval by the city.

C. Location and Design

The following location and design regulations apply to all off-street loading facilities regardless of whether they are required to be provided by this zoning ordinance.

1. Off-street loading facilities must be located on the same lot as the use served.
2. All loading areas adjacent to residential zoning districts must be screened from view of the residential zoning district in accordance with the screening standards of Sec. 24.12.040.
3. Loading spaces may not be located in a required front or side setback.
4. Loading areas and access drives must be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.
5. Each off-street loading space must be designed to provide a safe means of vehicular access to a street or alley in a manner which will least interfere with traffic movement and are subject to approval by the city.

24.12 | Landscaping and Screening

| | | |
|-----------|--|------|
| 24.12.010 | General | 12-1 |
| 24.12.020 | Perimeter Vehicular Use Area Landscaping | 12-2 |
| 24.12.030 | Interior Vehicular Use Area Landscaping | 12-2 |
| 24.12.040 | Screening | 12-4 |
| 24.12.050 | Landscape Material and Design | 12-5 |
| 24.12.060 | Landscape Plan | 12-7 |
| 24.12.070 | Alternative Compliance | 12-8 |

24.12.010 General

A. Purpose

The landscaping and screening regulations of this chapter establish minimum requirements for landscaping and screening. The regulations are intended to advance the general purposes of this ordinance and specifically to:

1. Enhance quality of life for residents and visitors;
2. Protect property values;
3. Enhance the quality and appearance new development and redevelopment projects;
4. Mitigate possible adverse impacts of higher intensity land uses abutting lower intensity land uses;
5. Promote the preservation, expansion, protection and proper maintenance of landscaping, including the wise use of water resources;
6. Improve air quality;
7. Protect water quality and reduce the negative impacts of stormwater runoff by reducing impervious surface area and providing vegetated areas that filter and retain greater amounts of stormwater on site;
8. Moderate heat by providing shade;
9. Reduce the impacts of noise and glare; and
10. Promote sustainable landscape practices including the use of non-invasive native and regionally adaptable plants.

B. Applicability

The landscaping and screening regulations of this chapter apply as set forth in the individual sections of these regulations. In general, the regulations apply to new development that requires permitting or review by the city and significant expansion of existing uses and developments.

C. Exemptions

The following are exempt from the landscaping and screening regulations of this chapter:

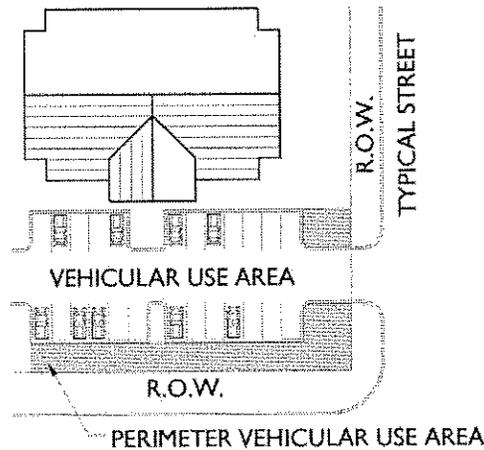
1. Parking areas within or under a building
2. Detached houses,
3. Semi-detached houses,
4. Two-unit (residential) buildings and
5. Attached houses.

24.12.020 Perimeter Vehicular Use Area Landscaping

A. Applicability

Perimeter vehicular use area landscaping must be provided in accordance with the standards of this section when parking stalls are located within 100 feet of the right-of-way and when the stalls are part of any of the following:

1. The construction or installation of any new vehicular use area containing 5 or more parking spaces or more than 1,750 square feet of paved area; and
2. The expansion of any existing vehicular use area if the expansion would result in 5 or more new parking spaces or more than 1,750 square feet of additional paved area, in which cases the requirements of this section apply only to the expanded area.



B. Standards

1. A landscape strip with a minimum depth of 7 feet must be provided between the vehicular use area and the street frontage. This perimeter vehicular use area must include at least 3 deciduous trees and 10 shrubs per 50 feet of vehicular use area frontage.
2. The zoning administrator is authorized to approve reductions in height for vehicular use area perimeter landscaping to protect sight distance at (driveway and street) intersections.
3. The integration of bioretention areas used for landscaping and stormwater management is strongly encouraged. When landscape areas are expressly designed for stormwater management, the planting and dimensional requirements of Sec. 24.12.020B.1 may be modified by the zoning administrator as necessary to ensure that the area functions effectively for stormwater treatment purposes while also providing landscaping that is equivalent to the amount of landscaping required by Sec. 24.12.020B.1.

C. Materials, Design and Maintenance

Perimeter vehicular use area landscaping is subject to the regulations of Sec. 24.12.050.

24.12.030 Interior Vehicular Use Area Landscaping

A. Applicability

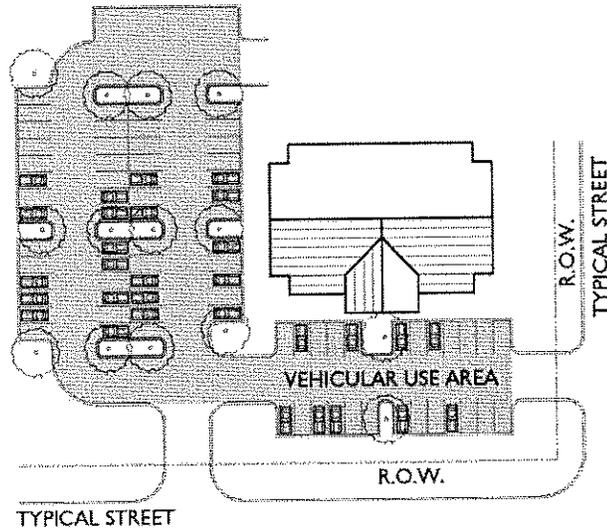
The interior vehicular use area landscaping standards of this section apply to all of the following:

1. The construction or installation of any new vehicular use area containing 5 or more parking spaces or more than 1,750 square feet of paved area; and
2. The expansion of any existing vehicular use area if the expansion would result in 5 or more new parking spaces or more than 1,750 square feet of additional paved area, in which cases the requirements of this section apply only to the expanded area.

B. Standards

1. Vehicular Use Areas

Vehicular use areas include parking spaces, drive aisles, driveways and drive-through lanes. Vehicular use areas that are covered by canopies or similar structures must be included when calculating minimum interior vehicular use area landscaping requirements, but installation of landscaping is not required beneath canopies or other structures that block sunlight or rainfall. Parking and circulation areas located within a parking structure are not counted as vehicular use areas for purposes of these interior vehicular use area landscaping requirements.



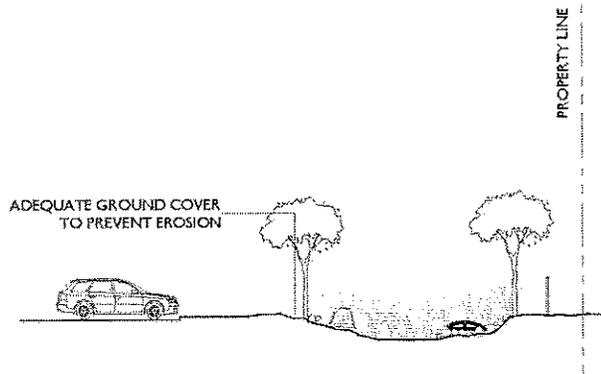
2. Minimum Interior Landscape Area

At least 10% of the interior of vehicular use areas must be landscaped.

3. Landscape Islands and Medians

Interior vehicular use area landscaping must be provided in the form of landscape islands or medians.

- a. Landscape islands and medians must have an area of at least 135 square feet and be at least 10 feet in width. Only pervious area within landscape islands may be counted toward meeting minimum area and width requirements. Combining landscape islands to form larger interior landscape areas is encouraged.
- b. Landscape areas located outside the perimeter of the vehicular use area may not be counted toward satisfying interior vehicular use area landscaping requirements. Landscaped areas within the corners of the vehicular use area may be counted up to a maximum of 200 square feet for each corner, if at least one shade tree is located within the area.
- c. Shade trees must be provided in interior landscape islands at a minimum rate of one tree per 160 square feet of required interior landscape area.
- d. The integration of bioretention areas used for landscaping and stormwater management is strongly encouraged. When required landscape areas are expressly designed for stormwater management, the planting and dimensional requirements of Sec. 24.12.030B.3.a and 24.12.030B.3.c may be modified by the zoning administrator as necessary to ensure that the area functions effectively for stormwater treatment purposes while also providing landscaping that is equivalent to the amount of landscaping required by Sec. 24.12.030B.3.a and 24.12.030B.3.c.



C. Materials, Design and Maintenance

Interior vehicular use area landscaping is subject to the regulations of Sec. 24.12.050.

24.12.040 Screening

A. Features to be Screened

The following features must be screened from view of public rights-of-way, public open spaces and from lots used or zoned for residential purposes.

1. Ground-mounted Mechanical Equipment

All ground-mounted mechanical equipment over 30 inches in height, other than solar panels, wind energy or similar renewable energy devices), is subject to principal building setbacks and must be screened from view of all R- and C- zoned properties by a solid fence, solid wall, dense hedge, or combination of such features. The hedge, fence or wall must be tall enough to screen the equipment.

2. Roof-mounted Mechanical Equipment

Roof-mounted mechanical equipment (e.g., air conditioning, heating, cooling, ventilation, exhaust and similar equipment, but not solar panels, wind energy or similar renewable energy devices) over 30 inches in height must be screened from ground-level view of all R- and C-zoned properties in one of the following ways:

- a. A parapet along façades facing the lot used or zoned for residential purposes that is as tall as the tallest part of the equipment;
- b. A solid screen around the equipment that is as tall as the tallest part of the equipment, with the screen an integral part of the building's architectural design; or
- c. An equipment setback from roof edges facing lots used or zoned for residential purposes that is at least 3 feet in depth for each one foot of equipment height.

3. Refuse/Recycling Containers

Refuse/recycling containers must be screened from view of streets and all abutting lots with a solid wall or decorative (metal or wood) opaque fence at least 6 feet in height on all sides, with a secured or lockable gate extending to ground level. Refuse/recycling containers may not be located in front or street side setbacks. The location of containers, type of surfacing to be used and the location of storm drains to which the area will drain must be indicated on the site plan. The container area must be graded or curbing must be provided to ensure that all drainage is directed to an approved sanitary sewer connection or to another infiltration area designed to ensure that no untreated runoff from the container area will enter a public storm sewer. These location and screening requirements do not apply to containers used by single-family and two-family residence or those used on a temporary basis.

4. Materials, Supplies and Equipment

All stored materials, supplies, merchandise, vehicles, equipment, or other similar materials not on display for direct sale, rental or lease to the ultimate consumer or user must be screened by a fence, wall, dense hedge, or combination of such features. Storage areas must be graded or curbing must be provided to ensure that no untreated runoff from will enter a public storm sewer

5. Manufacturing and SP-PUB Districts

When any manufacturing or SP-PUB district abuts a residential zoning district, a solid fence or wall at least 6 feet in height must be installed along all property lines that abut the residential zoning district. The screening fence or wall may not extend in front of the building line on the M- or SP-PUB-zoned lot or in front of the building line of any dwellings on abutting residential lots. The fence or wall must be installed at time of any new construction or any building or parking area expansion on the M- or SP-PUB-zoned lot. New fences or walls are not required when equivalent screening exists on the abutting residential property.

B. Standards

1. All plant material used for screening must be at least 4 feet in height at time of planting.
2. Screens may be broken only as necessary to accommodate gates, approved access drives and walkways or to enable the screening area to be used for stormwater treatment.

C. Materials, Design and Maintenance

Required landscaping and screening elements are subject to the regulations of Sec. 24.12.050.

24.12.050 Landscape Material and Design

A. Landscaping with Required Landscape Areas

Required landscaped areas must be covered with biodegradable mulch, ornamental grasses, forbs, native plants or other perennial herbaceous or shrub planting combinations. Landscape-grade stone or aggregate material may also be used within landscape areas. In areas subject to erosion, erosion-reducing blankets or reinforced mulch must be used.

B. Existing Trees and Vegetation

Existing non-invasive trees and shrubs count toward satisfying the landscaping and screening regulations of this chapter if they are located within the subject area and they comply with the plant height and size requirements of this section.

C. Installation

1. Landscaping must be installed and maintained in accordance with the requirements of this section and the approved landscape plan.
2. Required landscaping must be installed in complete and healthy condition before a certificate of occupancy may be issued or city-approved financial guarantees (e.g., escrow) are provided to the city.

D. Plant Selection

1. Trees and plants selected for required landscape areas must be well-suited to the microclimate and on-site soil conditions.
2. Trees and plant material must comply with the specifications found in *American Standards for Nursery Stock* (ANSI).
3. Woody plants must be rated to survive in USDA Hardiness Zones 1, 2, 3, 4, or 5.
4. Invasive species may not be used to meet landscape requirements.
5. If more than 30 trees will be used, a mixture of 3 or more tree species must be used.
6. If more than 50 shrubs will be used, a mixture of 3 or more shrub species must be used.

E. Trees

1. Deciduous

Deciduous trees used to satisfy the requirements of this chapter must have a minimum caliper size of 3 inches (measured 6 inches above the root ball) and a minimum clear stem of 5 feet.

2. Evergreen

Evergreen trees used to satisfy the requirements of this chapter must have a minimum height of 5 feet at time of planting. There is no minimum caliper size for evergreen trees at time of planting.

F. Shrubs

1. Deciduous/Broadleaf

Deciduous/broadleaf shrubs used to satisfy the requirements of this chapter must have a minimum height of 15 inches or be a minimum 2-gallon size. The minimum height in required perimeter vehicular use area landscape strips is 24 inches.

2. Evergreen

Evergreen shrubs used to satisfy the requirements of this chapter must have a minimum width of 2 feet or be a minimum 7-gallon size.

G. Perennial Plants and Ornamental Grasses

Perennial plants and ornamental grasses, which may be substituted for shrubs except within required perimeter vehicular use area landscape strips or visual screening application, must be a minimum 4.5-inch container size.

H. Groundcover Plants

Groundcover plants are deciduous or evergreen plants that grow low and spread horizontally, not including turf. Groundcover plants used to satisfy the requirements of this chapter must be at least 2.5-inch container size.

I. Mulch

All required trees and plants must be located within a (biodegradable) mulched area and be separated from turf by a minimum distance of 3 feet from the stem or trunk. Mulch that may leach dye or colorants into surface waters is prohibited.

J. Fences and Walls

Chain-link or other open wire fences may not be used to satisfy any of the requirements of this chapter. Fences and walls are subject to Chapter 15.28 of the city code of ordinances.

K. Curbs and Vehicle Barriers

Landscaped areas in or abutting vehicular use areas must be protected by concrete curbing, anchored wheel stops, or other durable barriers approved by the city engineer. Wood timbers that are not part of a structural retaining wall may not be used to meet this requirement. Alternative barrier designs that provide improved infiltration or storage of stormwater are encouraged. Curbs protecting landscape islands within vehicular use areas may be designed to allow stormwater runoff to pass through them. Curbs may be perforated or have gaps or breaks.

L. Bioretention

When landscape areas are designed and used as bioretention areas, specific plant materials, ponding depths, soils and design treatments must be consistent with Wisconsin Department of Natural Resources Conservation Practice Standard 1004 (Bioretention for Infiltration) or an equivalent design approved by the city.

M. Intersection Visibility

Plantings and landscape material, other than trees, located within the intersection visibility area established by Sec. ~~24.14.020~~ may not exceed a height of 30 inches. Trees within the required intersection visibility area must have all branches trimmed to provide clear vision for a vertical height of at least 8 feet above the highest adjacent roadway or driveway surface. Evergreen trees are not permitted within required intersection visibility areas.

N. Fire Hydrants and Utilities

Landscaping must be placed to allow full visibility of and access to fire hydrants and access to utility systems.

O. Water Conservation

To promote resource-efficient landscaping for the conservation of water and other natural resources, the following principles and practices are strongly recommended:

1. Practical turf areas;
2. Use of water-conserving plant material;
3. Grouping of plants with similar water requirements;

4. Installation of pervious paving to encourage groundwater recharge and re-use and to discourage run-off;
5. Rainwater harvesting techniques;
6. Use of mulches;
7. Use of soil amendments based on soil analysis; and
8. Use of reclaimed water.

P. Maintenance

It is the responsibility of the property owner to maintain required landscaping in accordance with the city's property maintenance code and with an approved maintenance plan. The maintenance plan must include, at a minimum, methods for providing the following:

1. Necessary irrigation,
2. Integrated pest management,
3. Fertilization,
4. Tree care and pruning,
5. Replacement of lost vegetation, and
6. Weed management.

24.12.060 Landscape Plan

A landscape plan must be submitted at the time of site plan, conditional use permit or building permit review, whichever occurs first. The landscape plan must have a minimum scale of 1" = 50' and include at least the following information:

- A. Location of trees and vegetation proposed for use within required landscape areas in sufficient detail for a determination that the plan conforms to the landscaping regulations of this zoning ordinance.
- B. The vehicular use areas clearly identified and dimensioned for the purpose of determining compliance with the landscape requirements for each vehicular use area and a tabulation in chart form of each vehicular use area including the square footage of each vehicular use area, the square footage of each interior landscape area and the number of trees and plants proposed to be provided within interior and perimeter areas.
- C. A plant list of proposed landscape materials showing caliper sizes, root type (bare root, balled and burlapped, container size), height of material, botanical and common names, type and amount of mulch, ground cover and grasses.
- D. Specifications for treatment of compacted soil within required landscape areas.
- E. Specifications for planting media in required landscape areas.
- F. The location of walls, fences, walks and other hard landscaping materials.
- G. Irrigation plan or location of water outlets.
- H. Planting and staking details to ensure proper installation and establishment of proposed plant materials.
- I. Identification of a landscape maintenance program including a statement that all diseased, damaged, or dead material will be replaced by the end of the following planting season, in perpetuity.
- J. Identification of snow storage areas including a statement that snow will not be pushed onto interior landscape islands unless designed for and identified on the landscape plan for snow storage.
- K. Other information or data determined necessary by the zoning administrator, such as construction details and/or cross-sections sufficient to resolve specific site conditions. These conditions include, but are not limited to retaining walls, screen walls, fences, or features to maintain natural drainage patterns.

- L. A Wisconsin registered landscape architect must certify in writing that the plan is complete, accurate and in compliance with the landscaping and screening regulations of this chapter. The requirement that such plans and specifications be certified by a Wisconsin registered landscape architect may be waived for minor alterations and improvements that, in the sole determination of the development department, do not require the services of such a professional.

24.12.070 Alternative Compliance

The landscaping and screening regulations of this chapter are not intended to be arbitrary, physically impossible or economically impractical. The zoning administrator is authorized to approve alternative compliance landscape plans when the city engineer determines that one or more of the following conditions are present:

1. The site or sites involve space limitations or unusually shaped lots;
2. Conditions on or adjacent to the site such as topography, soils, vegetation or existing structures or utilities are such that full compliance is impossible or impractical;
3. Safety considerations such as intersection visibility, utility locations, etc., make alternative compliance necessary; or
4. Alternative creative landscaping applications will provide an equal or better means of meeting the intent of the landscaping and screening regulations.

24.13 | Natural Resources

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24.13.010 Floodplain Zoning

A. Title

This section is known as the floodplain zoning ordinance of Wauwatosa, Wisconsin.

B. Authority

The floodplain zoning regulations of this section are adopted pursuant to the authority granted by Sections 62.23 and 87.30 of the Wisconsin Statutes.

C. Findings of Fact

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

D. Purpose

The floodplain zoning regulations of this section are intended to regulate floodplain development to protect life, health and property and minimize expenditures of public funds for flood control projects; minimize rescue and relief efforts undertaken at the expense of the taxpayers; minimize business interruptions and other economic disruptions; minimize damage to public facilities in the floodplain; minimize the occurrence of future flood blight areas in the floodplain; discourage the victimization of unwary land- and homebuyers; prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

E. General Provisions

1. Areas to be Regulated

The floodplain zoning regulations of this section regulate all areas that would be covered by the regional flood or base flood.

2. Official Maps and Revisions

The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Wauwatosa Floodplain Appendix. Any change to the base flood elevations (BFE) in the flood insurance study (FIS) or on the flood insurance rate map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps are effective until approved by the DNR. These maps and revisions are on file in the office of community development of the City of Wauwatosa. If more than one map or revision is referenced, the most restrictive information applies.

3. Official Maps

The official map is maintained by the city and is issued by FEMA. It is known as flood insurance rate map (FIRM) panel numbers 55079C0052E, 55079C0056E, 55079C0058E, 55079C0062E, 55079C0064E, 55079C00-66E, 55079C0067E, 55079C0068E, 55079C0069E and 55079C0086E, dated September 26, 2008, with corresponding profiles that are based on the Milwaukee County flood insurance study (FIS) dated September 26, 2008, volumes 55079CV001A—005A.

4. Establishment of Districts

The regional floodplain areas are divided into three districts as follows:

- a. The floodway district (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.

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- b. The floodfringe district (FF) is that portion of the floodplain between the regional flood limits and the floodway.
 - c. The general floodplain district (GFP) is comprised of those areas that have been or may be covered by floodwater during the regional flood.
- 5. Locating Floodplain Boundaries**
 Discrepancies between boundaries on the official floodplain zoning map and actual field conditions must be resolved using the criteria in Sec. 24.13.010E.5.a and Sec. 24.13.010E.5.b. If a significant difference exists, the map must be amended according to Sec. 24.13.010P. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator is responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line must be settled according to Sec. M and the criteria in Sec. 24.13.010E.5.a and Sec. 24.13.010E.5.b.
- a. If flood profiles exist, the map scale and the profile elevations determine the district boundary. The regional or base flood elevations govern if there are any discrepancies.
 - b. Where flood profiles do not exist, the location of the boundary is determined by the map scale, visual on-site inspection and any information provided by the department.
- 6. Removal of Lands from Floodplain**
 Compliance with the provisions of this section does not constitute grounds for removing land from the floodplain unless it is filled at least 2 feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain and the map is amended pursuant to Sec. 24.13.010P.
- 7. Compliance**
 Any development or use within the areas regulated by this section must be in compliance with the terms of this section, and other applicable local, state, and federal regulations.
- 8. Agencies Regulated**
 State agencies are required to comply if Sec. 13.48(13), Stats. applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when Section 30.2022, Stats. applies.
- 9. Abrogation and Greater Restrictions**
- a. The floodplain zoning regulations of this section supersede all the provisions of any other zoning regulation that relate to floodplains. If another ordinance is more restrictive than these regulations, that ordinance continues in full force and effect to the extent of the greater restrictions, but not otherwise.
 - b. The floodplain zoning regulations of this section are not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If the floodplain zoning regulations of this section impose greater restrictions, the provisions of this section govern.
- 10. Interpretation**
 In their interpretation and application, the provisions of this section are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this section, required by Chapter NR 116, Wis. Adm. Code, is unclear, the provision must be interpreted in light of the standards in effect on the date of the adoption of the ordinance codified in this section or in effect on the date of the most recent text amendment to the ordinance codified in this section.
- 11. Warning and Disclaimer of Liability**
 The flood protection standards in this section are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. These regulations do not imply or guarantee that non-floodplain areas or per-

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mitted floodplain uses are or will be free from flooding and flood damages. Nor does this section create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this section.

12. Severability

Should any portion of this section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section is not affected.

13. General Development Standards

The community must review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements must be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions must be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) must include regional flood elevation and floodway data for any development that meets the subdivision definition of this section.

14. Mapping Disputes

In cases where a person contests the district boundary of floodland, they must be given a reasonable opportunity to present their case to the common council, and the following procedure must be used by the common council in settling disputes of a floodland zoning district boundary:

- a. The flood district boundary must be determined by uses of the flood profiles contained in an engineering study, or where such information is not available, by experience flood maps or any other evidence available to the common council.
- b. The person contesting the location of the district boundary must be given the opportunity to present their own technical evidence. Where it is determined that the floodland is incorrectly mapped, the common council must proceed to amend the map as provided in Sec. 24.13.010P.

F. Definitions

Unless specifically defined, words and phrases in this section have their common law meaning and will be applied in accordance with their common usage

A Zones

Areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

Accessory Structure or Use

A facility, structure, building or use that is accessory or incidental to the principal use of a property, structure or building.

Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement

Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

Building

See Structure.

Bulkhead Line

A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to Section 30.11, Wis. Stats. and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this section.

Certificate of Compliance

A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this section.

Channel

A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Crawlways or Crawl Space

An enclosed area below the first usable floor of a building, generally less than 5 feet in height, used for access to plumbing and electrical utilities.

Deck

An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

Department

The Wisconsin Department of Natural Resources.

Development

Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Dryland Access

A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Encroachment

Any fill, structure, equipment, building, use or development in the floodway.

Expansion of Existing Mobile/Manufactured Home Park

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

Federal Emergency Management Agency (FEMA)

The federal agency that administers the National Flood Insurance Program.

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

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1. The overflow or rise of inland waters;
2. The rapid accumulation or runoff of surface waters from any source;
3. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
4. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Flood Frequency

The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.

Flood Hazard Boundary Map

A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

Flood Insurance Rate Map (FIRM)

A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood Insurance Study

A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood insurance rate maps, that accompany the flood insurance study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Flood Profile

A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Flood Protection Elevation

An elevation of 2 feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see "Freeboard.")

Flood Storage

Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Flood Fringe

That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

Floodplain

Land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

Floodplain Island

A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain Management

Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Floodproofing

Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

Floodway

the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Freeboard

A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

Habitable Structure

Any structure or portion thereof used or designed for human habitation.

Hearing Notice

Publication or posting meeting the requirements of Chapter 985, Stats. For appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

High Flood Damage Potential

Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Historic Structure

Any structure that is either:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

Increase in Regional Flood Height

A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which are directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Land Use

Any nonstructural use made of unimproved or improved real estate. (Also see "Development").

Municipality or Municipal

The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

New Construction

For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

National Geodetic Vertical Datum (NGVD)

Elevations referenced to mean sea level datum, 1929 adjustment.

Nonconforming Structure

An existing lawful structure or building that is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

Nonconforming Use

An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this section for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

Obstruction to Flow

Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

Official Floodplain Zoning Map

That map, adopted and made part of this section, as described in Section 1.5(2), which has been approved by the department and FEMA.

Open Space Use

Those uses having a relatively low flood damage potential and not involving structures.

Ordinary Highwater Mark

The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

Person

An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

Private Sewage System

A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

Public Utilities

Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

Reasonably Safe from Flooding

Base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional Flood

A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Start of Construction

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial Damage

Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the equalized assessed value of the structure before the damage occurred.

Unnecessary Hardship

Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

Violation

The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Water Surface Profile

A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

Watershed

The entire region contributing runoff or surface water to a watercourse or body of water.

Well

An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use

G. General Standards Applicable to All Floodplain Districts

1. Hydraulic and Hydrologic Analysis

- a. Except as allowed in Sec. 24.13.010H.3, no floodplain development may:
- (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 - (2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- b. The director of community development must deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of Sec. 24.13.010G.1.c are met.
- c. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this section, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 24.13.010P.

2. Watercourse Alterations

No land use permit to alter or relocate a watercourse in a mapped floodplain may be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse must be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the development director as zoning administrator must notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that will be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

3. Chapters 30, 31, Wis. Stats. Development

Development which requires a permit from the department, under Chapters 30 and 31, Wis. Stats. such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to Sec. 24.13.010P.

H. Floodway District (FW)

1. Applicability

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Sec. 24.47.090 D.

2. Permitted Uses

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other ordinance; they meet the standards in Sec. 24.13.010H.3 and Sec. 24.13.010H.4; and all permits or certificates have been issued according to Sec. 24.47.110 A:

- a. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- b. Nonstructural industrial and commercial uses, such as loading areas and parking areas.
- c. Nonstructural recreational uses, such as golf courses, tennis courts, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, hiking and horseback riding trails, subject to the fill limitations of this section.
- d. Uses or structures accessory to open space uses, or classified as historic structures that comply with Sec. 24.13.010H.3 or Sec. 24.13.010H.4.

- e. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Chapters 30 and 31, Stats.
- f. Public utilities, streets and bridges that comply with Sec. 24.13.010O.

3. Standards for Developments in Floodway Areas

a. General

- (1) Any development in floodway areas must comply with Sec. 24.13.010G and have low flood damage potential.
- (2) Applicants must provide the following data to determine the effects of the proposal according to Sec. 24.13.010G.1:
 - (a) A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - (b) An analysis calculating the effects of this proposal on regional flood height.
- (3) The zoning administrator must deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for Sec. 24.13.010H.3.a(2).

b. Structures

Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (1) The structure is not designed for human habitation and does not have a high flood damage potential;
- (2) It must be anchored to resist flotation, collapse, and lateral movement;
- (3) Mechanical and utility equipment must be elevated or flood proofed to or above the regional flood elevation; and
- (4) It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.

c. Public Utilities, Streets and Bridges

Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of Sec. 24.13.010G.1.

d. Fills or Deposition of Materials

Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of Sec. 24.47.060(A) are met;
- (2) No material is deposited in the navigable channel unless a permit is issued by the department pursuant to Chapter 30, Stats. and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.

4. Prohibited Uses

All uses not listed as permitted uses in Sec. 24.13.010H.2 are prohibited, including the following uses:

- a. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- b. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- c. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- d. Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and department-approved campgrounds that meet the applicable provisions of local ordinances and Chapter COMM 83, Wis. Adm. Code;
- e. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Chapters NR 811 and NR 812, Wis. Adm. Code;
- f. Any solid or hazardous waste disposal sites;
- g. Any wastewater treatment ponds or facilities, except those permitted under Section NR 110.15(3)(b), Wis. Adm. Code; and
- h. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

I. Flood Fringe District (FF)

1. Applicability

This section applies to all flood fringe areas shown on the floodplain zoning maps and those identified pursuant to Sec. 24.13.010J.4.

2. Permitted Uses

Any structure, land use, or development is allowed in the floodfringe district if the standards in Sec. 24.13.010I.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in Sec. 24.13.010M.1 have been issued.

3. Standards for Development in Flood Fringe Areas

a. Residential Uses

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the flood fringe area, must meet or exceed the following standards:

- (1) The elevation of the lowest floor, excluding the basement or crawlway, must be at or above the flood protection elevation on fill. The fill must be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
- (2) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
- (3) Contiguous dry land access must be provided from a structure to land outside of the floodplain, except as provided in Sec. 24.13.010I.3.a(4).
- (4) In developments where existing street or sewer line elevations make compliance with Sec. 24.13.010I.3.a(3) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 - (a) The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure by wheeled vehicles during a regional flood event; or

- (b) The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the department.

b. Accessory Structures or Uses

- (1) Except as provided in Sec. 24.13.0101.3.b(2), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
- (2) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than 2 feet below the regional flood elevation if it is subject to flood velocities of no more than 2 feet per second and it meets all of the provisions of Sec. 24.13.010H.3 and Sec. 24.13.010I.3.

c. Commercial Uses

Any commercial structure which is erected, altered or moved into the flood fringe area must meet the requirements of Sec. 24.13.010I.3. Subject to the requirements of Sec. 24.13.010I.3.f storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

d. Manufacturing and Industrial Uses

Any manufacturing or industrial structure which is erected, altered or moved into the flood fringe area must be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in Sec. 24.13.010O.5. Subject to the requirements of Sec. 24.13.010I.3.f storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

e. Storage of Materials

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life must be stored at or above the flood protection elevation or floodproofed in compliance with Sec. 24.13.010O.5. Adequate measures must be taken to ensure that such materials will not enter the water body during flooding.

f. Public Utilities, Streets and Bridges

All utilities, streets and bridges must be designed to be compatible with comprehensive floodplain development plans; and

- (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Sec. 24.13.010O.5. to the flood protection elevation; and
- (2) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

g. Sewage Systems

All on-site sewage disposal systems must be floodproofed, pursuant to Sec. 24.13.010O.6 to the flood protection elevation and must meet the provisions of all local ordinances and Chapter COMM 83, Wis. Adm. Code.

h. Wells

All wells must be floodproofed, pursuant to Sec. 24.13.010O.5, to the flood protection elevation and must meet the provisions of Chapters NR 811 and NR 812, Wis. Adm. Code.

i. Solid Waste Disposal Sites

Disposal of solid or hazardous waste is prohibited in flood fringe areas.

j. Deposition of Materials

Any deposited material must meet all the provisions of this section.

J. General Floodplain District (GFP)**1. Applicability**

The provisions for this district apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and flood fringe districts must be delineated when adequate data is available.

2. Permitted Uses

It must be determined whether the proposed use is located within a floodway or flood fringe area. Those uses permitted in floodway (Sec. 24.13.010H) and flood fringe areas (Sec. 24.13.010I.2) are allowed within the general floodplain district, according to the standards of Sec. 24.13.010J.3, provided that all permits or certificates required under Sec. 24.13.010M.1 have been issued.

3. Standards for Development in the General Floodplain District

Sec. 24.13.010G applies to floodway areas, Sec. 24.13.010I applies to flood fringe areas. The rest of this section applies to either district.

4. Determining Floodway and Flood Fringe Limits

Upon receiving an application for development within the general floodplain district, the zoning administrator must:

- a. Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- b. Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - (1) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - (3) Profile showing the slope of the bottom of the channel or flow line of the stream; and
 - (4) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- c. Transmit one copy of the information described in Sec. 24.13.010J.4. to the department regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Sec. 24.13.010K apply, the applicant must provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

K. Nonconforming Uses in Flood Areas**1. Applicability**

- a. If these standards conform with Section 62.23(7)(h), Stats. they apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of the ordinance codified in this section or any amendment thereto.
- b. The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this section may continue subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or structure are permitted unless they comply with this section. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.
 - (2) The construction of a deck that does not exceed 200 square feet in area and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
- c. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, must conform to the requirements of this section.
 - d. The municipality must keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
 - e. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, is allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this section. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this paragraph.
 - f. Except as provided in Sec. 24.13.010K, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.
- 2. Repair and Reconstruction of Damaged Structures**
 For nonconforming buildings that are damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the non-flood disaster, provided that the nonconforming building meets all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.
- 3. Alteration of Historic Structures**
 A nonconforming historic structure may be altered if the alteration does not preclude the structure's continued designation as an historic structure, the alteration must comply with Sec. 24.13.010H.3, flood resistant materials are used, and construction practices and floodproofing methods that comply with Sec. 24.13.010O.5 are used.
- 4. Floodway Areas**
- a. No modification or addition is allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition meets the following criteria:
 - (1) Has been granted a permit or variance which meets all ordinance requirements;
 - (2) Meets the requirements of Sec. 24.13.010K.4.a;
 - (3) Does not increase the obstruction to flood flows or regional flood height;

- (4) Any addition to the existing structure must be floodproofed, pursuant to Sec. 24.13.010Q.5 by means other than the use of fill, to the flood protection elevation;
 - (5) Mechanical and utility equipment must be elevated or floodproofed to or above the regional flood elevation;
 - (6) It must not obstruct the flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood; and
 - (7) Its use must be used for parking or limited storage.
- b. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, is allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area must meet the applicable requirements of all municipal ordinances and Chapter COMM 83, Wis. Adm. Code.
 - c. No new well or modification to an existing well used to obtain potable water is allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area must meet the applicable requirements of all municipal ordinances and Chapters NR 811 and NR 812, Wis. Adm. Code.

L. Flood Fringe Areas

- 1. No modification or addition is allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition must be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in Sec. 24.13.010I.3 except where Sec. 24.13.010L is applicable.
- 2. Where compliance with the provisions of Sec. 24.13.010L.1 would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of zoning appeals, using the procedures established in Sec. 24.13.010M, may grant a variance from those provisions of Sec. 24.13.010L.1 for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - a. No floor is allowed below the regional flood elevation for residential or commercial structures;
 - b. Human lives are not endangered;
 - c. Public facilities, such as water or sewer, will not be installed;
 - d. Flood depths will not exceed 2 feet;
 - e. Flood velocities will not exceed 2 feet per second; and
 - f. The structure will not be used for storage of materials as described in Sec. 24.13.010I.3.
- 3. If neither the provisions of Sec. 24.13.010I.3.a or Sec. 24.13.010I.3.b can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
 - a. Meets all other regulations and are granted by permit or variance;
 - b. Does not exceed 60 square feet in area; and
 - c. In combination with other previous modifications or additions to the building, does not equal or exceed 50 percent of the present equalized assessed value of the building.
- 4. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system must meet all the applicable provisions of all local ordinances and Chapter COMM 83, Wis. Adm. Code.

5. All new wells, or addition to, replacement, repair or maintenance of a well must meet the applicable provisions of this chapter and Chapters NR 811 and NR 812, Wis. Adm. Code.

M. Administration

1. Director of Community Development

The city's department of community development serves as zoning administrator. The zoning administrator is responsible for administering the regulations of this section. In carrying out these responsibilities, the zoning administrator has the following powers and duties:

- a. advising applicants, assisting in processing permit applications and appeals, and ensuring that the regional flood elevation for the proposed development is shown on all permit applications;
- b. issuing permits and inspecting properties for compliance with provisions of this section, issuing certificates of compliance where appropriate;
- c. inspecting all damaged floodplain structures and performing a substantial damage assessment to determine if substantial damage to the structures has occurred;
- d. keeping records of all official actions such as all permits issued, inspections made, and work approved; documentation of certified lowest floor and regional flood elevations for floodplain development; records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments and all substantial damage assessment reports for floodplain structures;
- e. submitting copies of the following items to the department regional office:
 - (1) Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - (2) Copies of any case-by-case analyses, and any other information required by the department including an annual summary of the number and types of floodplain zoning actions taken; and
 - (3) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- f. investigating, preparing reports, and reporting violations of this section to the plan commission and city attorney for prosecution, with copies of the reports sent to the department regional office; and
- g. submitting copies of text and map amendments and biennial reports to the FEMA regional office.

2. Land Use Permit

A land use permit must be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator must include:

a. General Information

- (1) Name and address of the applicant, property owner and contractor;
- (2) Legal description, proposed use, and whether it is new construction or a modification;

b. Site Development Plan

A site plan drawn to scale must be submitted with the permit application form and must contain:

- (1) Location, dimensions, area and elevation of the lot;
- (2) Location of the ordinary high water mark of any abutting navigable waterways;
- (3) Location of any structures with distances measured from the lot lines and street center lines;

- (4) Location of any existing or proposed on-site sewage systems or private water supply systems;
- (5) Location and elevation of existing or future access roads;
- (6) Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- (7) The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
- (8) Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of Sec. 24.13.010H and Sec. 24.13.010I are met; and
- (9) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Sec. 24.13.010G. This may include any of the information noted in Sec. 24.13.010H.3.a.

c. Data Requirements to Analyze Developments

The applicant must provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in Section 236, Stats. and other proposed developments exceeding five acres in area or where the estimated cost exceeds \$125,000.00. The applicant must provide:

- (1) An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
- (2) A map showing location and details of vehicular access to lands outside the floodplain;
- (3) A surface drainage plan showing how flood damage will be minimized; and
- (4) The estimated cost of the proposal must include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

d. Expiration

All permits issued under the authority of this section expire 6 months after issuance.

e. Other Permits

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

N. Zoning Agency

- 1. The plan commission acts as the zoning agency. In that capacity, the plan commission is responsible for:
 - a. overseeing the functions of the office of the director of community development as serving as zoning administrator; and
 - b. reviewing and advising the common council on all proposed amendments to this section, maps and text.
- 2. The plan commission may not:
 - a. grant variances in place of action by the board of zoning appeals; or
 - b. amend the text or zoning maps in place of official action by the common council.

O. Board of Zoning Appeals

The Board of Zoning Appeals, created under s. 62.23(7)(e), Stats., is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

1. Appeals of Administrative Decisions

Appeals to the board of zoning appeals may be taken by any person aggrieved, or by any officer or department of the city affected by any decision of the director of community of development or other administrative officer. Such appeal must be taken within 10 days unless otherwise provided by the rules of the board of zoning appeals, by filing with the official whose decision is in question, and with the board of zoning appeals, a notice of appeal specifying the reasons for the appeal.

2. Boundary Disputes

The following procedure must be used by the board of zoning appeals in hearing disputes concerning floodplain district boundaries:

- a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles govern in locating the boundary. If none exist, other evidence may be examined.
- b. In all cases, the person contesting the boundary location must be given a reasonable opportunity to present arguments and technical evidence to the board of zoning appeals.
- c. If the boundary is incorrectly mapped, the board of zoning appeals must inform the plan commission or the person contesting the boundary location to petition the governing body for a map amendment according to Sec. 24.13.010P.

3. Variances

a. The board of zoning appeals may, upon appeal, grant a variance from the standards of this section if an applicant convincingly demonstrates that:

- (1) Literal enforcement of the ordinance provisions will cause unnecessary hardship;
- (2) The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
- (3) The variance is not contrary to the public interest; and
- (4) The variance is consistent with the purpose of this section (See Sec. 24.13.010D).

b. In addition to the criteria in Sec. 24.13.010Q.3.b, to qualify for a variance under FEMA regulations, the following criteria must be met:

- (1) The variance may not cause any increase in the regional flood elevation;
- (2) Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
- (3) Variances may only be granted upon a showing of good and sufficient cause and, must be the minimum relief necessary, will not cause increased risks to public safety or nuisances, will not increase costs for rescue and relief efforts, and will not be contrary to the purpose of the ordinance.

c. A variance must not:

- (1) Grant, extend or increase any use prohibited in the zoning district.
- (2) Be granted for a hardship based solely on an economic gain or loss.
- (3) Be granted for a hardship which is self-created.
- (4) Damage the rights or property values of other persons in the area.
- (5) Allow actions without the amendments to this section or map(s) required in Sec. 24.13.010P.
- (6) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

- d. When a floodplain variance is granted the board of zoning appeals must notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy must be maintained with the variance record.

4. To Review Appeals of Permit Denials

- a. The board of zoning appeals must review all data related to the appeal. This may include:
 - (1) Permit application data listed in this section.
 - (2) Floodway/floodfringe determination data in Sec. 24.13.010J.3.
 - (3) Data listed in Sec. 24.13.010H.3 where the applicant has not submitted this information to the zoning administrator.
 - (4) Other data submitted with the application, or submitted to the board of zoning appeals with the appeal.
- b. For appeals of all denied permits, the board of zoning appeals must:
 - (1) Follow the procedures of this section.
 - (2) Consider plan commission recommendations. and
 - (3) Either uphold the denial or grant the appeal.
- c. For appeals concerning increases in regional flood elevation, the board of zoning appeals must:
 - (1) Uphold the denial where the board of zoning appeals agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 - (2) Grant the appeal where the board of zoning appeals agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

5. Floodproofing

- a. Special exceptions requiring floodproofing measures must be designed consistent with flood protection elevation for that particular area, and flood velocities, forces and other factors associated with the regional flood elevation. No permit or variance may be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- b. Floodproofing measures must be designed to:
 - (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement; and
 - (4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- c. Floodproofing measures may include, but are not limited to the following:
 - (1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure;
 - (2) Adding mass or weight to prevent flotation and lateral movement;
 - (3) Placing essential utilities above the flood protection elevation;

- (4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures;
- (5) Constructing water supply wells and waste treatment systems to prevent the entry of floodwaters;
- (6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains;
- (7) Installation of watertight doors, bulkheads and shutters;
- (8) Installation of pumps to lower water levels in structures;
- (9) Construction to resist rupture or collapse caused by water pressures or floating debris; and
- (10) Use of paints, membranes or mortars to reduce seepage of water through walls.

6. Public Information

- a. Place marks on structures to show the depth of inundation during the regional flood.
- b. All maps, engineering data and regulations must be available and widely distributed.
- c. All real estate transfers should show what floodplain zoning district any real property is in.

P. Amendments

1. General

The council may change or supplement the floodplain zoning district boundaries and this section in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- a. Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- b. Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- c. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- d. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- e. Any upgrade to a floodplain zoning ordinance text required by Section NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- f. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

2. Procedures

Ordinance amendments may be made upon petition of any interested party according to the provisions of Section 62.23, Stats. Such petitions must include all necessary data required by Sec. 24.13.010J.4 and Sec. 24.13.010O.4.

- a. The proposed amendment must be referred to the plan commission for a hearing and recommendation to the governing body. The amendment and notice of public hearing must be submitted to the department regional office for review prior to the hearing. The amendment procedure must comply with the provisions of Section 62.23, Stats.
- b. No amendments become effective until reviewed and approved by the department.
- c. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, must obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

- d. For amendments in areas with no water surface profiles, the plan commission or board of zoning appeals must consider data submitted by the department, the zoning administrator's visual on-site inspections and other available information. (See Sec. 24.13.010E.5.a).

Q. Enforcement

1. Violations

Any violation of the provisions of this section by any person is unlawful. In case of any violation, the common council, the chief building official, the city plan commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this section.

2. Penalties

Any person, firm or corporation that fails to comply with the provisions of this section must, upon conviction thereof, forfeit not less than \$10 nor more than \$200 and costs of prosecution for each violation, and in default of payment of such forfeiture and costs will may be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues constitutes a separate offense.

24.13.020 Wetland Zoning

A. Applicability

The wetland zoning regulations of this section are applicable to the adoption, administration and enforcement of city wetland controls as established under Wisconsin Statutes 62.231 and 61.351. All such wetlands in Wauwatosa exist on lands under the ownership of Milwaukee County in the park and open space, the medical center and institution and the research park zoning districts. This section applies to those wetlands of 5 acres or more as shown on the Wisconsin Wetlands Inventory, Wisconsin Department of Natural Resources, July 27, 1988, Township 7 North, Range 21 east, Milwaukee County, Wisconsin.

B. Conditional Uses

Conditional uses allowed in the wetland district must be regulated by the city and include the following:

- 1. The construction and maintenance of nonresidential buildings provided that:
 - a. The building is used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals, or used solely for some other purpose which is compatible with wetland preservation;
 - b. The building cannot as a practical matter be located outside the wetland;
 - c. The building does not exceed 500 square feet in size; and
 - d. No filling, flooding, draining, dredging, ditching, tiling or excavating is done, except limited filling and excavating necessary to provide structural support for the building.
- 2. Temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on the conduct of silvicultural activities if not corrected; and
- 3. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game farms and wildlife preserves, and public boat launching ramps, provided that:
 - a. No filling or excavating is done except for limited filling and excavating necessary for the development of boat launching ramps, swimming beaches or the construction of park shelters or similar structures;
 - b. Any private development allowed under this section must be used exclusively for the permitted purpose; and

- c. The construction and maintenance of roads necessary for the uses permitted under this subsection may be permitted.
 - 4. The construction and maintenance of roads which are necessary for the continuity of the city street system, necessary for the provision of essential utility and emergency services, or necessary to provide access to uses permitted under this subsection, provided that:
 - a. The road cannot, as a practical matter, be located outside of the wetland;
 - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland;
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - d. Road construction activities are carried out in the immediate area of the roadbed only, and
 - e. Any filling, flooding, draining, ditching, tiling or excavating that is done must be necessary for the construction or maintenance of the road.
 - 5. The maintenance and repair of existing nonagricultural drainage ditches, where permissible under Wisconsin Statutes Section 30.20, or of other existing nonagricultural drainage systems (such as tiling) to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil; provided, that the filling is permissible under Wisconsin Statutes Chapter 30, and that dredged spoil is placed on existing spoil banks where possible.
 - 6. The construction and maintenance of electric and telephone transmission lines and water, gas and sewer distribution lines, and related facilities, provided that:
 - a. Such lines cannot as a practical matter be located outside the wetland, and
 - b. Any filling, excavating, ditching or drainage necessary for such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland.
- C. Public Hearings**
 - 1. Before making a decision on an appeal or application, the board of zoning appeals must, within a reasonable period of time, hold a public hearing. The board of zoning appeals must give public notice of the hearing by publishing a Class 2 notice under Ch. 985 Stats. specifying the date, time and place of the hearing and the matters to come before the board of zoning appeals. At the public hearing, any party may present testimony in person, by agent or by attorney.
 - 2. A copy of such notice must be mailed to the parties in interest and the appropriate district office of the department at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.
- D. Decisions**
 - 1. The final disposition of an appeal or application for a use permit before the board of zoning appeals must be in the form of a written decision, made within a reasonable time after the public hearing and signed by the board chairperson. Such decision must state the specific facts which are the basis of the board of zoning appeals' determination and must either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application for a use.
 - 2. A copy of such decision must be mailed to the parties in interest and the appropriate district office of the department within 10 days after the decision is issued.

E. Amendments

The municipal governing body may alter, supplement or change the district boundaries and the regulations contained in this section in accordance with the requirements of Section 62.23(7)(d)2., Wis. Stats. NR 117. Wis. Adm. Code, and the following:

1. A copy of each proposed text or map amendment must be submitted to the appropriate district office of the department within 5 days of the submission of the proposed amendment to the municipal planning agency.
2. All proposed text and map amendments to the shoreland-wetland zoning regulations must be referred to the municipal planning agency, and a public hearing must be held after Class II notice as required by Section 62.23(7)(d)2., Wis. Stats. The appropriate district office of the department must be provided with written notice of the public hearing at least 10 days prior to such hearing.
3. In order to ensure that this section remains consistent with the shoreland protection objectives of Section 144.26, Wis. Stats. the municipal governing body may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:
 - a. Storm and flood water storage capacity;
 - b. Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - d. Shoreline protection against erosion;
 - e. Fish spawning, breeding, nursery or feeding grounds;
 - f. Wildlife habitat; or
 - g. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
4. Where the district office of the department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Sec. 24.13.020E.3, the department must notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.
5. The appropriate district office of the department must be provided with:
 - a. A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment, within 10 days after the submission of those recommendations to the municipal governing body, and
 - b. Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.
6. If the department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Sec. 24.13.020E.3, that proposed amendment, if approved by the municipal governing body, does not become effective until more than 30 days have elapsed since written notice of the municipal approval was mailed to the department, as required by Sec. 24.13.020E.5 b. If within the 30-day period, the department notifies the municipality that the department intends to adopt a superseding shoreland-wetland zoning ordinance for the municipality as provided by Sections 62.231(6) and 61.351(6), Wis. Stats. the proposed amendment does not become effective until the ordinance adoption procedure under Section 62.231(6) or 61.351(6), Wis. Stats. is completed or otherwise terminated.

24.13.030 Erosion and Sedimentation Control

A. Authority

1. This section is adopted under the authority granted by Section 62.234, Wisconsin Statutes for cities. This section supersedes all provisions of a section previously enacted under Section 62.23, Wisconsin Statutes that relate to construction site erosion control. Except as otherwise specified in the Section 62.23, Wisconsin Statutes, applies to this section and to any amendments to this section.
2. The provisions of this section are deemed not to limit any other lawful regulatory powers of the City of Wauwatosa.
3. The engineering services division is authorized and directed to administer all the provisions of this section relative to plan examination and the building and safety division is directed to issue permits and enforce all of the provisions of this section.
4. The requirements of this section do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
 - a. Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Sections 281.16 and 283.33, Wisconsin Statutes.
 - b. Targeted nonagricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Section NR 151.004, Wis. Adm. Code.

B. Findings of Fact

The City of Wauwatosa finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the City of Wauwatosa.

C. Purpose

It is the purpose of this chapter to preserve the natural resources; to protect the quality of the water of the state and the City of Wauwatosa; and to protect and promote the health, safety and welfare of the people, to the extent practicable by minimizing the amount of sediment, topsoil and other pollutants carried by runoff or discharged from construction sites to lakes, streams and wetlands.

D. Applicability and Jurisdiction

1. Applicability

This chapter is applicable to the following sites of land development or land disturbing activities:

- a. Any land disturbing construction activity of four thousand square feet or more.
- b. Those requiring a subdivision plat approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved subdivision plats;
- c. Those requiring a certified survey approval or the construction of houses or commercial, industrial or institutional building on lots of approved certified surveys;
- d. Those involving grading, removal of protective ground cover or vegetation, demolition, excavation, land filling or other land disturbing activity affecting a surface area of four thousand square feet or more;
- e. Those involving excavation or filling or a combination of excavation and filling affecting four hundred cubic yards or more of dirt, sand or other excavation or fill material;
- f. Those involving street, highway, road, or bridge construction, enlargement, relocation and reconstruction;
- g. Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a continuous distance of three hundred feet or more; and
- h. Those involving grading, removal of protective groundcover or vegetation, excavation, demolition, landfilling or other land disturbing activity on slopes of twelve percent or more

2. Exemptions

This chapter does not apply to the following:

- a. Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce under Section 21.125 or Section 50.115, Wis. Adm. Code.
- b. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
- c. Nonpoint discharges from agricultural facilities and practices.
- d. Nonpoint discharges from silviculture activities.
- e. Routine maintenance for project sites under five acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- f. Activities conducted by a state agency which is subject to the state plan promulgated or a memorandum of understanding entered into under Section 281.33(2), Wisconsin Statutes.

3. Public Safety Considerations

Notwithstanding the preceding applicability and exemption statements, this chapter also applies to construction sites of any size that, in the opinion of the department of public works, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

E. Definitions

- 1. "Agricultural facilities and practices" has the meaning in Section 281.16(1), Wisconsin Statutes.
- 2. "Agricultural land use" means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
- 3. "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.
- 4. "Best management practice" or "BMP" means a practice or combination of practices to control erosion and attendant pollution, as defined in the WDNR Technical Standards.
- 5. "Business day" or "working day" means a day the Wauwatosa Civic Center is routinely and customarily open for business.
- 6. "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- 7. "City personnel" or "authorized personnel" means employees or agents of the City of Wauwatosa authorized to implement provisions of this section.
- 8. "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.
- 9. "Division of land" means the creation from one parcel of two or more parcels or building sites of two or fewer acres each in area where such creation occurs at one time or through the successive partition within a five-year period.
- 10. "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

11. "Erosion control plan" or "erosion control plan statement" means a written description of the number, locations, size, and other pertinent information about best management practices designed to meet the requirements of this chapter.
12. "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
13. "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least seventy percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.
14. "Land development activity" means the construction or demolition of buildings, roads, parking lots, paved storage areas and similar facilities.
15. "Land disturbing activity" means any manmade change of the land surface including removing vegetation cover, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; and harvesting of trees.
16. "Land disturbing construction activity" means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
17. "Landowner" means any person holding title to or having an interest in land.
18. "Land user" means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.
19. "Maximum extent practicable" or "MEP" means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
20. "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
21. "Permit" means a written authorization made by the City of Wauwatosa to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
22. "Pollutant" has the meaning given in Section 283.01(13), Wisconsin Statutes.
23. "Pollution" has the meaning given in Section 281.01(10), Wisconsin Statutes.
24. "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this section through a contract or other agreement.
25. "Runoff" means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
26. "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
27. "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
 - a. Is designed or used for collecting water or conveying runoff;
 - b. Is not part of a combined sewer system;

- c. Is not draining to a stormwater treatment device or system; and
 - d. Discharges directly or indirectly to waters of the state.
28. "Site" means the entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the permit application.
 29. "Stabilize" means to make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel or other measure.
 30. "Stop work order" means an order issued by the [administering authority] which requires that all construction activity on the site be stopped.
 31. "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
 32. "Waters of the state" has the meaning given in Section 281.01 (18), Wisconsin Statutes.

F. Technical Standards

1. Design Criteria, Standards and Specifications

All BMPs required to comply with this section shall meet the design criteria, standards and specifications based on any of the following:

- a. Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under Subchapter V of Chapter NR 151, Wis. Adm. Code.
- b. For this section, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

2. Other Standards

Other technical standards not identified or developed in subsection A., may be used provided that the methods have been approved by the city.

G. Performance Standards

1. Responsible Party

The responsible party shall implement an erosion and sediment control plan, developed in accordance with Sec. 24.13.030H that incorporates the requirements of this section.

2. Plan

A written plan shall be developed in accordance with Sec. 24.13.030H and implemented for each construction site.

3. Erosion and Other Pollutant Control Requirements

The plan required under subsection B., above, shall include the following:

- a. BMPs that, by design, achieve to the maximum extent practicable, a reduction of eighty percent of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an eighty percent sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.
- b. Notwithstanding paragraph 1., if BMPs cannot be designed and implemented to reduce the sediment load by eighty percent, on an average annual basis, the plan shall include a written and site-specific explanation as to why the eighty percent reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
- c. Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

- (1) Prevent tracking of sediment from the construction site onto roads and other paved surfaces. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning, to the satisfaction of the city, before the end of each workday. Flushing may not be used unless sediment will be controlled by a sediment basin or other appropriate best management practice specified in the WDNR Technical Standards.
- (2) Prevent the discharge of sediment as part of site dewatering. Water pumped from the site shall be treated by sediment basins or other appropriate best management practices specified in the WDNR Technical Standards. Water may not be discharged in a manner that causes erosion of the site, adjacent sites, or receiving channels.
- (3) Protect all separate storm sewers and stormwater inlet structures from receiving sediment. All stormwater inlets shall be protected with a straw bale, filter fabric, or equivalent barrier as specified in the WDNR Technical Standards.
- (4) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed and not allowed to be carried off-site by runoff or wind. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.
- (5) All off-site sediment deposits occurring as a result of a storm event shall be cleaned up by the end of the next work day. All other off-site sediment deposits occurring as a result of construction activities shall be cleaned up by the end of the work day.
- (6) The following criteria (paragraphs (i) through (vi) of this subsection) apply only to the land development or land disturbing activities that result in runoff leaving the site:
 - (a) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described in subsection iii.(d), below. Sheet flow runoff from adjacent areas greater than ten thousand square feet in areas shall also be diverted around disturbed areas unless shown to have resultant runoff velocities of less than 0.5 ft./sec. across the disturbed area for the ten-year, twenty-four-hour storm as defined in the WDNR Technical Standards. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. For allowable velocities in different types of channels, soil conservation service guidelines shall be followed.
 - (b) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
 - (c) Runoff from the entire disturbed area on the site shall be controlled by meeting subsection (a) and either of subsection (b) or (c), below.
 - i. All disturbed ground left inactive for seven or more days shall be stabilized by temporary or permanent seeding, temporary or permanent seeding and mulching, sodding, covering with tarps, or equivalent best management practices. If temporary seeding is used, a permanent cover shall also be required as part of the final site stabilization. Seeding or sodding shall be required as part of the final site stabilization. Seeding or sodding shall be conducted as specified in the WDNR Technical Standards or by the board of public works. Variances from the requirements of this subparagraph may be granted by the building

regulations department upon application, but only if the failure to comply is due to extended periods of rain or other construction delays beyond the control of the responsible party.

ii. For sites with ten or more acres disturbed at one time, or if a channel originates in the disturbed area, one or more sediment basins shall be constructed. Each sediment basin shall be designed and constructed as specified in the WDNR Technical Standards.

iii. For sites with less than ten acres disturbed at one time, filter fences, straw bales, or equivalent best management practices shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.

(d) Sites with slopes of twelve percent or more may require additional or different controls than listed in subsection iii., above. Requirements for such slopes shall be as specified by the board of public works.

(e) Wherever possible, soil or dirt storage piles shall be located a minimum of twenty-five feet from any downslope road, lake, stream, wetland, or drainage channel. Straw bale or filter fabric fences shall be placed on the downslope side of the piles. If remaining for more than thirty days, piles shall be stabilized by mulching, vegetative cover, tarps or other means. The board of public works may require additional or different best management practices for piles located closer than twenty-five feet to a road, lake, stream, wetland or drainage channel.

(f) When the disturbed area has been stabilized by permanent vegetation or other means, temporary best management practices such as filter fabric fences, straw bales, sediment and sediment traps shall be removed.

4. Location

The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

5. Alternate Requirements

The City of Wauwatosa may establish stormwater management requirements more stringent than those set forth in this section if the City of Wauwatosa determines that an added level of protection is needed for sensitive resources.

H. Permits

No landowner or land user may commence a land development or land disturbing activity subject to this chapter without receiving prior approval of an erosion control plan for the site from the engineering services division and a permit from the building and safety division. At least one landowner or land user controlling or using the site and desiring to undertake a land development or land disturbing activity subject to this chapter shall submit an application for an erosion control permit and a control plan and pay a fee, as outlined in the city consolidated fee schedule. By submitting an application, the applicant is authorizing the city or other agent authorized by the city to enter the site to obtain information required for the review of the erosion control plan.

1. Plans Covering One or More Acres

Erosion control plans for land development and land disturbing activities covering one or more acres must include the following information:

a. Existing Site Map

A map of existing site conditions on a scale of at least one inch equals one hundred feet showing the site and immediately adjacent areas extending at least two hundred feet in each direction:

(1) Site boundaries and adjacent lands which accurately identify site location;

- (2) Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site;
- (3) One hundred-year floodplains, flood fringes and floodways;
- (4) Location of the predominant soil types;
- (5) Vegetative cover;
- (6) Location and dimensions of stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site and the size, slope and land cover of upslope drainage areas, peak discharge, velocities, direction and destination of flows;
- (7) Locations and dimensions of utilities, structures, roads, highways and paving;
- (8) Site topography at a contour interval not to exceed five feet; and
- (9) Name, address and daytime telephone number of the applicant and the person responsible for maintenance of best management practices.

b. Plan of Final Site Conditions

A plan of final site conditions on the same scale as the existing site map showing the site changes.

c. Site Construction Plan

A site construction plan including:

- (1) Locations and dimensions of all proposed land development and land disturbing activities;
- (2) Locations and dimensions of all temporary soil or dirt stockpiles;
- (3) Locations and dimensions of all best management practices necessary to meet the requirements of this chapter;
- (4) Schedule of anticipated starting and completion dates of each land development or land disturbing activity including the installation of best management practices needed to meet the requirements of this chapter;
- (5) Provisions for maintenance of best management practices during construction; and
- (6) Description of vegetation and other materials to be used to stabilize the site including a schedule for installation and maintenance.

2. Plans Covering Less than One Acre

Erosion control plans for land development and land disturbing activities covering less than one acre must include the following information:

- a. Property boundaries and area to be disturbed;
- b. Direction of slopes before and after development;
- c. Existing and proposed buildings and other improvements;
- d. Size of upslope drainage areas;
- e. Development schedule;
- f. Best management practices necessary to meet the requirements of this chapter;
- g. Description of vegetation and other materials to be used to stabilize the site including a schedule for installation and maintenance; and
- h. Name, address and daytime telephone number of the applicant and the person responsible for maintenance of best management practices.

3. Review of Erosion Control Plans

a. Plans Covering One or More Acres

Within thirty working days of receipt of the application, control plan, and fee, the board of public works shall review the application and control plan to determine if the requirements of this chapter are met. The board of public works may request comments from other agencies. If the requirements of this chapter are met, the board of public works shall approve the plan, inform the applicant and approve the issuance of a permit. If the conditions are not met, the board of public works shall inform the applicants in writing and may either require needed information or disapprove the plan. Within thirty working days of receipt of needed information, the board of public works shall again determine if the plan meets the requirements of this chapter. If the plan is disapproved, the board of public works shall inform the applicant in writing of the reasons for disapproval.

b. Plans Covering Less than One Acre

Within ten working days of receipt of the application, control plan, and fee, the building regulations department shall review the application and control plan statement to determine if requirements of this chapter are met. The building regulations department may request comments from other staff or agencies. If the requirements of this chapter are met, the building regulations department shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the building regulations department shall inform the applicant in writing and may either require needed information or disapprove the plan. Within ten working days of receipt of needed information, the building regulations department shall again determine if the plan meets the requirements of this chapter. If the plan is disapproved, the building regulations department shall inform the applicant in writing of the reasons for disapproval.

4. Erosion Control Permits

a. Required

No building permit or footing and foundation permit may be issued for a site subject to this section without an erosion control permit.

b. Duration

Erosion control permits shall be valid for a period of one hundred eighty days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The building regulations department may extend the period one or more times for up to an additional one hundred eighty days. The building regulations department may require additional best management practices as a condition of the extension if they are necessary to meet the requirements of this chapter.

c. Surety Bond

As a condition of approval and issuance of the permit, the city shall require the applicant to deposit a surety bond, irrevocable letter of credit, or cash escrow to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

d. Permit Conditions

All erosion control permits shall require the permittee to:

- (1) Notify the city within two working days of commencing any land development and land disturbing activity;
- (2) Notify the city of completion of any best management practices within the next working day after their installation;
- (3) Obtain permission in writing from the building regulations department prior to modifying the erosion control plan;
- (4) Install all best management practices as identified in the approved erosion control plan;
- (5) Maintain all road drainage systems, stormwater drainage systems, best management practices and other facilities identified in the erosion control plan;

- (6) Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land development or land disturbing activities;
- (7) Inspect the BMPs within twenty-four hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site;
- (8) Allow city personnel or other agents authorized by the city to enter the site for the purpose of inspecting compliance with the erosion control plan or for performing any work necessary to bring the site into compliance with the erosion control plan; and
- (9) Keep a copy of the erosion control plan on the site.

I. Fee Schedule

The fees referred to in this section shall be as established by the City of Wauwatosa and outlined in the city consolidated fee schedule.

J. Inspection

If land disturbing construction activities are being carried out without a permit required by this section, an inspector of the City of Wauwatosa may enter the land pursuant to an inspection warrant as provided for in Sections 66.0119(1), (2), and (3), Wisconsin Statutes.

K. Enforcement

- 1. The building and safety division may post a stop-work order if any of the following occurs:
 - a. Any land disturbing construction activity regulated under this section is being undertaken without a permit.
 - b. The erosion and sediment control plan is not being implemented in a good faith manner.
 - c. The conditions of the permit are not being met.
- 2. If the responsible party does not cease activity as required in a stop-work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the building and safety division may revoke the permit.
- 3. If the responsible party, where no permit has been issued, does not cease the activity after being notified by the city's building and safety division, or if a responsible party violates a stop-work order posted under subsection A., the building and safety division may request the city attorney to obtain a cease and desist order in any court with jurisdiction.
- 4. The building and safety division may retract the stop-work order issued under subsection A. or the permit revocation under subsection B.
- 5. After posting a stop-work order under subsection A., the building and safety division may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this section. The building and safety division may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the City of Wauwatosa, plus interest at the rate authorized by the City of Wauwatosa shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Subchapter VII of Chapter 66, Wisconsin Statutes.
- 6. Any person violating any of the provisions of this section shall be subject to a forfeiture of not less than one hundred dollars nor more than one thousand dollars and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- 7. Compliance with the provisions of this section may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunction proceedings.

L. Appeals

1. Board of Public Works

The Board of Public Works created pursuant to Section 62.14, Wisconsin Statutes:

- a. Shall hear and decide appeals where it is alleged that there is error in any orders, requirements, decisions or interpretations made by the engineering services division or the building and safety division in administering this section except for cease and desist orders obtained under Sec. ~~24.13.030K~~.
- b. Upon appeal, may authorize variances from the provisions of this section which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the section will result in unnecessary hardship; and
- c. Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

2. Who May Appeal

Any person aggrieved by orders, requirements, decisions or interpretations made by the engineering services division or the building and safety division may, within fifteen days from the date of said orders, requirements, decisions or interpretations serve written notice upon the chief building official and file an application of appeal to the board of public works.

24.13.040 Stormwater Management

A. Authority

This chapter is adopted by the common council under the authority granted by Section 62.234, Wisconsin Statutes. This chapter supersedes any ordinance previously enacted relating to stormwater management regulations.

B. Findings of Fact

The common council finds that uncontrolled runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Due to capacity limitations of the stormwater and combined sewer systems in the City of Wauwatosa, reduction of stormwater runoff quantity must be of the highest high priority in the policies of the City of Wauwatosa. Specifically, uncontrolled runoff can:

- 1. Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature;
- 2. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;
- 3. Alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
- 4. Reduce the quality of groundwater by increasing pollutant loading;
- 5. Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities;
- 6. Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes;
- 7. Undermine floodplain management efforts by increasing the incidence and levels of flooding; and
- 8. Aggravate excessive infiltration and inflow of water into sanitary sewer connections during peak storm events causing the conveyance system to surcharge, overflow or backup into basements.

C. Purpose

This chapter integrates federal and state construction post-construction site stormwater quality standards with duties to reasonably manage the quantity of water run-off for regional flood abatement. This chapter implements the Milwaukee Metropolitan Sewerage District rules on release rates

for development creating more than a de minimis amount of new impervious surface, to reduce the probability of increased regional floods as the metropolitan area approaches full build-out forecast for 2050.

D. Applicability

1. The water quality management requirements of this chapter apply to property development disturbing one or more acres.
2. The water quantity management requirements of this chapter apply to development that increases impervious surface by one-half or more acres.
3. A site meeting any one of the following criteria is exempt from stormwater quality requirements.
 - a. A redevelopment post-construction site with no increase in exposed parking lots or roads.
 - b. A post-construction site with less than ten percent directly connected impervious area (DCIA) based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.
 - c. Nonpoint discharges from agricultural facilities and practices.
 - d. Nonpoint discharges from silviculture activities.
 - e. Routine maintenance for project sites under five acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
 - f. Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
4. Water quantity management requirements do not apply if:
 - a. The development is exclusively residential, the net increase in the area of impervious surface is less than twenty percent of the area of the site; and each boundary of the site is contiguous to: sites that contain earlier development served by sanitary sewers, streets, or public water supply at the time the city receives the plans for the new development or parkland; or other public land, a utility right-of-way, or a watercourse; or,
 - b. Sites where the area of post-construction impervious surface will be five percent or less of the total area of the site;
 - c. Recreational trails if the trail is less than or equal to ten feet in width and has a continuous pervious buffer at least five feet wide on each side, disregarding interruption by streets, driveways, or other impervious surfaces crossing the trail.
 - d. Notwithstanding the applicability requirements in paragraph (a), this chapter applies to a post-construction site of any size that, in the opinion of the director of public works, is likely to result in runoff that exceeds the capacity of the existing drainage facilities or the level of flooding protection in a watercourse that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
5. County, state and federal agencies undertaking projects within the City of Wauwatosa, in the event that such project is not otherwise subject to the provisions of this chapter, should design and incorporate best management practices for surface water quality and stormwater quantity management for new impervious surfaces. The runoff management techniques should be the same as flood abatement plans and techniques utilized elsewhere in the watershed. The lead agency preparing an environmental assessment for a federal or state project shall identify and inform the city of the mitigating runoff management techniques to prevent increases in peak flood flows from new impervious areas.

6. Persons exempted from the provision of this chapter shall, upon request, provide such reasons in writing to the engineering services division. In such submissions or exemption requests, maps and calculations of changes in impervious surface area over the entire site shall be included.

E. Definitions

1. "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.
2. "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to:
 - a. Avoid or minimize sediment or pollutants carried in runoff to waters of the state; or
 - b. Manage the rate or volume of runoff.
3. "Connected imperviousness" means an impervious surface that is not draining to a stormwater treatment device or system and discharges directly or indirectly to a water of the state via an impervious flow path.
4. "Critical time" means the period starting at the time of peak rainfall intensity with duration equal to the time of concentration of the watershed.
5. "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
6. "Development" means construction of residential, commercial, industrial or institutional land uses and associated roads, including re-development.
7. "Director of public works" means the director of public works for the City of Wauwatosa or a designee of the director of public works.
8. "Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
9. "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
10. "Exceptional resource waters" means waters listed in Section NR 102.11, Wis. Adm. Code.
11. "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least seventy percent of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
12. "Impervious surface" means any pavement or structural element that prevents rain, surface water runoff, or melting snow from infiltrating into the ground below, including, but not limited to, roofs and paved roads, driveways, and parking lots.
13. "In-fill area" means an undeveloped area of land located within existing development.
14. "Infiltration" means the entry of precipitation or runoff into or through the soil.
15. "Infiltration system" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
16. "Karst feature" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
17. "Land disturbing construction activity" means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into

waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

18. "Maintenance agreement" means a legal document that provides for long-term maintenance of stormwater management practices.
19. "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
20. "New development" means development resulting from the conversion of previously undeveloped or agricultural land uses.
21. "Off-site" means located outside the property boundary described in the permit application.
22. "On-site" means located within the property boundary described in the permit application.
23. "Ordinary high-water mark" has the meaning given in Section NR 115.03(6), Wis. Adm. Code.
24. "Outstanding resource waters" means waters listed in Section NR 102.10, Wis. Adm. Code.
25. "Percent fines" means the percentage of a given sample of soil, which passes through a number two hundred sieve.
26. "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
27. "Permit" means a written authorization made by the director of public works to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
28. "Pervious surface" means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
29. "Pollutant" has the meaning given in Section 283.01(13), Wisconsin Statutes.
30. "Pollution" has the meaning given in Section 281.01(10), Wisconsin Statutes.
31. "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.
32. "Pre-development condition" means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
33. "Preventive action limit" has the meaning given in Section NR 140.05(17), Wis. Adm. Code.
34. "Recreational trail" means a path that is:
 - a. Distinctly set apart from a roadway, street, or sidewalk;
 - b. Designed for activities such as jogging, walking, hiking, bird-watching, bicycle riding, roller skating, or similar recreational activities not involving the use of motorized vehicles; and
 - c. Not a sidewalk according to Section 340.01(58), Wisconsin Statutes.
35. "Regional flood" means the peak flow and peak elevation of water with a one percent probability of occurring during any one year, considering rainfall time and intensity patterns, rainfall duration, area distribution, antecedent moisture, and snow melt.
36. "Redevelopment" means new construction, modification or replacement of older development.

- 37. "Responsible party" means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs.
- 38. "Runoff" means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- 39. "Site" means the entire parcel included in the legal description of the land on which the land disturbing construction activity occurred.
- 40. "Stormwater management plan" means a comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has undergone final stabilization following completion of the construction activity.
- 41. "Stormwater management system plan" is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- 42. "Technical standard" means a document that specifies design, predicted performance and operation and specifications for a material, device or method.
- 43. "Time of concentration" means the time period for the furthest runoff from the outlet of a watershed to contribute to flow at the watershed outlet.
- 44. "Top of the channel" means an edge, or point on the landscape, landward from the ordinary high water mark of a surface water of the state, where the slope of the land begins to be less than twelve percent continually for at least fifty feet. If the slope of the land is twelve percent or less continually for the initial fifty feet, landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.
- 45. "TR-55" means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.
- 46. "Type II distribution" means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973". The Type II curve is applicable.
- 47. "Water quality management" means the stormwater standards and duties established under the Clean Water Act, 33 U.S.C. 1251 et seq., parallel Wisconsin laws regulating the discharge of pollutants, and implementing regulations.
- 48. "Water quantity management" means stormwater duties and practices to abate peak flood flows during regional storm events pursuant to Chapter 13 of the Milwaukee Metropolitan Sewerage District rules as implemented and enforced by this municipality.

F. Technical standards

The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of stormwater practices needed to meet the requirements of this chapter:

- 1. Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- 2. Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the director of public works.
- 3. The most recent rainfall data available from the Southeastern Wisconsin Regional Planning Commission or more protective data shall be the basis for the analyses required by this chapter.

G. Performance Standards

1. Responsible Party

The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.

2. **Plan**
 A written stormwater quality and quantity management plan in accordance with Sec. 24.13.040I shall be developed and implemented for each post-construction site.

3. **Requirements**
 The stormwater quality and quantity management plan shall include the following:

a. **Total Suspended Solids**

BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

- (1) For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by eighty percent, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an eighty percent total suspended solids reduction to meet the requirements of this subdivision.
- (2) For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by forty percent, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a forty percent total suspended solids reduction to meet the requirements of this subdivision.
- (3) For in-fill development subject to the provisions of this chapter that occurs prior to October 1, 2012, by design, reduce to the maximum extent practicable, the total suspended solids load by forty percent, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a forty percent total suspended solids reduction to meet the requirements of this section.
- (4) For in-fill development that occurs after October 1, 2012, by design, reduce to the maximum extent practicable, the total suspended solids load by eighty percent, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an eighty percent total suspended solids reduction to meet the requirements of this section.
- (5) Notwithstanding paragraphs (1) through (4), above, if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

b. **Water Quantity and Management of Peak Runoff**

- (1) BMPs shall be utilized to manage the volume, timing, and peak flow rate of runoff to prevent increases in the regional flood and stream bank erosion rates.
- (2) These BMPs shall be implemented on an individual site basis.
- (3) For the fifty percent/two-year, twenty-four-hour design storm, BMPs shall be designed to either: maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions or achieve a maximum runoff release rate of 0.15 cubic feet per second per acre, whichever is more stringent.
- (4) Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in *Table 13.040-1* shall be used.

Table 13.040-1

| Maximum Pre-Development Runoff Curve for Cropland Areas | | | |
|---|---|---|---|
| A | B | C | D |

Table 13.040-1

| Maximum Pre-Development Runoff Curve for Cropland Areas | | | |
|--|----------|----------|----------|
| A | B | C | D |
| 56 | 70 | 79 | 83 |

- (5) For the one percent/one hundred-year, twenty-four-hour design storm, BMPs shall be designed to achieve a runoff release rate that is less than or equal to either:
 - (a) 0.5 cubic feet per second per acre; or
 - (b) A rate determined for the individual site that distributes runoff over the critical time sufficient to comply with the regulations of this section.

c. Infiltration

BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in paragraphs (5) through (8), below:

- (1) For residential developments one of the following shall be met:
 - (a) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.
 - (b) Infiltrate twenty-five percent of the post-development runoff from the two-year/twenty-four-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.
- (2) For nonresidential development, including commercial, industrial and institutional development, one of the following shall be met:
 - (a) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least sixty percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.
 - (b) Infiltrate ten percent of the runoff from the two-year/twenty-four-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.
- (3) Pre-development condition shall be the same as in paragraph (b).
- (4) Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with paragraph (8), below. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
- (5) The following areas must meet more stringent standards otherwise applicable under federal or state law:

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- (a) Areas associated with tier 1 industrial facilities identified in Section NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
 - (b) Storage and loading areas of tier 2 industrial facilities identified in Section NR 216.21(2)(b), Wis. Adm. Code.
 - (c) Fueling and vehicle maintenance areas.
 - (d) Areas within 1,000 feet upgradient or within 100 feet downgradient of karst features.
 - (e) Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subparagraph (5)e. does not prohibit infiltration of roof runoff.
 - (f) Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
 - (g) Areas within four hundred feet of a community water system well as specified in Section NR 811.16(4), Wis. Adm. Code, or within one hundred feet of a private well as specified in Section NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
 - (h) Areas where contaminants of concern, as defined in Section NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.
 - (i) Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three-foot soil layer with twenty percent fines or greater; or at least a five-foot soil layer with ten percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This shall not be construed to prohibit infiltration of roof runoff.
- (6) The following are not required to meet the requirements of this paragraph:
- (a) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 - (b) Parking areas and access roads less than five thousand square feet for commercial and industrial development.
 - (c) Redevelopment post-construction sites.
 - (d) Infiltration areas during periods when the soil on the site is frozen.
 - (e) Roads in commercial, industrial and institutional land uses, and arterial residential roads.
- (7) Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Chapter NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable. The requirements of this paragraph notwithstanding, the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

d. Protective Areas

- (1) "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
- (a) For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in Section NR 103.04, seventy-five feet.
 - (b) For perennial and intermittent streams identified on a United States geological survey seven and one-half-minute series topographic map, or a county soil survey map, whichever is more current, fifty feet.
 - (c) For lakes, fifty feet.
 - (d) For highly susceptible wetlands, fifty feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Section NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
 - (e) For less susceptible wetlands, ten percent of the average wetland width, but no less than ten feet nor more than thirty feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
 - (f) In preceding paragraphs (1)a., (1)d. and (1)e., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Section NR 103.03.
 - (g) For concentrated flow channels with drainage areas greater than one hundred thirty acres, ten feet.
- (2) This paragraph applies to post-construction sites located within a protective area, except those areas expressly exempted
- (3) The following requirements shall be met:
- (a) Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
 - (b) Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of seventy percent or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Nonvegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

- (c) Best management practices such as filter strips, swales, or wet detention basins, designed to control pollutants from non-point sources may be located in the protective area.
- (4) This paragraph does not apply to:
- (a) Redevelopment post-construction sites.
 - (b) Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - (c) Structures constructed in accordance with Section 59.692(1v), Wisconsin Statutes.
 - (d) Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- e. **Fueling and Vehicle Maintenance Areas**
 Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.
- f. **Swale Treatment for Transportation Facilities.**
- (1) Except as provided in paragraph (2) below, transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
 - (a) Be vegetated. However, where appropriate, nonvegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
 - (b) Carry runoff through a swale for two hundred feet or more in length that is designed with a flow velocity no greater than one and one-half feet per second based on a two-year, twenty-four-hour design storm. If a swale of two hundred feet in length cannot be designed with a flow velocity of one and one-half feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.
 - (2) The director of public works may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of more than two thousand five hundred vehicles and where the initial surface water of the state that the runoff directly enters is any of the following:
 - (a) An outstanding resource water.
 - (b) An exceptional resource water.
 - (c) Waters listed in Section 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.
 - (d) Waters where targeted performance standards are developed under Section NR 151.004, Wis. Adm. Code, to meet water quality standards.
4. **General Considerations for On-Site and Off-Site Stormwater Management Measures**
 The following considerations shall be observed in managing runoff:
- a. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
 - b. Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

- c. BMPs for water quantity management shall utilize the following techniques, in order of preference:
 - (1) Preservation of the natural features of development sites, including natural storage and infiltration characteristics;
 - (2) Preservation of existing natural streams, channels, and drainage ways;
 - (3) Minimization of new impervious surfaces;
 - (4) Conveyance of stormwater in open vegetated channels;
 - (5) Construction of structures that provide both quantity and quality control, with structures serving multiple sites being preferable to structures serving individual sites; and
 - (6) Construction of structures that provide only quantity control, with structures serving multiple sites being preferable to structures serving individual sites.

5. Location and Regional Treatment Option

- a. The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system within the same watershed.
- b. Runoff within a non-navigable drainage way that flows into a BMP, such as a wet pond, is not required to meet water quality performance standards unless designed to provide treatment.
- c. The discharge of runoff from a BMP, such as a wet pond, or after a series of such BMPs, is subject to this chapter.
- d. The director of public works may approve off-site management measures provided that all of the following conditions are met:
 - (1) The director of public works determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the City of Wauwatosa and that contains management requirements consistent with the purpose and intent of this chapter.
 - (2) The off-site facility meets all of the following conditions:
 - (a) The facility is in place.
 - (b) The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this chapter.
 - (c) The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- e. Where a regional treatment option exists such that the director of public works exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the director of public works. In determining the fee for post-construction runoff, the director of public works shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

6. Alternate requirements

The director of public works may establish stormwater management requirements more stringent than those set forth in this section if the director of public works determines that an added level of protection is needed to protect sensitive resources.

7. Credit for Removal of Impervious Surfaces

a. Same Site Credit

The director of public works may use the removal of pavement, covered structures or other impervious surfaces at the same property to calculate the net post construction im-

pervious acreage and corresponding water quantity management duties. Credit may equal, but not be larger than the acreage of impervious surfaces removed when runoff release rates and detention are the best management practices utilized at the site. When best management practices with a higher order of preference are utilized in lieu of detention, equivalent credit may be granted as determined by the Director of Public Works with the concurrence of the MMSD. Credit for reducing impervious surfaces at a site, not utilized by the development on the site, belongs to the director of public works and may be banked for allocation to other development within the watershed under subparagraph 7.b, below.

b. Dispersed Site in Same Watershed Credit

The director of public works may bank the removal of impervious surfaces, which individually must be one-half acre or more, within the same watershed, where the volume, timing and peak flow of runoff will be distributed over the critical time sufficient to assure the level of protection provided by MMSD flood abatement projects will not be reduced. The director of public works may allocate banked credit to promote a policy of smart growth. The total acreage banked or allocated, or both, shall be reported, by watershed or sub-watershed, annually to the MMSD for concurrence.

H. Permitting Requirements, Procedures and Fees

1. Permit Required

No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the director of public works prior to commencing the proposed activity.

2. Permit Application and Fees

Any responsible party desiring a permit shall submit to the director of public works a permit application made on a form provided by the director of public works for that purpose.

a. Unless expressly exempt, a permit application must be accompanied by a stormwater management plan, a maintenance agreement and a nonrefundable permit fee.

b. The stormwater management plan shall be prepared to meet the requirements of Sec. 24.13.040G and Sec. 24.13.040I, the maintenance agreement shall be prepared to meet the requirements of Sec. 24.13.040J, the financial guarantee shall meet the requirements of Sec. 24.13.040K, and fees shall be set forth in the consolidated fee schedule adopted annually by the common council.

3. Review and Approval of Permit Application

In addition to the review and approval required by other governmental bodies which may have jurisdiction over this activity, the director of public works shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee, as follows:

a. Within fifteen business days of the receipt of a complete permit application, the director of public works shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this chapter.

b. If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the director of public works shall issue the permit.

c. If the stormwater permit application, plan or maintenance agreement is disapproved, the director of public works shall detail in writing the reasons for disapproval.

d. The director of public works may request additional information from the applicant. If additional information is submitted, the director of public works shall have fifteen additional business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

4. Permit Requirements

All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The

director of public works may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the director of public works to suspend or revoke this permit may be appealed in accordance with Sec. 24.13.040N.

- a. Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- b. The responsible party shall design and install all structural or identify nonstructural stormwater management measures, or both, in accordance with the approved stormwater management plan and this permit.
- c. The responsible party shall notify the director of public works at least five business days before commencing any work in conjunction with the five days upon completion of the stormwater management practices. If required as a special condition under subsection 5 (below) the responsible party shall make additional notification according to a schedule set forth by the director of public works so that practice installations can be inspected during construction.
- d. Practice installations required as part of this ordinance shall be certified "as built". Completed stormwater management practices must pass a final inspection by the director of public works or its designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The director of public works or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
- e. The responsible party shall maintain all stormwater management practices until the responsibility is transferred to any subsequent owners as specified in the approved maintenance agreement.
- f. The responsible party authorizes the director of public works to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Subchapter VII of Chapter 66, Wisconsin Statutes, or to charging such costs against the financial guarantee posted under Sec. 24.13.040K.
- g. If so directed by the director of public works, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
- h. The responsible party shall permit property access to the director of public works for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
- i. Where site development or redevelopment involves changes in direction, increases in the peak rate or the total volume of runoff, the director of public works may require the responsible party to make appropriate legal guarantees concerning the prevention of endangerment to property or public safety.

5. Permit Conditions

Permits issued under this subsection may include reasonable and necessary conditions established by director of public works in addition to the requirements needed to meet the performance standards in Sec. 24.13.040G or a financial guarantee as provided for in Sec. 24.13.040K.

6. Permit Duration

Permits issued under this section shall be valid from the date of issuance through the date the director of public works notifies the responsible party that all stormwater management practices have passed the required final inspection.

I. Stormwater Management Plan

I. Plan Requirements

The stormwater management plan required under Sec. 24.13.040I shall contain at a minimum the following information:

- a. Name, address, and telephone number for the following or their designees: landowner; developer; project engineer or appropriate licensed professional for practice design and certification; person(s) responsible for installation of stormwater management practices; and person(s) responsible for maintenance of stormwater management practices prior to the transfer, if any, of maintenance responsibility to another party.
- b. A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
- c. Pre-development site conditions, including:
 - (1) One or more site maps at a scale of not less than one inch equals two hundred feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed two feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the regional flood (the one percent probability storm event) floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to Section NR 811.16, Wis. Adm. Code.
 - (2) Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- d. Post-development site conditions, including:
 - (1) Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 - (2) Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.
 - (3) One or more site maps at a scale of not less than one-inch equals [number] feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed [number] feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections; location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

- (4) Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- (5) Results of investigations of soils and groundwater required for the placement and design of stormwater management measures. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.

- e. A description and installation schedule for the stormwater management practices needed to meet the performance standards in Sec. 24.13.040G.
- f. A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule, which plan shall be acknowledged in writing by the owner of the property which is the subject of such plan.
- g. Cost estimates for the construction, operation, and maintenance of each stormwater management practice.
- h. Other information requested in writing by the director of public works to determine compliance of the proposed stormwater management measures with the provisions of this chapter.
- i. All site investigations, plans, designs, computations, and drawings shall be certified by an appropriate licensed professional to be prepared in accordance with accepted engineering practice and requirements of this ordinance.

2. Alternate Requirements

The director of public works may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Sec. 24.13.040G.

J. Maintenance Agreement

1. Required

The maintenance agreement required under Sec. 24.13.040J for stormwater management practices shall be an agreement between the director of public works and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement or a memorandum thereof shall be filed with the Milwaukee County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.

2. Required Provisions

The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by Sec. 24.13.040I.1.f.

- a. Identification of the stormwater facilities and designation of the drainage area served by the facilities.
- b. A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under Sec. 24.13.040I.
- c. Identification of the party(s) responsible for long term maintenance of the stormwater management practices identified in the stormwater management plan required under Sec. 24.13.040I.
- d. Requirement that the responsible party(s) shall maintain stormwater management practices in accordance with the schedule included in paragraph b, above.
- e. Authorization for the director of public works, its designee and the Milwaukee Metropolitan Sewerage District to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

- f. Agreement that the party designated under paragraph c (above), as responsible for long term maintenance of the stormwater management practices, shall be notified by the director of public works of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the director of public works.
- g. Authorization of the director of public works to perform the corrected actions identified in the inspection report if the responsible party designated under paragraph c (above) does not make the required corrections in the specified time period. The director of public works shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Subchapter VII of Chapter 66, Wisconsin Statutes.

K. Financial Guarantee

1. Establishment

The director of public works may require the submittal of a financial guarantee, in the form of a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantee acceptable to the director of public works and approved by the city attorney. The financial guarantee shall be in an amount determined by the director of public works to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the director of public works the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the director of public works that the requirements of this chapter have not been met.

2. Conditions for Release

Conditions for the release of the financial guarantee are as follows:

- a. The director of public works shall release the portion of the financial guarantee established under this section, less any costs incurred by the director of public works to complete installation of practices, upon submission of "as built plans" by an appropriate licensed professional.
- b. The director of public works may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
- c. The director of public works shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices, less any costs incurred by the director of public works, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

L. Fee Schedule

The fees referred to in other sections of this chapter shall be set forth in the consolidated fee schedule adopted annually by the common council.

M. Enforcement

- 1. Any land disturbing construction activity or post-construction runoff initiated after the original effective date of this chapter by any person subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this chapter.
- 2. The director of public works shall notify the responsible party of any noncomplying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, or additional enforcement action which may be taken. Any technique that effectively provides actual and verifiable notice may be used.
- 3. If the violations are likely to result in damage to properties, public facilities, or waters of the state, the director of public works may enter the land and take corrective actions necessary to prevent such damage. The costs incurred by the director of public works plus interest and legal costs shall be paid by the responsible party.

4. If the director of public works determines that any person is in violation of this chapter or a stormwater permit, the director may issue a notice of violation, a stop work order, a cease and desist order, or revoke the permit, or refer the noncompliance to the city attorney for civil enforcement, penalties, injunctive orders or other appropriate relief.
5. Every violation of this chapter is a public nuisance. Any person who violates this chapter shall be subject to a forfeiture of not less than ten dollars or more than two thousand dollars per offense, together with the costs of prosecution. Each day each violation continues shall constitute a separate offense.
6. When the director of public works determines that the holder of a permit issued pursuant to this chapter has failed to follow practices, or has failed to comply with schedules in a stormwater management plan, the director of public works or a party designated by the director of public works may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The director of public works shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to Sec. ~~24.13.040K~~. Where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

N. Appeals

The Wauwatosa Common Council hereby elects that provisions of this chapter are not governed by the procedures of Chapter 68, Wisconsin Statutes, and provides for appeals as follows:

1. Board of Zoning Appeals

The board of zoning appeals shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the director of public works in administering stormwater quality or quantity duties. The board may authorize variances that are not contrary to the public interest, and where owing to special conditions unique to the property, a literal enforcement would be an unnecessary hardship.

2. Who May Appeal

Appeals to the board of zoning appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Wauwatosa affected by any decision of the director of public works.

O. Illicit Connections and Discharges

1. The following definitions shall be applicable in this subsection:

- a. "Illicit connection" means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this chapter.
- b. "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- c. "Storm drain system" means publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and humanmade or altered drainage channels, reservoirs, and other drainage structures.

2. Illicit Connections and Discharges Prohibited

- a. No person shall discharge, spill or dump substances or materials which are not entirely composed stormwater into receiving bodies of water or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.

- b. The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this chapter, regardless of whether the connections was permissible under law or practice applicable or prevailing at the time of connection.
- c. The following activities are exempt from the provisions of this section unless found to have an adverse impact on the stormwater:
 - (1) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.
 - (2) Discharges resulting from firefighting activities.
 - (3) Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.
- d. Whenever the City of Wauwatosa finds a person has violated a prohibition or failed to meet a requirement of this section, the City of Wauwatosa may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
 - (1) The elimination of illicit connections or discharges;
 - (2) That violating discharges, practices, or operations shall cease and desist;
 - (3) The abatement or remediation of stormwater pollution or contaminated hazards and the restoration of any affected property;
 - (4) In the event the person fails to eliminate the illicit connects or discharge, fails to cease and desist in discharge, practices or operations in violation of this section or fails to abate or remediate the stormwater pollution or contamination hazards, that person may be subject to a forfeiture of not less than fifty dollars nor more than five hundred dollars for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

24.14 | General Development Regulations

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| 24.14.010 | Fences and Walls | 14-1 |
| 24.14.020 | Intersection Visibility | 14-1 |
| 24.14.030 | Pedestrian Standards | 14-1 |
| 24.14.040 | Access to Nonresidential From Residential Zoning | 14-2 |

24.14.010 Fences and Walls
See Chapter 15.28 of the municipal code.

24.14.020 Intersection Visibility
No building, fence, hedge or other visual obstruction more than 3.5 feet in height may be placed so as to interfere with clear vision from one street to the other across the corner. See also Chapter 12.16 of the city code of ordinances.

24.14.030 Pedestrian Standards

- A. Purpose**
The pedestrian standards of this section are intended to promote a safe, attractive and usable pedestrian circulation system as a part of all new developments.
- B. Applicability**
The pedestrian standards of this section apply to all new commercial, mixed-use and multi-unit residential developments.
- C. Standards**
An on-site pedestrian circulation system must be provided in accordance with the following requirements:
 - 1. Connection to the Street**
The on-site pedestrian circulation system must connect all adjacent public rights-of-way to the main building entrance. The connection must follow a direct route and not involve significant out-of-direction travel for system users.
 - 2. Connection to Neighboring Areas**
The on-site pedestrian circulation system must provide at least one connection to all adjacent properties. The connections must run to the property line and connect to existing paths or sidewalks on neighboring properties or to the likely location of future paths or sidewalks on those properties. If the zoning administrator determines that no paths or sidewalks exist on a neighboring property or it is not possible to determine the likely location of future path or sidewalk connections or extending a connection would create a safety hazard on either property, the zoning administrator is authorized to waive the connection requirement of this paragraph.
 - 3. Internal Connections**
The on-site pedestrian circulation system must connect all buildings on the site and provide connections to other areas of the site likely to be used by pedestrians, such as parking areas, bicycle parking, recreational areas, common outdoor areas and pedestrian amenity features.
 - 4. Design**
Required on-site pedestrian circulation facilities must be designed and constructed in accordance with the following requirements:
 - a.** The on-site pedestrian circulation system must be at least 5 feet in width and surfaced with material of sufficient strength and durability to enable year-round use and effective maintenance.

Communication: ATTACHMENT (OLD BUSINESS)

- b. When the on-site pedestrian circulation system crosses driveways, parking areas or loading areas, it must be clearly differentiated through the use of elevation changes, a different paving material or other equally effective methods. Striping does not meet this requirement.
- c. When the on-site pedestrian circulation system is parallel and adjacent to an auto travel lane, it must be a raised path at least 6 inches above the auto travel lane surface or be separated from the auto travel lane by a raised curb, bollards, landscaping or another physical barrier. If a raised path is used, the ends of the raised portions must be equipped with accessible curb ramps.
- d. The on-site pedestrian circulation system must be illuminated to ensure that it can be used safely at night by employees, residents and customers. Lighting must be at height appropriate to a pedestrian pathway system.

24.14.040 Access to Nonresidential From Residential Zoning

Land in a residential zoning district may not be used to provide ingress to or egress from a nonresidential zoning district.

24.15 | Nonconformities

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|-----------|---|------|
| 24.15.010 | General | 15-1 |
| 24.15.020 | Nonconforming Lots | 15-2 |
| 24.15.030 | Nonconforming Uses..... | 15-2 |
| 24.15.040 | Nonconforming Structures..... | 15-4 |
| 24.15.050 | Nonconforming Development Features..... | 15-4 |

24.15.010 General

A. Description

Nonconformities, which are sometimes referred to as “legal nonconformities,” are lots, uses and structures that were lawfully established but—because of the adoption of new or amended regulations—no longer comply with one or more requirements of this zoning ordinance. This chapter contains the regulations governing such situations.

B. Intent

Occasionally, lots, uses and structures that were lawfully established (i.e., in compliance with all regulations in effect at the time of their establishment) have been made nonconforming because of changes in the zoning regulations that apply to the subject property (e.g., through zoning map amendments or amendments to the text of this zoning ordinance) or because of other governmental action (e.g., through right-of-way acquisition). The regulations of this chapter are intended to clarify the effect of such nonconforming status and avoid confusion with “illegal” buildings and uses (those established in violation of applicable zoning regulations). The regulations of this chapter are also intended to:

1. recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;
2. promote maintenance, reuse and rehabilitation of existing buildings; and
3. place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties.

C. Authority to Continue

Any nonconformity that existed on the effective date specified in Sec. 24.01.020 or any situation that becomes nonconforming upon adoption of any amendment to this zoning ordinance may be continued in accordance with the regulations of this chapter unless otherwise expressly stated.

D. Determination of Nonconformity Status

1. The burden of proving that a nonconformity exists (as opposed to a violation of this zoning ordinance) rests entirely with the subject owner.
2. The zoning administrator is authorized to determine whether adequate proof of nonconforming status has been provided by the subject owner.
3. Building permits, zoning certificates, lawfully recorded plats, aerial photography owned by the city and other official government records that indicate lawful establishment of the use, lot or structure constitute conclusive evidence of nonconforming status. If such forms of conclusive evidence are not available, the applicant may submit and the zoning administrator may consider other forms of evidence to document nonconforming status. Examples of commonly available evidence include:
 - a. professional registrations or business licenses;
 - b. utility billing records;
 - c. rent records;
 - d. advertisements in dated publications;

- e. listings in telephone or business directories; and
 - f. notarized affidavits affirming the date of lawful establishment of the use, lot or structure.
4. Appeals of the zoning administrator's decision on nonconforming status determinations may be appealed in accordance with Sec. 24.16.110.

E. Repairs and Maintenance

- 1. Nonconformities must be maintained to be safe and in good repair.
- 2. Repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless the work increases the extent of the nonconformity or is otherwise expressly prohibited by this zoning ordinance.
- 3. Nothing in this chapter is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized order of a public official.

F. Change of Tenancy or Ownership

Nonconforming status runs with the land and is not affected by changes of tenancy, ownership, or management.

24.15.020 Nonconforming Lots

A. Description

A nonconforming lot is a lawfully platted and recorded lot that does not comply with all applicable minimum lot area or lot width regulations of the zoning district in which the lot is located.

B. Use of Nonconforming Lots

A nonconforming lot may be used as a building site and developed with a use allowed in the subject zoning district.

C. Lot and Building Regulations

- 1. Development on nonconforming lots must comply with the lot and building regulations of the subject zoning district unless otherwise expressly stated.
- 2. Nonconforming lots may not be adjusted in size or shape to create additional nonconformity or increase the degree of nonconformity for lot area, lot width, setbacks or other applicable lot and building regulations. Lot area or shape adjustments that do not increase the extent of nonconformity are allowed.

24.15.030 Nonconforming Uses

A. Description

A nonconforming use is a land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located. Lawfully established uses that do not comply with any applicable separation (or spacing) distance requirements (e.g., those that require one land use to be located a certain minimum distance from another land use) are also nonconforming uses.

B. Change of Use

A nonconforming use may be changed to any other use that is allowed in the subject zoning district. Once changed to a conforming use, a nonconforming use may not be re-established.

C. Expansion of Use

- 1. Except as otherwise expressly stated, a nonconforming use may be expanded into another part of the same building as that building existed on the date that the use became nonconforming, provided that the zoning administrator determines that such expansion:
 - a. will not result in a violation of off-street parking or loading requirements; and
 - b. will not result in the addition of floor area to the building to accommodate the use expansion.

2. Nonconforming open-air uses may not be expanded beyond the area occupied when it became nonconforming.

D. Remodeling and Improvements

A building in which a nonconforming use is located may be remodeled or otherwise improved as long as the remodeling or improvements do not violate the other regulations of this chapter.

E. Moving

A nonconforming use may be moved in whole or in part to another location on the same lot only if the movement or relocation does not increase the extent of the nonconformity. A nonconforming use may be moved to another lot only if the use is allowed under the zoning regulations that apply to that (relocation) lot.

F. Loss of Nonconforming Status

1. Abandonment

- a. Once a nonconforming use is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.
- b. A nonconforming use is presumed abandoned when the use is discontinued or ceases for a continuous period of one year or more.
- c. The presumption of abandonment may be rebutted upon showing, to the satisfaction of the zoning administrator, that during such period the owner of the land or structure has been:
 - (1) maintaining the land and structure in accordance with all applicable city requirements and did not intend to discontinue the use;
 - (2) actively and continuously marketing the land or structure for sale or lease for that particular nonconforming use; or
 - (3) engaged in other activities that affirmatively prove there was no intent to abandon.
- d. Periods of discontinued use caused by government action, accidental fire or natural disaster are not counted in calculating the length of discontinuance.

2. Change to Conforming Use

If a nonconforming use is changed to a conforming use, no matter how short the period of time, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

3. Accidental Damage or Destruction

When a building containing a nonconforming use is accidentally destroyed or damaged by causes that are not within the control of the property owner or tenant, the building and the use may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct the destroyed or damaged structure must be obtained within 18 months of the date of occurrence of such damage.

4. Intentional Destruction

When a building containing a nonconforming use is intentionally damaged or destroyed by causes within the control of the owner and the extent of damage or destruction is more than 50% of the fair market value of the structure at the time of damage, based on information provided by the assessor's office, the use may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located.

5. Accessory Uses

No accessory use to a principal nonconforming use may continue after the principal nonconforming use has ceased.

24.15.040 Nonconforming Structures

A. Description

A nonconforming structure is any building or structure that was lawfully established but no longer complies with the lot and building standards of the zoning district in which it is located.

1. Use

A nonconforming structure may be used for any use allowed in the district in which the structure is located.

2. Alterations and Expansions

Alterations, including enlargements and expansions, are permitted if the proposed alteration or expansion complies with all applicable lot and building standards and does not increase the extent of the nonconformity. A building with a nonconforming front setback, for example, may be expanded to the rear as long as the rear expansion complies with applicable rear setback standards and all other applicable lot and building standards. On the other hand, a multi-unit residential building that is nonconforming with regard to density (i.e., contains more dwelling units than allowed by the underlying zoning) may not be expanded to add additional dwelling units.

B. Moving

A nonconforming structure may be moved in whole or in part to another location only if the movement does not increase the extent of the nonconformity.

C. Loss of Nonconforming Status

1. Accidental Damage or Destruction

When a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the owner, the structure may be restored or repaired, provided that no new nonconformities are created and that the existing extent of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 18 months of the date of occurrence of such damage.

2. Intentional Damage or Destruction

When a nonconforming structure is intentionally destroyed or damaged by causes within the control of the owner and the extent of damage or destruction is more than 50% of the fair market value of the structure at the time of damage, based on information provided by the assessor's office, the use may not be reestablished except in compliance with all regulations applicable to the zoning district in which it is located.

24.15.050 Nonconforming Development Features

A. Description

A nonconforming development feature is any aspect of a development—other than a nonconforming lot, nonconforming use or nonconforming structure—that was lawfully established in accordance with zoning regulations in effect at the time of its establishment but that no longer complies with one or more standards of this zoning ordinance. Common examples are off-street parking or loading areas that contain fewer spaces than required by current standards or otherwise do not comply with applicable regulations and sites that do not comply with current landscaping and screening requirements.

B. General

Nonconforming development features may remain except as otherwise expressly stated in this zoning ordinance, but the nature and extent of nonconforming site features may not be increased except as otherwise expressly stated in this zoning ordinance.

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24.16.010 Common Provisions

A. Summary of Review and Decision-making Authority

The following table provides a summary of review and decision-making authority.

| Procedure | ZA | DRB | HPC | BZA | PC | CC[1] |
|---------------------------------------|----|-----|-------------------------|------|------|-------|
| Zoning Text and Map Amendments | — | — | — | — | R | <DM> |
| Conditional Use Permits | — | — | — | — | <R> | DM |
| Planned Unit Developments | | | | | | |
| Preliminary Development Plan | — | — | — | — | R | <DM> |
| Final Development Plan | — | R | — | — | — | DM |
| Variances | — | — | — | <DM> | — | — |
| Historic (Site/Structure) Designation | — | — | <R> | — | R | <DM> |
| Historic Overlay Zoning Map Amendment | — | — | <R> | — | R | <DM> |
| Certificates of Appropriateness | — | — | <DM> | — | — | — |
| Appeals of Administrative Decisions | — | — | — | — | <DM> | — |
| Temporary Use | DM | — | See also Sec. 24.10.080 | | | |

[1] Committee review may be required before common council action (see also Sec. 2.02.110 of the city code of ordinances).

CC = common council | PC = plan commission | BZA = board of zoning appeals | HPC = historic preservation commission | ZA = zoning administrator | R = review and recommendation | DM = decision-making body (final decision) | <> = Hearing Required

B. Applicability

The common provisions of this section apply to all of the procedures in this chapter unless otherwise expressly stated.

C. Applications and Fees

1. Eligible Applicants

Many of the procedures of this chapter allow applications to be filed by “eligible applicants.” An eligible applicant is any person, firm, or corporation (including their authorized agent) having a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest that may become a freehold possessory interest or any exclusive possessory interest that is specifically enforceable on the subject property.

2. Form of Application

- a. Applications required under this zoning ordinance must be submitted in a form and in such numbers as required by the zoning administrator.
- b. The zoning administrator must develop checklists of application submittal requirements and make those checklists available to the public.

3. Application Filing Fees

Applications must be accompanied by the fee amount indicated in the consolidated fee schedule that has been approved by the common council.

Communication: ATTACHMENT (OLD BUSINESS)

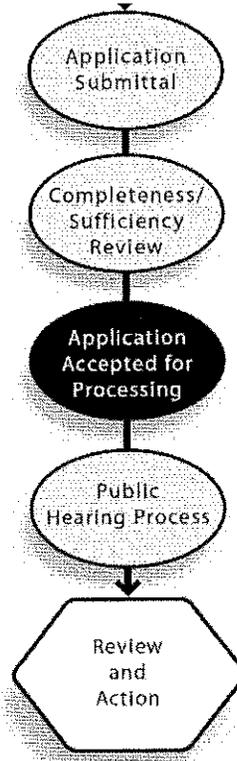
4. Application Completeness, Accuracy and Sufficiency

- a. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information and is accompanied by the required filing fee.
- b. The zoning administrator must make a determination of application completeness within 5 working days of application filing.
- c. If an application is determined to be incomplete, the zoning administrator must provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application will occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 60 days, the application will be considered withdrawn.
- d. No further processing of incomplete applications will occur and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next processing cycle.

- e. Applications deemed to be in the processing cycle and other review and accordance with applicable ordinances of this zoning ordinance.
- f. The zoning administrator or plans be revised before possible action if the zoning that:

- (1) The application or significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with zoning other regulations;
- (2) The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's zoning ordinance requirements;
- (3) The decision-making body does not have legal authority to approve the application or plan as submitted.

16-1: Review Process



complete will be considered to and will be reviewed by staff decision-making bodies in accordance with applicable ordinances.

may require that applications being placed on an agenda for the zoning administrator determines

plan contains one or more inaccuracies or omissions that hinder timely evaluation of the plan's/application's compliance requirements or

contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's zoning ordinance requirements;

making body does not have authority to approve the application or

resulting with review and decision-making bodies, is authorized to promulgate reasonable cycles

D. Application Processing Cycles

The zoning administrator, after consultation with review and decision-making bodies, is authorized to establish and timelines for processing applications. Processing cycles may establish:

- 1. deadlines for receipt of complete applications;
- 2. dates of regular meetings;
- 3. the scheduling of staff reviews and reports; and
- 4. time-frames for review and decision-making.

E. Hearings

- 1. Interested parties and citizens must be given an opportunity to appear and be heard at required hearings, subject to reasonable rules of procedure.

- 2. A hearing for which proper notice was given may be continued to a later date without providing additional notice as long as the continuance is set for specified date and time and that date and time is announced at the time of the continuance.
- 3. If a hearing is continued or postponed for an indefinite period of time from the date of the originally scheduled hearing, new public notice must be given before the rescheduled hearing. If the applicant requests a postponement, the applicant must pay any costs of renotification.

4. Hearing Notices

a. Published Notice

Whenever the provisions of this zoning ordinance require that published notice be provided, the notice must be published in the city's official newspaper in accordance with chapter 985 of the Wisconsin Statutes.

b. Mailed Notice

(1) Unless otherwise expressly stated, whenever the provisions of this zoning ordinance require that notices be mailed to property owners, the notices must be sent via United States Postal Service mail.

(2) Property owner addresses must be taken from the latest property ownership information available in the office of the city assessor.

c. Courtesy Notices

In addition to the forms of notice required to be provided by the provisions of this zoning ordinance, the city may elect to provide additional forms of courtesy notification by, for example, mailing notice to neighborhood organizations, posting notice signs on the subject property, posting notices in city hall or other city buildings or providing notice via the Internet.

d. Content of Notices

All required hearing notices must:

- (1) indicate the date, time and place of the hearing or date of action that is the subject of the notice;
- (2) describe any property involved in the application by address or by a commonly understood description of the location;
- (3) describe the general nature, scope and purpose of the application or proposal; and
- (4) indicate where additional information on the matter can be obtained.

F. Action by Review Bodies and Decision-Making Bodies

- 1. Review and decision-making bodies may take any action that is consistent with:
 - a. the regulations of this zoning ordinance;
 - b. any rules or by-laws that apply to the review or decision-making body; and
 - c. the notice that was given.
- 2. Review and decision-making bodies are authorized to defer action or continue a hearing in order to receive additional information or further deliberate.
- 3. Review and decision-making bodies are authorized to defer action, continue the hearing or deny an application whenever the applicant fails to appear for a scheduled and advertised hearing or whenever the applicant fails at more than one meeting to provide the documentation necessary to demonstrate compliance with the notice requirements of this zoning ordinance.

G. Conditions of Approval

When decision-making bodies approve applications with conditions, the conditions must relate to a situation created or aggravated by the proposed use or development and must be roughly proportional to the impacts of the use or development.

- H. Decision-Making Criteria; Burden of Proof or Persuasion**
Applications must address relevant review and decision-making criteria. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria.

24.16.020 Zoning Ordinance Text Amendments

- A. Authority to Initiate**
Amendments to the text of this zoning ordinance may be initiated by the common council or the plan commission.
- B. Notice of Hearing**
Class 2 notice of the common council's required public hearing on a zoning ordinance text amendment must be published in accordance with chapter 985 of the Wisconsin Statutes.
- C. Plan Commission Recommendation**
Proposed zoning ordinance text amendments must be referred to the plan commission. Following their review of the proposed text amendment, the plan commission must act by simple majority vote of those members present and voting to recommend that the proposed text amendment be approved, approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council.
- D. Common Council Hearing and Decision**
 - 1. Upon receipt of recommendations from the plan commission, the common council must hold a public hearing on the proposed text amendment. Following the close of the public hearing, the common council may act to approve, approve with modifications or deny the proposed text amendment. If the plan commission's recommendation has not been forwarded to the common council within 60 days of referral of the proposed text amendment to the plan commission, the common council may hold the required hearing and take action without receipt of the recommendation.
 - 2. Final action on a zoning ordinance text amendment by the common council requires a simple majority vote of those members present and voting.
- E. Review Criteria and Standards**
Zoning ordinance text amendments are legislative decisions of the common council based on their consideration of the public, health, safety and general welfare.

24.16.030 Zoning Map Amendments (Rezoning)

- A. Authority to Initiate**
Amendments to the official zoning map may be initiated by the common council, the plan commission or by petition of an eligible applicant or an eligible applicant's authorized agent (See Sec. 24.16.010C.1).
- B. Application Filing**
Zoning map amendment applications must be filed with the zoning administrator.
- C. Notice of Hearing**
 - 1. Class 2 notice of the common council's required public hearing on a zoning map amendment must be published in accordance with chapter 985 of the Wisconsin Statutes.
 - 2. Notice must be mailed to all of the following at least 7 days before the common council's required public hearing:
 - a. the subject property owner;
 - b. all owners of property within 200 feet of the subject property; and
 - c. the clerk of any municipality with corporate limits that abut the subject property.
- D. Plan Commission Recommendation**
Proposed zoning map amendments must be referred to the plan commission. Following review of the proposed zoning map amendment, the plan commission must act by simple majority vote of those members present and voting to recommend that the proposed zoning map amendment be approved,

approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council.

E. Common Council Hearing and Decision

1. Upon receipt of recommendations from the plan commission, the common council must hold a public hearing on the proposed zoning map amendment. Following the close of the public hearing, the common council may act to approve, approve with modifications (e.g., reducing the land area involved in the rezoning or recommending another less intensive zoning classification) or deny the proposed zoning map amendment. If plan commission recommendation has not been forwarded to the common council within 60 days of referral of the proposed zoning map amendment to the plan commission, the common council may hold the required hearing and take action without receipt of the recommendation.
2. Final action on a zoning map amendment by the common council requires a simple majority vote of those members present and voting, except as specified in Sec. 20.12 of the Charter Ordinances or when a valid protest petition is filed with the city clerk before the date of the meeting that the common council takes final action on the amendment, approval of the zoning map amendment requires at least a $\frac{3}{4}$ majority vote of those common council members present and voting.

F. Protest Petitions

A valid protest petition must be signed and acknowledged by the owners of:

1. at least 20% of the land area included in the proposed zoning map amendment;
2. at least 20% of the land area immediately adjacent and extending 100 feet from the subject property; or
3. at least 20% of the land directly opposite from the subject property and extending 100 feet from the street frontage of the opposite land.

G. Review Criteria and Standards

Zoning map amendments are legislative decisions of the common council based on their consideration of the public, health, safety and general welfare.

H. Successive Applications

Upon disapproval of a zoning map amendment by the common council, no zoning map amendment petition requesting the same or more intensive zoning on the same or similar property may be filed for or accepted for processing by the city for 6 months from the date of final action by the common council.

24.16.040 Conditional Use Permits

A. Purpose

The conditional use permit approval procedures of this section are intended to provide a transparent, public review process for land uses that, due to their widely varying design and operational characteristics, require case-by-case review in order to determine whether they will be compatible with surrounding uses and development patterns.

B. Authority to Initiate

Conditional use permit applications may be filed by eligible applicants or an eligible applicant's authorized agent (See Sec. 24.16.010C.1).

C. Application Filing

Conditional use permit applications must be filed with the zoning administrator.

D. Notice of Hearing

Notice of the plan commission's required hearing must be mailed to all owners of property within 200 feet of the subject property at least 7 days before the hearing.

E. Plan Commission Recommendation

The plan commission must hold a hearing on all conditional use permits. Following the close of the hearing, the plan commission must act by simple majority vote of those members present and voting

to recommend that the conditional use permit be approved, approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council.

F. Common Council Decision

1. Following receipt of recommendations from the plan commission, the common council may act to approve, approve with conditions or deny the conditional use permit. If the plan commission's recommendation has not been forwarded to the common council within 60 days of referral of the proposed zoning map amendment to the plan commission, the common council may take action without receipt of the recommendation.
2. Final action on a conditional use permit by the common council requires a simple majority vote of those members present and voting.

G. General Review Criteria and Standards

The common council may authorize the zoning administrator to issue a conditional use permit if the common council finds that the following conditions exist and so indicates in the minutes of its proceedings:

1. that the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare;
2. that the uses, values and enjoyment of surrounding properties for purposes already permitted in the district will not be substantially impaired or diminished by the establishment, maintenance or operation of the conditional use;
3. that establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the district;
4. that adequate utilities, access roads, drainage and other necessary improvements have been or are being provided;
5. that adequate measures have been or will be taken to provide ingress and egress that will minimize on- and off-site traffic congestion; and
6. that the conditional use complies with all applicable regulations of the subject zoning district.

H. Successive Applications

Upon disapproval of a conditional use permit by the common council, no similar conditional use permit application for the same or similar property may be filed or accepted for processing by the city for 12 months from the date of final action by the common council.

24.16.050 Planned Unit Developments

A. Overview

Planned Unit Development (/PUD) overlay zoning districts are established through the approval of a zoning map amendment in accordance with the zoning map amendment procedures of Sec. 24.16.030. PUD zoning map amendments must be processed concurrently with a preliminary development plan application. Final development plan approval is required after approval of the PUD zoning map amendment and preliminary development plan. This section describes the required review and approval procedures for PUD preliminary and final development plans.

B. Development Plan Approval Required

Approval of PUD preliminary and final development plans must occur before any building permit is issued and before any development takes place in a /PUD overlay district. Permits may be issued for a development phase if a preliminary development plan has been approved for the entire PUD and a final development plan has been approved for the subject phase.

C. Preliminary Development Plans

At the option of the applicant, the preliminary development plan may serve also as the preliminary subdivision plat if such intention is declared before the plan commission's hearing and if the plans include all information required for preliminary plats and preliminary development plans.

1. **Preapplication Meeting**
Before submitting a PUD application, the applicant must schedule a meeting with the zoning administrator to discuss the proposed plan and the required process. The zoning administrator is responsible for coordinating the involvement of other relevant city departments in the pre-application meeting.
2. **Application Contents**
An application for a preliminary development plan must contain all items of information specified in the pre-application meeting.
3. **Application Filing**
Complete applications for preliminary development plan approval must be filed with the zoning administrator at the same time that the /PUD zoning map amendment application is filed. Preliminary development plan applications may be filed only by the common council, the plan commission or by petition of an eligible applicant or an eligible applicant's authorized agent (See Sec. 24.16.010C.1).
4. **Plan Commission Recommendation**
PUD preliminary development plans must be referred to the plan commission with the /PUD zoning map amendment. Following review of the proposed zoning map amendment and preliminary development plan, the plan commission must act by simple majority vote of those members present and voting to recommend that the proposed zoning map amendment and preliminary development plan be approved, approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council.
5. **Common Council Hearing and Decision**
 - a. Upon receipt of recommendations from the plan commission, the common council must hold a public hearing on the proposed /PUD zoning map amendment and accompanying preliminary development plan. Following the close of the public hearing, the common council may act to approve, approve with modifications (e.g., reducing the land area involved in the rezoning or recommending another less intensive zoning classification) or deny the proposed /PUD zoning map amendment. If plan commission recommendation has not been forwarded to the common council within 60 days of referral of the proposed /PUD zoning map amendment to the plan commission, the common council may hold the required hearing and take action without receipt of the recommendation.
 - b. Final action on a /PUD zoning map amendment by the common council requires a simple majority vote of those members present and voting, except when a valid protest petition is filed with the city clerk before the date of the meeting that the common council takes final action on the amendment approval of the zoning map amendment requires at least a ¾ majority vote of those common council members present and voting.
6. **Review Criteria**
Zoning map amendments are legislative decisions of the common council based on their consideration of the public, health, safety and general welfare.
7. **Lapse of Approval**
 - a. If the subject landowner fails to file an application for PUD final development plan approval within 12 months of the date of PUD preliminary development plan approval, the landowner may request a one-time extension for a period of up to one year. If the landowner does not request such an extension, or if the landowner does not file an application for a PUD final development plan within the 1-year extension period, approval of the PUD preliminary development plan will lapse and be of no further effect.
 - b. For projects to be developed in phases, phase limits must be shown on the preliminary development plan. The common council may impose conditions upon the phasing plan as deemed necessary to ensure orderly development, including requirements for financial guarantees ensuring construction of all required improvements.

D. Final Development Plans

1. Application Filing

Final development plan applications must be filed with the zoning administrator before the lapse of a preliminary development plan.

2. Design Review Board's Recommendation

PUD final development plans must be referred to the design review board. The design review board must review the final development plan and vote to recommend that the final development plan be approved, approved with modifications, or denied. The design review board's recommendation must be transmitted to the common council.

3. Common Council Decision

Following receipt of recommendations from the design review board, the common council may act to approve, approve with conditions or deny the final development plan. If the design review board has received all the required items of information in the final development plan, but has not forwarded a recommendation to the common council within 60 days of referral of the final development plan to the design review board, the common council may take action without receipt of the recommendation. Final action on a PUD final development plan by the common council requires a simple majority vote of those members present and voting.

4. Review Criteria

In reviewing PUD final development plans, review and decision-making bodies must determine if the submitted final development complies with the approved preliminary development plan, any conditions imposed on that plan or any applicable regulations of this zoning ordinance.

5. Lapse of Approval

- a. In the event the landowner fails to commence development shown on the final development plan within 12 months after final approval has been granted, then such final approval will lapse and be of no further effect unless the time period is extended by the common council upon written application by the landowner.
- b. Requests for extensions must be submitted to the zoning administrator before the final development plan approval expires and must be processed in accordance with the procedures for approval of a /PUD preliminary development plan, including applicable filing fees (for time extension), notices and hearings.
- c. In the event of lapse of approval, approved PUD plans have no further effect and the regulations of the underlying zoning govern.

E. Amendments

1. Amendment Determination

The common council is authorized to determine whether a proposed PUD amendment constitutes a minor or major amendment.

2. Major Amendments

Major amendments may be approved only through the procedure required for approval of the PUD. A major amendment is one that constitutes a material change to the approved final development plan that is likely to create more significant adverse impacts on surrounding property owners or the community as a whole, such as:

- a. increases in the number of dwelling units or the amount of nonresidential floor area;
- b. reductions in the amount of land area set aside as open space, recreation area or natural resource conservation area; or
- c. failure to provide public amenities or public benefit features approved as part of the PUD.

3. Minor Amendments

The common council is authorized to approve minor PUD amendments through the approval of an amended final development plan, in accordance with the procedures of Sec. 24.16.050D.

24.16.060 Variances

A. Intent

Zoning variances are intended as a way to provide relief from practical difficulties or unnecessary hardships resulting from strict application of zoning ordinance requirements.

B. Applicability; Authorized Variances

The board of zoning appeals is authorized to grant variances to the provisions of this zoning ordinance in accordance with the variance procedures of this section, except that these variance procedures may not be used to:

1. permit a principal use in a zoning district that is not otherwise allowed in that zoning district (i.e., "use variances" are prohibited);
2. waive, modify or amend any definition or use classification;
3. waive, modify or otherwise vary any of the review and approval procedures;
4. waive, vary, modify or otherwise override a condition of approval or requirement imposed by an authorized decision-making body or the state or federal government;
5. waive, vary or modify applicable "minimum lot area per unit" (density) standards (Note: this provision is not intended to prohibit variances of minimum lot area requirements for individual lots);
6. waive, vary or modify provisions over which jurisdiction for exceptions or other modifications is assigned to another decision-making body; or
7. waive, vary or modify provisions for which variances are expressly prohibited.

C. Authority to File

Variance applications may be filed by eligible applicants or an eligible applicant's authorized agent (See Sec. 24.16.010C.1).

D. Application Filing

Variances applications must be filed with the zoning administrator.

E. Transmittal to Board of Zoning Appeals

The zoning administrator must transmit the variance application to the board of zoning appeals before their hearing on the matter.

F. Notice of Hearing

1. Class 1 notice of the board of zoning appeals' required hearing on a variance application must be published in accordance with chapter 985 of the Wisconsin Statutes.
2. Notice must be mailed to all of the following at least 7 days before the board of zoning appeals' required hearing:
 - a. the subject property owner; and
 - b. all owners of property within 100 feet of the subject property.
3. Notice of the filing of a variance application must be forwarded to the common council president and the alderperson of the district in which the subject property is located.
4. In the case of variances to the floodplain or wetland regulations of this zoning ordinance, notice must be provided to the Wisconsin Department of Natural Resources at least 10 days before the board of zoning appeals' hearing.

G. Hearing and Final Decision

1. The board of zoning appeals must hold a hearing to consider the variance request.
2. Following the close of the hearing, the board of zoning appeals must make its findings of fact and act to approve the requested variance, approve the variance with modifications and/or conditions, or deny the variance request based on the review criteria and standards of Sec. 24.16.060H.

3. Approval of a variance requires a simple majority vote of board of zoning appeals' members present and voting.

H. General Review Criteria and Standards

No variance may be approved unless the board of zoning appeals finds that all of the following conditions exist:

1. Exceptional circumstances exist pertaining to the subject lot;
2. That the requested variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity;
3. That the variance will not create special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this ordinance or to the public interests; and
4. That the difficulty or hardship was not created by the property owner.

I. Addition Review Criteria and Standards in Floodplains

In addition to the general criteria and standards of Sec. ~~24.16.060H~~, the board of zoning appeals must find that all of the following criteria are met when the variance involves floodplain zoning regulations:

1. the variance will not cause any increase in the regional flood elevations or profiles, permit a lower degree of flood protection in the floodplain than the flood elevation, allow any floor, basement or crawlway below the regional flood elevation, allow actions without the required amendments or have the effect of allowing or expanding a use or building that is prohibited in the floodplain zoning district;
2. the lot for which the variance is requested is less than 21,780 square feet in area and contiguous to existing structures constructed below the regional flood elevation; and
3. the variance will not increase costs for rescue and relief efforts.

J. Transferability

Approved variances run with the land and are not affected by changes of tenancy, ownership, or management.

K. Amendments

A request for changes in conditions of approval of variance must be processed as a variance application, including the requirements for fees and notices.

L. Lapse of Approval

An approved variance will lapse and have no further effect one year after it is approved by the board of zoning appeals, unless:

1. a building permit has been issued (if required);
2. the use or structure has been lawfully established; or
3. unless a different lapse of approval period or point of expiration has been expressly established by the board of zoning appeals.

M. Successive Applications

Once a variance request has been denied by the board of zoning appeals, no rehearing on the same or substantially similar variance application may held except upon a simple majority vote of board members present and voting and a finding that substantial new evidence is submitted that could not reasonably have been presented at the previous hearing.

N. Review by Court of Record

Any person aggrieved by the decision of the board of zoning appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. The petition must be presented to the court within 30 days after the filing of the decision in the office of the board of zoning appeals.

24.16.070 Building Permits

No permit for the use of land or buildings may be issued under Chapter 15 unless the chief building official has certified, after examination of the site and proposed building plans, that it complies with all provisions of this zoning ordinance.

24.16.080 Designation of Historic Sites and Structures

A. Applicability

The historic site and structure designation procedures of this section must be used to designate historic sites and historic structures. The procedures must also be followed to rescind historic designations.

B. Authority to Initiate

Historic site or structure designations may be initiated by the common council, the historic preservation commission or by petition of an eligible applicant or an eligible applicant's authorized agent (See Sec. 24.16.010C.1).

C. Interim Control

No building permit may be issued for alteration, construction, demolition or removal of a structure, site, or property proposed to be designated as a historic site or structure from the date of the meeting of the historic preservation commission at which a nomination form is first presented until the final disposition of the nomination by the historic preservation commission or the common council unless such alteration, removal or demolition is authorized by formal resolution of the common council as necessary for public health, welfare or safety. These interim controls may not be in effect for more than 180 days.

D. Application Filing

Historic site or structure nomination forms must be filed with the zoning administrator.

E. Notice of Hearing

1. Class 1 notice of the historic preservation commission's required hearing must be published in accordance with chapter 985 of the Wisconsin Statutes.
2. Notice must be mailed to all of the following at least 10 days before the historic preservation commission's required public hearing:
 - a. the subject property owner; and
 - b. all owners of property within 200 feet of the subject property.
3. **Notice must be forwarded to the common council president and the alderperson of the district in which the subject property is located.**
4. Notice must also be provided to the following: department of public works, community development authority, fire and police departments, health department, building department and plan commission. Each department may respond to the historic preservation commission within 30 days of notification with its comments on the proposed designation.

F. Historic Preservation Commission Hearing and Recommendation

- a. Upon receipt of a complete application/nomination form, the historic preservation commission must hold a hearing on the proposed historic designation. In addition to allowing comments from all notified persons, the historic preservation commission may hear expert witnesses. They also have the power to subpoena witnesses and records as deemed necessary. The commission may also conduct an independent investigation into the proposed designation.
- b. No more than 10 days after the close of the hearing, the historic preservation commission must act by simple majority vote of those members present and voting to recommend that the proposed historic site or structure designation be approved, approved with modifications or denied. The historic preservation commission's recommendation must be transmitted to the common council.

G. Common Council Hearing and Decision

1. Upon receipt of recommendations from the historic preservation commission, the common council may act to approve, approve with modifications or deny the proposed historic designation.
2. Final action on an historic designation by the common council requires a simple majority vote of those members present and voting, except when a valid protest petition is filed with the city clerk before the date of the meeting that the common council takes final action on the matter, approval of the zoning map amendment requires at least a ¾ majority vote of those common council members present and voting.

H. Protest Petitions

A valid protest petition must be signed and acknowledged by the owners of at least 20% of the land area included in the proposed historic designation.

I. Designation Criteria

Historic site or structure designations may be applied to site, structures or improvements of particular historic, architectural, archeological or cultural significance to the city such as those that:

1. exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community;
2. are identified with historic personages or with important events in national, state or local history;
3. embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship;
4. are representative of the notable work of a master building, designer or architect who influenced the person's age; or
5. have yielded, or may be likely to yield, information important to prehistory or history.

J. Notice of Action

After the designation has been approved by the common council, notification must be sent to the subject property owner. Notification must also be given to the city clerk, building department, plan commission and the city assessor.

K. Recordation

Upon approval of a historic designation of a site or a structure, such designation must be recorded with the register of deeds.

24.16.090 Historic Overlay Districts

A. Applicability

The historic (/HIS) overlay zoning district and the procedures of this section are used to designate historic districts. Historic overlay zoning districts may be established only in accordance with the procedures of this section. See Sec. 24.05.050 for information on the /HIS overlay district.

B. Authority to Initiate

Amendments to the official zoning map to establish /HIS overlay zoning may be initiated by the common council, the plan commission, the historic preservation commission or by petition of an eligible applicant or an eligible applicant's authorized agent (See Sec. 24.16.010C.1).

C. Interim Control

No building permit may be issued for alteration, construction, demolition or removal of a structure, site, or property proposed to be included in an /HIS overlay district from the date of the meeting of the historic preservation commission at which a nomination form is first presented until the final disposition of the nomination by the historic preservation commission or the common council unless such alteration, removal or demolition is authorized by formal resolution of the common council as necessary for public health, welfare or safety. These interim controls may not be in effect for more than 180 days.

D. Application Filing

Historic overlay zoning map amendment applications must be filed with the zoning administrator.

E. Notice of Hearing

1. Class 1 notice of the historic preservation commission's required hearing must be published in accordance with chapter 985 of the Wisconsin Statutes.
2. Class 2 notice of the common council's required public hearing on a zoning map amendment must be published in accordance with chapter 985 of the Wisconsin Statutes.
3. Notice must be mailed to all of the following at least 7 days before the historic preservation commission's and common council's required public hearings:
 - a. the subject property owner;
 - b. all owners of property within 200 feet of the subject property; and
 - c. the clerk of any municipality with corporate limits that abut the subject property.

F. Historic Preservation Commission Hearing and Recommendation

Upon receipt of a complete application/nomination form, the historic preservation commission must hold a hearing on the proposed historic overlay zoning designation. Following the close of the hearing, the historic preservation commission must act by simple majority vote of those members present and voting to withhold a recommendation or to recommend that the proposed overlay zoning amendment be approved, approved with modifications or denied. The historic preservation commission's recommendation must be transmitted to the plan commission and common council.

G. Plan Commission Recommendation

Proposed historic overlay zoning map amendments must be referred to the plan commission. Following review of the proposed historic overlay zoning map amendment, the plan commission must act by simple majority vote of those members present and voting to recommend that the proposed zoning map amendment be approved, approved with modifications, or denied. The plan commission's recommendation must be transmitted to the common council within 30 days of the date of their review.

H. Common Council Hearing and Decision

1. Upon receipt of recommendations from the historic preservation commission and plan commission, the common council must hold a hearing on the proposed historic overlay zoning map amendment. Following the close of the hearing, the common council may act to approve, approve with modifications (e.g., reducing the land area involved in the rezoning or recommending another less intensive zoning classification) or deny the proposed zoning map amendment.
2. Final action on an historic overlay zoning map amendment by the common council requires a simple majority vote of those members present and voting, except when a valid protest petition is filed with the city clerk before the date of the meeting that the common council takes final action on the amendment, approval of the zoning map amendment requires at least a ¾ majority vote of those common council members present and voting.

I. Protest Petitions

A valid protest petition must be signed and acknowledged by the owners of:

1. at least 20% of the land area included in the proposed zoning map amendment;
2. at least 20% of the land area immediately adjacent and extending 100 feet from the subject property; or
3. at least 20% of the land directly opposite from the subject property and extending 100 feet from the street frontage of the opposite land.

J. Designation Criteria

Historic overlay zoning may be applied to areas of particular historic, architectural, archeological or cultural significance to the city such as those that:

1. exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community;
2. are identified with historic personages or with important events in national, state or local history;
3. embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship;
4. are representative of the notable work of a master building, designer or architect who influenced his age; or
5. have yielded, or may be likely to yield, information important to prehistory or history.

K. Recordation

A historic overlay zoning map amendment that has been approved by the common council must be recorded with the register of deeds.

24.16.100 Certificates of Appropriateness

A. Applicability

1. No permit to reconstruct, alter or demolish all or any part of the exterior of designated historic structures or to construct any exterior improvement upon designated historic sites unless a certificate of appropriateness has been granted by the historic preservation commission in accordance with the provisions of this section.
2. Agencies of the city and all public utility and transportation companies undertaking projects affecting historic structures, historic sites or historic districts are required to obtain a certificate of appropriateness before initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or subject to city franchise agreements.

B. Exemptions

1. No certificate of appropriateness is required for interior work or exterior work that does not require the issuance of a building permit.
2. Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness, provided that:
 - a. the work is limited to repairs of existing features of an historic structure or site or the replacement of elements of a structure with pieces identical in appearance;
 - b. the work does not change the exterior appearance of the structure or site; and
 - c. does not require the issuance of a building permit.

C. Application Filing

Applications for certificates of appropriateness must be filed with the zoning administrator.

D. Historic Preservation Commission Hearing and Decision

1. The historic preservation commission must hold a hearing on certificate of appropriateness applications. Following the close of the hearing, the historic preservation commission may act to approve, approve with conditions or deny the certificate of appropriateness. The historic preservation commission must make its decision within 45 days of the date that a complete application is filed with the zoning administrator.
2. In acting on certificates of appropriateness, the historic preservation commission must consider the review criteria or Sec. 24.16.100E and all applicable historic preservation requirements of this zoning ordinance. If the historic preservation commission determines that the application for a certificate of appropriateness and the proposed changes are consistent with the character and features of the property or district and comply with all applicable historic preservation requirements of this zoning ordinance, it must issue the certificate of appropriateness.

3. If the historic preservation commission fails to issue a certificate of appropriateness due to the failure of the proposal to conform to applicable regulations and guidelines, the applicant may appeal such decision to the common council, with the same requirements for notice and hearing as required for the historic preservation commission in this section. In addition, if the historic preservation commission fails to issue a certificate of appropriateness, it must suggest ways in which the applicant would be able to obtain a certificate of appropriateness in accordance with applicable standards and guidelines.
4. Final action on a certificate of appropriateness application requires a simple majority vote of those commission members present and voting.
5. Upon issuance of a certificate of appropriateness, building permits for the subject work may be issued (if required).

E. Review Criteria

In acting on applications for a certificate of appropriateness, the historic preservation commission must consider all of the following criteria, as applicable:

1. Whether, in the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which the work is to be done;
2. Whether, in the case of the construction of a new improvement upon an historic site, or within an historic district, the exterior of the improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on the site;
3. Whether, in the case of any property located in an historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this zoning ordinance and to the objectives and design criteria of the historic preservation plan for the historic district, as adopted by the common council;
4. Whether the building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state;
5. Whether the building or structure is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced without great difficulty and/or expense;
6. Whether retention of the building or structure would promote the general welfare of the people of the city or the state by encouraging the study of American history, architecture and design, or by developing an understanding of American culture and heritage;
7. Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore or use it; provided, that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a certificate of appropriateness; and
8. Whether any new structure proposed to be constructed, or change in use proposed to be made, is compatible with the buildings and character of the area in which the subject property is located.

F. General Standards for Designated Historic Properties

In addition, in determining whether to issue certificates of appropriateness, the historic preservation commission must consider and may give decisive weight to any or all of the following standards:

1. A property must be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property must be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property must be avoided.
3. Each property must be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, are not allowed.

4. Most properties change over time; those changes that have acquired historic significance in their own right must be retained and preserved.
5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property must be preserved.
6. Deteriorated historic features must be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature must match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features must be substantiated by documentary, physical or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials may not be used. The surface cleaning of structures, if appropriate, must be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project must be protected and preserved. If such resources must be disturbed, mitigation measures must be undertaken.
9. New additions, exterior alterations or related new construction may not destroy historic materials that characterize the property. The new work must be differentiated from the old and must be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction must be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would not be impaired.

G. Other Permits and Approvals

The issuance of a certificate of appropriateness does not relieve the applicant from obtaining other permits and approvals required by the city. A building permit or other municipal permit may not be issued and if issued will be deemed invalid if it is obtained without the presentation of the certificate of appropriateness required for the proposed work. Insofar as they are applicable to an historic structure, historic site or improvement in an historic district designated under this section, any provision of the plumbing code, electrical code or building or housing of the city shall apply, unless waived by the appropriate state or city officials. The historic preservation commission may support or propose such waivers before the appropriate state or city appeals body.

H. Lapse of Approval

An approved certificate of appropriateness will lapse and have no further effect one year after it is issued by the historic preservation commission, unless:

1. a building permit to perform the work has been issued (if required); or
2. the work has been commenced and is being diligently pursued.

I. Violations

In addition to other penalties and remedies authorized in Sec. 24.17.020, the city, upon determining that work is being conducted without a required certificate of appropriateness or in violation of a certificate of appropriateness, issue a stop work order, and all work must cease on the designated property. No additional work may be undertaken as long as such stop work order remains in effect.

24.16.110 Appeals of Administrative Decisions

A. Applicability; Authorized Variances

The board of zoning appeals is authorized to hear and decide appeals when it is alleged there has been an error in any order, requirement, decision or determination made by the design review board, the zoning administrator or any other administrative official in the administration, interpretation or enforcement of this zoning ordinance.

B. Right to Appeal

Appeals of administrative decisions may be filed by any person aggrieved by the administrative official's decision or action, including officials, departments, boards or agencies affected by decisions.

- C. Application Filing**
Appeals of administrative decisions must be filed with the zoning administrator within 10 days of the date of the written decision or order.
- D. Effect of Filing**
The filing of a complete notice of appeal stays all proceedings in furtherance of the action appealed, unless the zoning administrator certifies to the board of zoning appeals, after the appeal is filed, that, because of facts stated in the certification, a stay would cause immediate peril to life or property, in which case the proceedings will not be stayed unless by a restraining order, which may be granted by the board of zoning appeals or by a court of record based on due cause shown.
- E. Transmittal to Board of Zoning Appeals**
Upon receipt of a complete notice of appeal, the zoning administrator or other administrative official whose decision is being appealed must transmit to the board of zoning appeals all papers constituting the record upon which the action appealed is taken.
- F. Notice of Hearing**
 - 1. Class 1 notice of the board of zoning appeals' required hearing on an appeal of an administrative decision must be published in accordance with chapter 985 of the Wisconsin Statutes.
 - 2. Notice must be mailed to the subject property owner at least 7 days before the board of zoning appeals' required hearing.
 - 3. Notice of the filing of an appeal must be forwarded to the common council president and the alderperson of the ward in which the subject property is located.
- G. Hearing and Final Decision**
 - 1. The board of zoning appeals must hold a hearing to consider the appeal.
 - 2. Following the close of the hearing, the board of zoning appeals must take action on the appeal. The board's decision must be supported by written findings of fact.
 - 3. In exercising the appeal power, the board of zoning appeals has all the powers of the administrative official from whom the appeal is taken. The board of zoning appeals may affirm or may, upon the concurring vote of a simple majority of board members present and voting, reverse, wholly or in part, or modify the decision being appealed.
 - 4. In acting on the appeal the board of zoning appeals must grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.
- H. General Review Criteria and Standards**
An administrative decision may be reversed only if the board of zoning appeals finds that the zoning administrator or other administrative official erred.
- I. Successive Applications**
Once an appeal has been denied by the board of zoning appeals, no rehearing on the same or substantially similar appeal may held except upon a simple majority vote of board members present and voting and a finding that substantial new evidence is submitted that could not reasonably have been presented at the previous hearing.
- J. Review by Court of Record**
Any person aggrieved by the decision of the board of zoning appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. The petition must be presented to the court within 30 days after the filing of the decision in the office of the board of zoning appeals.

24.17 | Administration and Enforcement

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24.17.010 Review and Decision-Making Bodies

A. Common Council

See Chapter 2.02 of the city code of ordinances.

B. City Plan Commission

See Chapter 2.24 of the city code of ordinances.

C. Board of Zoning Appeals

1. Established

The board of zoning appeals is established by this ordinance for the purpose of making decisions on variance applications and appeals of administrative decisions.

2. Composition

a. The board of zoning appeals consists of 5 regular members, all of whom are appointed by the mayor and subject to confirmation of the common council.

b. In addition to the 5 regular members, the mayor may appoint 2 alternate members of the board of zoning appeals, subject to confirmation of the common council. Alternate members have the power to act only when a regular member refuses to vote because of a conflict of interest or when a regular member is absent.

3. Appointment of Officers

a. The mayor has authority to designate a chairperson of the board of zoning appeals.

b. The board of zoning appeals is authorized to appoint a secretary.

4. Terms

Regular and alternate members of the board of zoning appeals serve 3-year terms.

5. Powers and Duties

The board of zoning appeals has all of the powers and duties expressly identified in this zoning ordinance, including the following:

a. to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or design review board, in the administration or enforcement of this zoning ordinance (See also Sec. 24.16.110 and Sec. 24.13.010Q);

- b. to authorize (non-use) variances that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the zoning ordinance will be observed, public safety and welfare secured and substantial justice done (See also Sec. 24.16.060); and
- c. to hear and decide applications for those temporary uses requiring approval of the board of zoning appeals.

6. Assistance

The board of zoning appeals may request assistance from any other city officers, departments, commissions or boards.

7. Oaths and Witnesses

The chairperson of the zoning board has the authority to administer oaths and compel the attendance of witnesses.

D. Historic Preservation Commission

1. Establishment

The historic preservation commission is established and assigned the powers and duties expressly indicated in this zoning ordinance.

2. Composition

The historic preservation commission consists of 9 members, one of whom must be an alderperson and 8 of whom must be citizens. Citizen members must have a known interest in historic preservation with relevant experience in related fields, such as architecture, planning, design, history or appraisal.

3. Appointment

Members of the historic preservation commission are appointed by the mayor and subject to confirmation of the common council.

4. Terms

Each member of the historic preservation commission serves a 3-year term.

5. Operation

The commission may adopt specific operating guidelines for historic structure, historic site and historic district designations, provided the guidelines are in conformance with the provisions of this zoning ordinance.

6. Powers and Duties

The historic preservation commission has all of the powers and duties expressly identified in this zoning ordinance, including the following:

- a. recommending designation of historic structures, historic sites and historic districts;
- b. issuing certificates of appropriateness;
- c. preparing historic preservation plans;
- d. **working for the continuing education of citizens about the historical heritage of the city and the historic properties designated under the provision of this zoning ordinance;**
- e. **cooperating with the State of Wisconsin historic preservation officer and the state historic preservation review board in attempting to include such properties designated as landmarks or landmark sites, or historic districts in the National Register of Historic Places and the State Register of Historic Places;**
- f. **receiving and soliciting funds for the purpose of historic preservation, which funds must be placed in a special city account set aside for such purpose; and**
- g. developing specific guidelines for historic structures, historic sites and historic district designations.

7. Historic District Plans

- a. Historic district plans may be designated for any geographic area of particular historic, architectural or cultural significance to the city that:
 - (1) exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community;
 - (2) is identified with historic personages or with important events in national, state or local history;
 - (3) embodies the distinguishing characteristics of architectural types or specimens inherently valuable for the study of a period or periods, styles, methods or construction, or of indigenous materials or craftsmanship;
 - (4) is representative of the notable works of master builders, designers or architects who influenced their age.
- b. Each historic preservation plan prepared for or by the historic preservation commission must include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development and a statement of preservation objectives.

8. Design Review

The historic preservation commission is designated as the city's design review authority within historic districts and for historic properties/sites.

E. Design Review Board

See Title 15 of the city code of ordinances.

F. Zoning Administrator

1. Powers and Duties

The zoning administrator is responsible for carrying out those duties and responsibilities expressly assigned by this zoning ordinance and for:

- a. conducting inspections of buildings, structures and land to determine compliance with this zoning ordinance and notifying in writing the person responsible for any violation found;
- b. ordering the discontinuance of observed violations of this zoning ordinance or taking any other action authorized by law or by this zoning ordinance to ensure compliance with or to prevent violation of zoning ordinance provisions;
- c. assisting the city attorney in the prosecution of zoning ordinance violations;
- d. maintaining permanent and current records of this zoning ordinance, including, all maps, amendments, conditional use permits, planned unit developments, variances, appeals, applications and zoning ordinance text;
- e. advising all persons seeking zoning information of the existence of officially adopted plans;
- f. providing and maintaining a source of public information relative to all matters arising out of this zoning ordinance;
- g. receiving, filing and forwarding to the plan commission, the board of zoning appeals and common council all applications for matters on which those respective entities are required to review or take action; and
- h. keeping the plan commission, board of zoning appeals and common council advised of zoning activities.

24.17.020 Violations, Penalties and Enforcement

A. Responsibility for Enforcement

The zoning administrator is responsible for enforcing this zoning ordinance, except as otherwise expressly stated.

B. Violations

Unless otherwise expressly allowed by this zoning ordinance or state law, any violation of a provision of this zoning ordinance—including but not limited to all of the following—are subject to the remedies and penalties provided for in this zoning ordinance.

1. to use land or buildings in any way not consistent with the requirements of this zoning ordinance;
2. to erect a building or other structure in any way not consistent with the requirements of this zoning ordinance;
3. to engage in the use of a building or land or to carry out construction, demolition or any other activity requiring one or more permits, certificates or approvals under this zoning ordinance without obtaining the required permits, certificates or approvals;
4. to engage in the use of a building or land or to carry out construction, demolition or any other activity requiring one or more permits, certificates or approvals under this zoning ordinance in any way that is inconsistent with the permit, certificate or approval or any conditions imposed on the permit, certificate or approval;
5. to violate the terms of any permit, certificate or approval granted under this zoning ordinance or any condition imposed on the permit or approval;
6. to obscure, obstruct or destroy any notice required to be posted or otherwise given under this zoning ordinance;
7. to violate any lawful order issued by any person or entity under this zoning ordinance; or
8. to continue any violation after receipt of notice of a violation.

C. Continuing Violations

Each day that a violation remains uncorrected after receiving notice of the violation from the city constitutes a separate violation of this zoning ordinance.

D. Remedies and Enforcement Powers

The city has all remedies and enforcement powers allowed by law, including the following:

1. Withhold Permit

- a. The zoning administrator may deny or withhold permits, certificates or other forms of authorization on any land or structure or improvements upon which there is an uncorrected violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the current owner or applicant is responsible for the violation in question.
- b. The zoning administrator may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned by or being developed by a person who owns, developed or otherwise caused an uncorrected violation of a provision of this zoning ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the property for which the permit or other approval is sought is the property in violation.

2. Permits Approved with Conditions

Instead of withholding or denying a permit or other authorization as authorized in Sec. 24.17.020D.1, the zoning administrator may grant such authorization subject to the condition that the violation be corrected.

3. Revoke Permits

- a. Any permit, certificate or other form of authorization required under this zoning ordinance may be revoked by the zoning administrator when the zoning administrator determines that any of the following has occurred:
 - (1) that there has been a departure from the plans, specifications, or conditions required under terms of the permit;
 - (2) that the development permit was procured by false representation or was issued by mistake; or
 - (3) that any of the provisions of this zoning ordinance have or are being violated.
- b. Written notice of revocation must be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such permit was issued. If no persons can reasonably be served with notice, the notice must be posted in a prominent location. After delivery or posting of notice, no construction or development may proceed.

4. Stop Work

With or without revoking permits, the zoning administrator may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this zoning ordinance or of a permit, certificate or other form of authorization issued under the zoning ordinance.

5. Revoke Plan or Other Approval

Where a violation of this zoning ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the zoning administrator may, upon notice to the applicant and other known interested parties (including any holders of building permits affected) (a) revoke the plan or other approval or (b) condition its continuance on strict compliance with this zoning ordinance or the provision of security to ensure that construction is completed in compliance with approved plans, or such other conditions as the zoning administrator may reasonably impose.

6. Injunctive Relief

The city may seek an injunction or other equitable relief in court to stop any violation of this zoning ordinance or of a permit, certificate or other form of authorization granted under the zoning ordinance.

7. Abatement

The city may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

8. Other Penalties, Remedies and Powers

The city may seek such other penalties as are provided by Wisconsin law or the general penalty provision in Chapter 1.12 of the city code of ordinances.

E. Continuation of Previous Enforcement Actions

Nothing in this zoning ordinance prohibits the continuation of previous enforcement actions, undertaken by the city pursuant to previous valid ordinances and laws.

F. Remedies Cumulative

The remedies and enforcement powers established in this zoning ordinance are cumulative, and the city may exercise them in any combination or order.

G. Persons Subject to Penalties

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies and enforcement actions.

H. Enforcement Procedures

1. Non-Emergency Matters

In the case of violations of this zoning ordinance that do not constitute an emergency or require immediate attention, the zoning administrator must give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner stated in this section, after which the persons receiving notice have 10 days to correct the violation before further enforcement action may be taken. Notice must be given in person, by US Mail, or by posting notice on the premises. Notices of violation must state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

2. Emergency Matters

In the case of violations of this zoning ordinance that constitute an emergency situation as a result of public health or safety concerns or violations that will create increased problems or costs if not remedied immediately, the city may use the enforcement powers available under this zoning ordinance without prior notice, but the zoning administrator must attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who is party to the agreement and to applicants for any relevant permit.

3. Appeals

Enforcement actions taken by the zoning administrator may be appealed by the affected party to the board of zoning appeals in accordance with Sec. 24.16.110.

24.18 | Terminology and Measurements

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24.18.010 Rules of Language

See Sec. 24.01.100.

24.18.020 Definitions

Accessory Building

A building that is subordinate in area, extent or purpose to the principal use and building on the subject lot and that is customarily used in conjunction with a permitted accessory use.

Accessory Use

A use that is subordinate in area, extent or purpose to the principal use of the subject lot and that is customarily found in conjunction with a permitted principal use.

Alley

A public right-of-way that affords a secondary means of access to abutting property.

Apiary

The use of land for keeping bees. A bee farm.

Awning

A roof-like cover that projects from the wall of a building.

Basement

A portion of a building located wholly or partly underground, but having more than one-half its clear floor to ceiling height below the average grade of the land adjoining the building.

Biomass Energy

Energy produced from the biological breakdown of organic matter.

Block

A tract of land bounded by streets or by a combination of one or more streets and public parks, cemeteries, railroad rights-of-way, bulkhead lines, or shore lines of waterways or corporate boundary lines.

Buildable Lot Area

The portion of a lot remaining after required setbacks have been provided.

Building

Anything constructed or erected for shelter or enclosure of persons, animals, chattels, or movable property of any kind that requires, more or less, permanent location on the land or that is attached to something having a permanent location on the land.

Building, Completely Enclosed

A building separated on all sides from the adjacent open space or from other structures by a permanent roof and by exterior walls having only windows and normal entrance or exit doors, or by party walls.

Building, Detached

A building surrounded by open space on the same lot.

Building Height

See Sec. 24.18.040

Building, Principal

A building in which the principal use of the subject lot is conducted.

Building, Residential

A building arranged, designed, used, or intended to be used solely for the residential occupancy by one or more households.

Business

An occupation, other than home occupations, employment, or enterprise that occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.

Certificate of Appropriateness

The certificate issued by the historic preservation commission approving alteration, rehabilitation, construction, reconstruction or demolition of an historic structure, historic site or any improvement in an historic district.

Cigarette

As set forth in Section 139.30(1) of the Wisconsin Statutes.

Cold Frame

An unheated structure no more than 4 feet in height used for protecting seedlings and plants from the cold.

Commercial Message

Any sign, wording, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity.

Commercial Vehicle

A motor vehicle ordinarily used or designed for the delivery of goods, wares, merchandise or of materials of any kind, or for the transportation of tools or supplies in the conduct of an occupation or of a business.

Community Advisory Committee

A committee consisting of representatives from a proposed community living arrangement facility, residents of the neighborhood in which the facility is proposed to be located and the development director or his or her designee.

Convenient Cash Business

A business licensed pursuant to Wis. Stats. Secs. 218.05 or 138.09, engaged in the "payday loan business," "title loan business," "currency exchange business" (also known as "check cashing"), or any other substantially similar business. Convenient cash businesses do not include financial institutions as defined below. For purposes of this definition, the following terms have means ascribed:

1. "Business" includes an individual or individuals, firm, partnership, association, corporation, limited liability company or any other business entity.
2. "Currency exchange business" means, in accordance with Sec. 218.05, Wis. Stats., any business except banks incorporated under the laws of this state and national banks organized pursuant to the laws of the United States

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and any credit union operating under Ch. 186, Wis. Stats. pursuant to a certificate of authority from the Wisconsin commissioner of credit unions, engaged in the business of and providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. This term does not include any person engaged in the business of transporting for hire, bullion, currency, securities, negotiable or nonnegotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any business in this state, who in the course of such business or profession and, as an incident thereto, cashes checks, drafts, money orders or other evidences of money.

3. "Financial institutions" means any business authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan associations and credit unions. This term does not include a currency exchange, payday loan business or a title loan business.
4. "Payday loan business" means a business that provides unsecured loans with an initial term of ninety-one days or less in which the amount borrowed does not exceed two thousand dollars and is usually for a period from the time of the loan until the borrowers next payday for which the lender charges either fees or interest for the loan.
5. "Title loan business" includes any business providing loans to individuals in exchange for receiving title to the borrower's motor vehicle as collateral.

Curb Level

The level of the established curb in front of a building or structure, measured at the center of building.

Distributed Energy

Systems that produce and distribute energy at a small area scale, such as a neighborhood or campus.

Dwelling

A residential building, or portion thereof designed or used exclusively as a residence or sleeping place, but not including hotels, motels, rooming houses, nursing homes, tourist homes, tents or mobile homes.

Dwelling Unit

A group of rooms constituting all or part of a dwelling, that are arranged, designed, used, or intended for use exclusively as living quarters for one household.

Elderly

Any person, persons, or family head 62 years of age or over. In the instance of elderly or retirement housing, the head of household or sole occupant must be elderly.

Farm Products

Fruits, vegetables, mushrooms, herbs, grains, legumes, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, yogurt, cheese and other dairy products) and seafood.

Farm Product, Value-added

A product processed by a producer from a farm product, such as baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee, smoked or canned meats or fish, sausages, or prepared foods.

Fence, Solid

A fence, including solid entrance and exit gates, that effectively conceals from viewers in or on adjoining properties and streets, materials stored and operations conducted behind it.

Floor Area, Gross

The sum of the gross horizontal areas of all floors measured in square feet, not including the basement floor, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area of a building includes elevator shafts and stairwells at each floor, floor space used for mechanical equipment, (except equipment, open or enclosed, located on a roof or in a basement), penthouses, attic space having headroom

of seven feet ten inches or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses.

Floor Area Ratio

The numerical value obtained through dividing the gross floor area of a building by the lot area on which the building is located.

Garage, Attached

A garage beneath a building or a garage adjoining a building and connected by a roof.

Geothermal Energy System

A sealed, watertight loop of pipe buried outside of a building foundation, intended to re-circulate fluids through a heat exchanger. This includes vertical closed loop, horizontal closed loop and water body closed loop systems.

Greenhouse

A temporary or permanent structure that is primarily used for the cultivation of plants.

Historic District

An area designated by the common council on recommendation of the historic preservation commission, that contains 2 or more historic improvements or sites, as well as those abutting improvement parcels that the historic preservation commission and common council determine should be included in the district to assure that their appearance and development is harmonious with such historic structures or historic sites.

Historic Property, Designated

Any property that has been designated as an historic site or any property within an historic district.

Historic Site

Any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which an historic event has occurred, and that has been designated as an historic site under this section, or an improvement parcel, or part thereof, on which is situated an historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

Historic Structure

Any improvement that has a special historic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and that has been designated as an historic structure pursuant to the provisions of this zoning ordinance.

Home Occupation

See Sec. 24.10.020.

Hoop House

A temporary or permanent structure typically made of flexible pipe or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape, for the purposes of protecting and cultivating plants. A hoop house is considered more temporary than a greenhouse.

Household

Any number of individuals related by blood, marriage or adoption living together on the premises as a single house-keeping unit, including domestic servants, for whom, subject to the provisions of this title, separate living quarters may be provided. A household may provide meals, and/or lodging for not to exceed 3 additional persons not related to household members.

Improvement Parcel

The unit of property that includes a physical betterment constituting an improvement and the site upon which it is located, that is treated as a single entity for the purpose of levying real estate taxes. The term "improvement parcel" also includes any unimproved area of land that is treated as a single entity for real estate tax purposes.

Invasive (plant) Species

Plant species regulated under the Wisconsin Invasive Species Rule (Chapter NR 40).

Large-Format Retail Development

Retail sales uses consisting of individual freestanding buildings or groups of buildings with a cumulative gross floor area of 50,000 square feet or more, including all structures and outdoor sales areas within the development and regardless of diverse lotting, use or tenancy.

Lot

A parcel of land under a single tax key number having frontage on a public street, occupied or intended to be occupied by a principal structure together with accessory buildings and uses, sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this ordinance. A lot may be land so recorded on the records of the register of deeds of Milwaukee County, Wisconsin, but it may include parts of or a combination of such lots when adjacent to one another, provided such ground is used for one principal building or use.

Lot Area

See Sec. 24.18.030A.

Lot, Corner

A lot situated at the junction of and abutting on 2 or more intersecting streets, or a lot at the point of deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.

Lot Depth

The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot, Interior

A lot situated on a single street that is bounded by adjacent lots along each of its other lines.

Lot Lines

The peripheral boundaries of a lot.

Lot Line, Front

The lot line along the narrowest side of any lot that borders an existing or dedicated street lot line. See also Sec. 24.18.030E.1.d.

Lot Line, Rear

The lot line that is most distant from and is or is approximately parallel to the front line. If the rear lot line is less than 20 feet in length, or if a point is formed at the rear, the rear lot line shall be deemed to be a line 20 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side

Any lot line that is not a front or rear lot line.

Lot, Nonconforming

See Sec. 24.15.020.

Lot, Through

A lot that has a pair of opposite lot lines along two substantially parallel streets, and that is not a corner lot. See also Sec. 24.18.030E.1.c.

Lot Width

See Sec. 24.18.030C.

Mall, Regional

A shopping center with more than 250,000 square feet of gross floor area.

Marquee

A permanent roof-like structure projecting from the wall of a building and/or over an entrance.

Mobile Retail Food Establishment

Retail food establishment that reports to and operates from a commissary and is readily moveable, is a motorized wheeled vehicle, or a towed wheeled vehicle designed and equipped to serve food.

Mobile Food Vending, Retail

Sales of commissary prepared or prepackaged food from a mobile retail food establishment or pushcart.

Party Wall

A wall containing no opening that extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and that separates contiguous buildings but is in joint use for each building.

Photovoltaic Cell

A semiconductor device that converts solar energy into electricity.

Producer

A person or entity that grows or raises farm products on land that the person or entity farms and owns, rents or leases or a person or entity that creates (by cooking, canning, baking, preserving, roasting, etc.) value-added farm products.

Pushcart

A non-self-propelled vehicle limited to serving commissary prepared or prepackaged food and non-potentially hazardous food unless the equipment is commercially designed and approved to handle food preparation and service.

Renewable Energy

Energy from resources that are quickly replenished, such as sunlight, wind, water, biomass, geothermal resources.

Setback

See Sec. 24.18.030E.

Shade Tree

A tree planted primarily for its ability to provide ample shade beneath its high crown of foliage and broad overhead canopy.

Single Ownership

A parcel of land, improved or unimproved, that is owned by a person and his or her spouse and/or children, by a corporation and any of its directors, officers, employees or agents or such persons, spouse and/or children, by a number of corporations as one director who is on the board of directors of all corporations or an officer or director whose spouse and/or children are officers or directors in the other corporations or by a partnership and any of its partners, employees, agents or the spouse and/or children of such persons.

Solar Energy System

A system intended to convert solar energy into thermal, mechanical or electrical energy,

Solar Energy System, Building-Integrated

A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural part of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, skylights, shading devices and similar architectural components.

Solar Energy System, Structure-Mounted

A solar energy system that is mounted on the façade or roof of either a principal or accessory structure.

Solar Energy System, Flush-Mounted

A solar energy system that is mounted flush with a finished building surface, at no more than 6 inches in height above that surface.

Solar Energy System, Ground-Mounted

A solar energy system mounted on the ground and not attached to any other structure other than structural supports.

Solar Panel

A group of photovoltaic cells assembled on a panel.

Specified Sexual Activities

Includes any and all of the following:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Specified Anatomical Areas

Includes any and all of the following:

1. Less than completely and opaquely covered:
 - a. Human genitals pubic region,
 - b. Buttock, and
 - c. Female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Story

That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement is not counted as a story.

Story, Half

A story that is situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor area of the story immediately below it, and that does not contain an independent dwelling unit.

Street Wall

A wall, or part of a wall of a building or supports of a porch or other structure nearest to and most nearly parallel with the shortest lot line along a street, extending more than 4.5 feet above finished grade.

Structural Alterations

Any change, other than incidental repairs, in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams, or guiders, or any substantial change in the roof or exterior walls excepting such alterations as may be required for the safety of the building.

Structure

Anything erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment.

Tobacco Products

As set forth in Section 139.75(12) of the Wisconsin Statutes.

Trellis

A vertical frame of lattice work used as a screen or as a support for climbing plants. The trellis, exclusive of the planting materials, may not exceed a maximum opacity of 50%. The length of a trellis may not exceed the maximum trellis height, that is 8 feet and no trellis units may be joined to create a continuous barrier. A trellis is not an arbor.

Usable Open Space

That portion of a lot with a minimum dimension of 10 feet that is not devoted to buildings, structures, parking areas or driveways.

Use

The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Use, Nonconforming

See Sec. 24.15.030.

Use, Principal

The main use of land or building as distinguished from a subordinate or accessory use.

Utility-Scale Energy Production

An energy production facility that produces electric energy for widespread distribution through the electric power grid.

Water Collection Cistern

A barrel or similar container that collects and stores rainwater or other water that would otherwise be lost as runoff or diverted into a storm drain.

Zoning Administrator

The development director or the development director's designee.

Any of the following whether new or used:

24.18.030 Measurements and Exceptions

A. Lot Area

Lot area includes the total land area contained within the property lines of a lot.

B. Lot Area per Unit

Lot area per unit refers to the amount of lot area required for each dwelling unit on the subject parcel. For example, if a minimum parcel-area-per-unit standard of 1,000 square feet is applied to an 8,750 square foot parcel, a maximum of 8 dwelling units would be allowed on that parcel.

C. Lot Width

Lot width is measured between side property lines at the front lot line. For irregularly shaped lots, lot width is measured by averaging the lot's width at the front and rear lot lines.

D. Building Coverage

Building coverage is the area of a lot covered by principal and accessory buildings, as measured along the building line. Only building areas beneath a roof are counted for purposes of measuring building coverage. A porch with a roof, for example, is counted, but an uncovered deck structure is not considered building coverage.

E. Setbacks

1. Front and Street Side Setbacks

a. Measurement

Front and street side setbacks are measured from the existing right-of-way line to the closest point of the building or structure. Where rights-of-way widths identified on an officially adopted plan exceed existing widths, setback measurements must be taken from the planned ultimate right-of-way line.

b. Permitted Obstructions/Encroachments

Front and street side setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. 24.18.030F.

c. Double Frontage (Through) Lots

On double-frontage lots, front setback requirements apply to both (opposing) street frontages.

d. Determining the Front of a Lot

For lots in residential zoning districts or occupied by residential uses, the front is the side of the lot that fronts on a street. In the case of a corner lot, the narrowest side front-

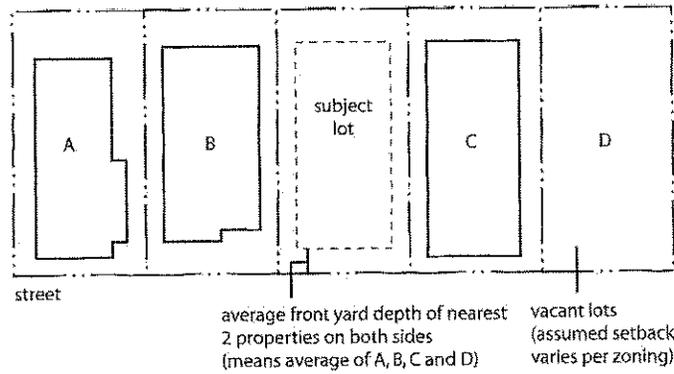
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ing on the street shall be considered to be the front of the lot. In the case of a corner lot with equal sides, the side facing the street having the greatest frontage shall be considered to be the front of the lot. For lots in nonresidential zoning districts or occupied by nonresidential uses, the front is the side of side of the lot that fronts on the major street as determined by the zoning administrator.

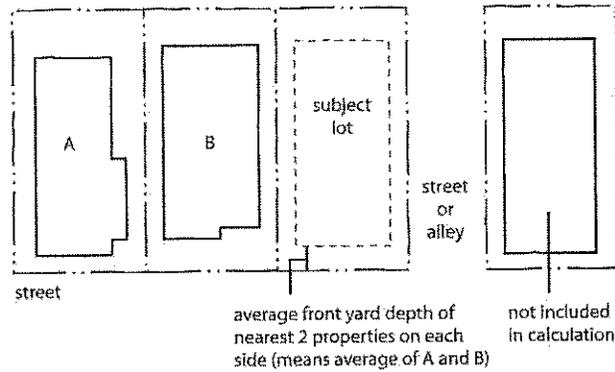
e. Exceptions for Established Setbacks

When existing buildings on one or more abutting lots are closer to the street (front or street side) property line than the otherwise required setback, additions to existing buildings or construction of new buildings on the subject lot may comply with the average street yard depth that exists on the nearest 2 lots on either side of the subject lot instead of complying with the zoning district's minimum street setback requirement.

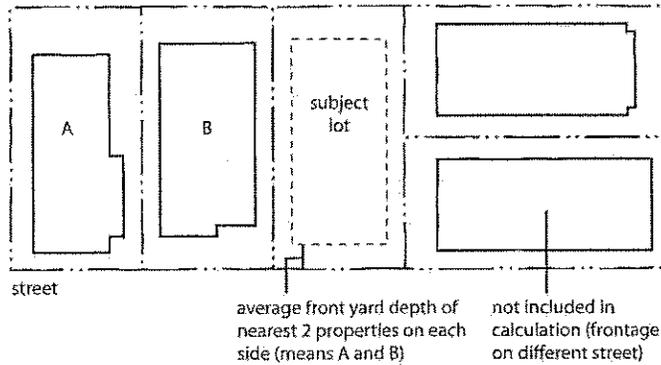
- (1) If one or more of the lots required to be included in the averaging calculation is vacant, that vacant lot will be deemed to have a street yard depth equal to the minimum street setback requirement of the subject zoning district.



- (2) Lots with frontage on a different street than the subject lot or that are separated from the subject lot by a street or alley may not be used in computing the average.



- (3) When the subject lot is a corner lot, the average street yard depth will be computed on the basis of the nearest 2 lots with frontage on the same street as the subject lot.



- (4) When the subject lot abuts a corner lot with frontage on the same street, the average front yard depth will be computed on the basis of the abutting corner lot and the nearest 2 lots with frontage on the same street as the subject lot.

2. Rear Setbacks

a. Measurement

Rear setbacks are measured from the rear property line to the closest point of the building.

b. Permitted Obstructions/Encroachments

Rear setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. 24.18.030F.

c. Through Lots

On through lots both (opposing) street lines are considered front property lines and front setback requirements apply.

3. Side Setbacks

a. Measurement

Side setbacks are measured from the interior (non-street) side property line to the closest point of the building.

b. Permitted Obstructions/Encroachments

Side setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. 24.18.030F.

F. Features Allowed to Encroach in Required Setbacks

1. Residential Zoning Districts

Required setbacks in residential zoning districts must be unobstructed and unoccupied from the ground to the sky except that features are allowed to encroach into required setbacks to the extent indicated in the following table:

| Obstruction/Feature | Residential District Setback | | | |
|--|------------------------------|------|---------------|-------------|
| | Front | Rear | Interior Side | Street Side |
| Arches | | P | P | |
| Awnings | P[12] | P | P[8] | P[8] |
| Balconies | | P | | |
| Belt courses | P[9] | P[9] | P[9] | P[9] |
| Breezeways | P | P | P | P |
| Cornices | P | P | P | P |
| Tool sheds, detached or attached | - | P[1] | - | - |
| Fences | - | P[2] | P[2] | P[2] |
| Fire escapes, open | - | - | - | - |
| Flag poles | P | P | P | P |
| Garages, detached and carports | - | P[1] | P[13] | - |
| Geothermal heat pumps and geothermal heat exchange systems (max. 4 feet) | - | P | P | - |

| Obstruction/Feature | Residential District Setback | | | |
|--|------------------------------|-------|---------------|---------------|
| | Front | Rear | Interior Side | Street Side |
| height) | | | | |
| Laundry drying equipment | – | P | – | – |
| Nameplates | P | P | P | P |
| Parking spaces (required, open) | – | P | – | – |
| Ornamental features, attached | P[5] | P[5] | P[5] | P[5] |
| Ornamental features, detached | P[9] | P[9] | P[9] | P[9] |
| Ornamental light standards | P | P | P | P |
| Playhouses | – | P[1] | – | – |
| Planter boxes, landscape or stormwater | P[4] | P[4] | P[4] | P[4] |
| Roof overhangs | P[5] | P[5] | P[5] | P[5] |
| Signs | P[10] | – | – | P[10] |
| Sills | P | P | P | P |
| Solar or wind energy systems, building-mounted | – | P | P | – |
| Solar or wind energy systems, ground-mounted | – | P | P | – |
| Stoops and patio | P | P | P | P |
| Swimming pools and tennis courts | – | P | – | – |
| Tennis courts | – | P | – | – |
| Trellises | P[14][16] | P[14] | P[14] | P[14][15][16] |
| Water collection cisterns | P[4] | P | P | P[4] |
| Wheelchair lifts | P | P | P | P |
| Wing walls | P[9] | P[9] | P[9] | P[9] |

P = Permitted setback obstruction | – Prohibited setback obstruction

- [1] Must comply with accessory structure setbacks
- [2] See Chapter 15.28 of the city code of ordinances.
- [3] Not more than 4.5 feet above grade if located more than 2.5 feet into a required setback.
- [4] 5 feet maximum—not more than 4.5 feet above grade.
- [5] 2 feet maximum into minimum required setback.
- [6] 4 feet maximum into minimum required setback.
- [7] 1 foot maximum into minimum required setback.
- [8] 3 feet maximum into minimum required setback.
- [9] Not more than 4.5 feet above grade.
- [10] See Chapter 15.14 of the city code of ordinances.
- [11] Not closer than 10 feet to any side or rear lot line.
- [12] 6 feet maximum into minimum required setback.
- [13] Minimum side setback required for side of principal structure on which the proposed garage/carport would be constructed.
- [14] Trellis units must be separated by a distance that equals their width.
- [15] On side yards abutting a street, a trellis may be placed in street side yard, provided that it is at least 18 inches from the street side property line and complies with intersection visibility regulations of Sec. 24.14.020.
- [16] Requires design review board approval.

2. Nonresidential and Special Purpose Districts

Required setbacks in nonresidential and special purpose zoning districts must be unobstructed and unoccupied from the ground to the sky except that features are allowed to encroach into required setbacks to the extent indicated in the following table:

| Obstruction/Feature | Nonresidential District Setback | | | |
|----------------------------------|---------------------------------|------|---------------|-------------|
| | Front | Rear | Interior Side | Street Side |
| Arches | – | P | – | – |
| Awnings | – | P | – | – |
| Balconies | P | P[6] | P | P |
| Belt courses | P[7] | P[7] | P[7] | P[7] |
| Breezeways | – | – | – | – |
| Cornices | P[5] | P[5] | P[5] | P[5] |
| Tool sheds, detached or attached | – | P[1] | – | – |
| Fences | P[2] | P[2] | P[2] | P[2] |
| Fire escapes, open | P[8] | P[8] | P[8] | P[8] |

| Obstruction/Feature | Nonresidential District Setback | | | |
|---|---------------------------------|-------|---------------|-------------|
| | Front | Rear | Interior Side | Street Side |
| Flag poles | P | P | P | P |
| Fountains | P | P | P | P |
| Garages, detached and carports | — | P[1] | — | — |
| Geothermal heat pumps and geothermal heat exchange systems (max. 4 feet height) | — | P | P | — |
| Laundry drying equipment | — | P | — | — |
| Nameplates | P | P | P | P |
| Open accessory off-street parking spaces required | P | P | P | P |
| Ornamental features attached | P[5] | P[5] | P[5] | P[5] |
| Ornamental features detached | P[9] | P[9] | P[9] | P[9] |
| Ornamental light standards | P | P | P | P |
| Playhouses | P | P1 | P | P |
| Planter boxes, landscape or stormwater | P[4] | P[4] | P[4] | P[4] |
| Roof overhangs | P[5] | P[5] | P[5] | P[5] |
| Signs | P[10] | P[10] | P[10] | P[10] |
| Sills | P[5] | P[5] | P[5] | P[5] |
| Solar or wind energy systems, building-mounted | — | P | P | — |
| Solar or wind energy systems, ground-mounted | — | P | P | — |
| Stoops and patio | P | P | P | P |
| Swimming pools | — | P[11] | — | — |
| Tennis courts | — | P | — | — |
| Trees and plants | P | P | P | P |
| Trellises | P | P | P | P |
| Water collection cisterns | P[4] | P | P | P[4] |
| Wheelchair lifts | P | P | P | P |
| Wing walls | P[4] | P[4] | P[4] | P[4] |

P = Permitted setback obstruction | — Prohibited setback obstruction

- [1] Must comply with accessory structure setbacks.
- [2] See Chapter 15.28 of the city code of ordinances.
- [3] Not more than 4.5 feet above grade if located more than 2.5 feet into a required setback.
- [4] 5 feet maximum—not more than 4.5 feet above grade.
- [5] 2 feet maximum into minimum required setback.
- [6] 4 feet maximum into minimum required setback.
- [7] 1 foot maximum into minimum required setback.
- [8] 3 feet maximum into minimum required setback.
- [9] Not more than 4.5 feet above grade.
- [10] See Chapter 15.14 of the city code of ordinances.
- [11] Not closer than 10 feet to any side or rear lot line.
- [12] 6 feet maximum into minimum required setback.

24.18.040 Building Height

A. Measurement

Building height is measured as vertical distance from the established grade at the middle of the front of the building to the highest point of the roof. When a building is located on a natural terrace or slope the heights may be measured from the average ground level at the building wall.

1. Exceptions

a. General

The following features are not counted in the measurement of building height and may exceed otherwise stated maximum height limits:

- (1) Chimneys,
- (2) Parapet walls,
- (3) Skylights,
- (4) Steeples,

- (5) Flag poles,
- (6) Cooling towers,
- (7) Elevator bulkheads,
- (8) Monuments,
- (9) Water towers,
- (10) Ornamental towers and spires, and
- (11) Mechanical appurtenances or penthouses to house mechanical appurtenances.

b. Solar Energy Systems

Building-mounted solar energy systems may extend up to 3 feet above the applicable maximum zoning district height limit, provided they do not extend more than 5 feet above the roof line.

c. Rainwater Harvesting Systems (Roof-mounted)

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