Chapter 130

ZONING*

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* **Cross references:** Buildings and building regulations, ch. 18; flood area zoning, ch. 54; historic preservation, ch. 62; planning, ch. 94; shoreland-wetland zoning, § 94-101 et seq.; shoreland-wetland zoning district, § 94-141 et seq.; shoreland-wetland zoning, ch. 100; zoning maps for shoreland-wetland zoning district, § 100-31; streets, sidewalks and other public places, ch. 106; subdivisions, ch. 110; telecommunications, ch. 118.

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ARTICLE I. IN GENERAL

Sec. 130-1. Statutory authority.

In accordance with Wis. Stats. § 62.23, and for the purposes listed therein, the city ordains the zoning regulations set forth in this chapter.

(Code 1986, § 17.01)

Sec. 130-2. Purpose of chapter.

The purpose of this chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of this community; to regulate and restrict the use of all lands and waters; to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes; to further the appropriate use of land and conservation of natural resources; to stabilize and protect property values; to preserve and promote the beauty of the community; to preserve productive and historic agricultural soils; and to implement the community's master plan or plan components.

(Code 1986, § 17.02)

Sec. 130-3. Effect of chapter on existing ordinances and property restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, this chapter shall govern.

(Code 1986, § 17.03)

Sec. 130-4. Interpretation of chapter.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other power granted by the state statutes.

(Code 1986, § 17.04)

Sec. 130-5. Jurisdiction of chapter.

This chapter shall include all lands and waters within the city.

(Code 1986, § 17.05)

Sec. 130-6. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Above-grade floor area means the total floor area within the exterior walls and at or above grade level of a building which is habitable as living quarters. Above-grade floor area may be comprised of the floor area of one or more floors. If a floor is partially above the grade level, the floor is counted as above-grade if it has direct doorway access to the outdoors and is habitable as living quarters.

Accessory building means any building except the principal building on a lot, which is subordinate in area, extent and purpose to the principle building and contributes to the comfort, convenience or necessity of the occupants of the principal building. An accessory building includes, but is not limited to, the following:

1. An utility shed, garden house or private greenhouse.
2. A children's playhouse, gazebo, dog kennel and run.

An accessory building in a residential district shall be limited in area as follows: 150 square feet.

Accessory structure means a detached subordinate structure, which is clearly incidental to, and customarily found in connection with, the principle structure or use to which it is related, and which is located on the same lot as the principle structure. An accessory structure includes, but is not limited to, the following:

1. A play structure, detached deck, above and in ground swimming pools and lawn ornament.

Airport not open to the public means any airport on privately owned land used solely by the property owner.

Airport open to the public means any airport, whether publicly or privately owned, which is open for use by the general public without the necessity of obtaining prior use approval.

Alley means a street or thoroughfare less than 21 feet wide and affording only secondary access to abutting properties.

Applicant means the owner of the land or his representative. Consent shall be required in writing from the legal owner of the premises.

Arterial street means a public street or highway intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.

Attached private garage means a private garage so constructed as to form an integral part of the principal building or portion of the principle building designed, arranged, used or intended to be used exclusively for parking or temporary storage of passenger vehicles, trucks and trailers of the occupant.

Automotive vehicle means a vehicle that is self-propelled, except a snowmobile, unless specifically referred to as a motor vehicle in this chapter.

Basement means a story partly underground.

Bed and breakfast establishment shall be as defined by the state department of health and family services in Wis. Admin. Code § HFS 197.03(3).

Boardinghouse means a building other than a hotel where meals or lodging and meals are provided for compensation for three or more persons not members of the owner's family.

Bond means any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit, in the amount and form satisfactory to the city council. All bonds shall be approved by the plan commission wherever a bond is required by this chapter.

Building means any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. The term "building" also includes any part thereof.

Building area means total ground coverage in square feet of all buildings and structures, including garages, carports and other attached or accessory structures.

Building height means the vertical distance from the top of the building roof to the top of the basement or to the foundation, whichever is less.

Commission means the city plan commission.

Common area means an area or space designed for joint use of tenants or owners residing in a planned unit development.

Community means a legal entity organized under appropriate statutory authority as a body corporate which represents a town, village, city or county such as the case may be.

Conditional use means a use of land which is of such a special nature, or is so dependent upon contemporary circumstances, as to make impractical the predetermination of permissibility. A conditional use shall be denied unless the applicant can demonstrate that the use will not create major undesirable impacts on nearby properties, the environment, or the community as a whole.

Density means the number of dwelling units per acre allowable under a schedule of district regulations.

Dependent mobile home means a mobile home which does not have complete bathroom facilities.

Developer means the owner of land proposed for subdivision or his representative. Consent shall be required from the legal owner of the premises.

Development means any manmade change to improved or unimproved real estate, including but not limited to, the construction of buildings, structures or accessory structures; the construction or additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or excavation of earthen materials.

Development guide means the city master plan (Wis. Stats. § 62.23) or the town's development plan (segment of the county's development plan, Wis. Stats. § 59.97).

Drive-in establishment means a place of business in which patrons can be served while remaining in their automobiles.

Driveway means a minor private way used by vehicles and pedestrians for common access to a lot, small group of lots or facilities.

Dwelling, multiple-family means a building or portion thereof designed for or occupied by three or more families or households.

Dwelling, single-family means a detached building designed for or occupied exclusively by one family or household.

Earthwork means the moving of more than two cubic yards of any type of soils.

Easement means authorization by a property owner for the use by another and for specified purpose of any designated part of his property.

Emergency shelter means public or private enclosures designed to protect people from flood, windstorm, fire, riots or invasions, and from aerial, radiological, biological or chemical warfare.

Essential services means services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electricity, steam, water, sanitary sewerage, and stormwater drainage and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but does not include buildings.

Expressway means a divided arterial street or highway, either with full or partial control of access, and with or without grade-separated intersections.

Family means a group of persons related by blood or marriage and living together as a single housekeeping entity.

Fence means a linear structure constructed for aesthetics, as a visual barrier, and/or to control entry or exit into an area. Typical materials include but may not be limited to wood, concrete, metal, wire, masonry, or stacked rocks.

Floodplain means the land adjacent to a body of water which is subject to periodic overflow therefrom.

Floodway means the channel of a stream and such adjacent portions of the floodplain as are required to accommodate flood flows.

Floor area means the area within the exterior walls of a building which is usable as living quarters.

Freeway means an expressway with full control of access and with fully grade-separated intersections.

Frontage means the side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Garage, detached private means a private garage entirely separated from the principal building.

Garage, private means a building or portion thereof used exclusively for parking or temporary storage of passenger vehicles, trucks and trailers.

Garage, public means any building or premises, other than a private or storage garage, where motor vehicles are equipped, repaired, serviced, hired, sold or stored.

Garage, storage means any building or premises used for storage only of motor vehicles.

Gas service station means a business at which the primary activities are the sale of gasoline to the public and the repair and maintenance of motor vehicles. Grocery items may also be sold.

Green area means land that is covered by a pervious surface on which vegetation is growing.

High density means those residential zoning districts in which the density is greater than one dwelling unit per 8,500 square feet.

Home occupation means a small home-based family or professional business where economic activity is performed entirely within a dwelling unit or an attached garage. A home occupation may include, for example, personal and professional services or handicrafts. (See division 9, section 130-531 of this chapter)

Hotel means a building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five sleeping rooms, with no cooking facilities in any individual room or apartment.

Household pet means tame animals which have been traditionally kept in the home, to include dogs, cats, rabbits, birds, hamsters, and other animals which in their adult life do not exceed 250 pounds, or four feet in height at normal posture.

Household unit means the body of persons who live together in one dwelling unit as a single housekeeping unit.

Intensive soils survey means the testing of soil at a particular geographic location as to its individual assets and limitations.

Interchange means a grade-separated highway intersection with one or more turning lanes for travel between intersecting roads or highways.

Land division means the division of a lot, parcel, or tract of land by the owner thereof of his agent, for the purpose of sale or building development, which creates:

(1) One or more lots, parcels or ownership units; or

(2) The need for a public dedication of land for public road, parkland, or open space.

Large farm animal means any horse, head of cattle, pony, sheep, goat, or hog.

License means a written license issued by the city allowing a person to operate and maintain a mobile home park under the provisions of this chapter and regulations issued under this chapter.

Loading area means a completely off-street space or berth on a lot for the loading or unloading of freight carriers, having adequate ingress from and egress to a public street or alley.

Lodginghouse means a building other than a hotel where lodging only is provided for compensation for not more than 12 persons not members of the owner's family.

Lot means a parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter.

Lot area means the total area reserved for exclusive use of the owners of a particular piece of real property.

Lot, corner means a lot abutting on two or more streets at their intersection.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot lines and area mean the peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot width means the width of a parcel of land measured at the setback line.

Low density means those residential zoning districts in which the density is over 12,000 square feet per dwelling unit.

Master plan means a comprehensive plan for development of the local government, prepared and adopted by the local government, pursuant to state law, and including any part of such plan separately adopted in any amendment to such plan, or parts thereof.

Medium density means those residential zoning districts in which the density is over 8,500 and up to and including 12,000 square feet per dwelling unit.

Minor structure means any small, movable accessory structure or construction, such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four feet in height.

Mobile home means a structure which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and is designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances.

Mobile home lot means a parcel of land designed for the placement of a single mobile home and for the exclusive use of its occupants.

Mobile home park means a parcel of land under single ownership designed, maintained, intended or used for the purpose of providing a location and accommodations for two or more mobile homes, including all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home park or its facilities; except that a mobile home subdivision shall not be deemed a mobile home park.

Mobile home stand means that part of an individual lot which has been reserved for the placement of one mobile home unit.

Mobile home subdivision means a parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of a single mobile home and its facilities.

Motel means a series of attached, semi-attached or detached sleeping units for the accommodation of transient guests.

Nonconforming structure means a building or premises lawfully used, occupied or erected at the time of the passage of the ordinance from which this chapter is derived or at the time of an amendment thereto, which does not conform to the regulations of this chapter with respect to frontage, width, height, area, yard, parking, loading or distance requirements.

Nonconforming use means the use or occupancy of a building or premises, which is lawful at the time of enactment of the ordinance from which this chapter is derived or at the time of enactment of amendments thereto, but which use or occupancy does not conform to the provisions of this chapter or any amendments thereto.

Nondependent mobile home means a mobile home which has complete bathroom facilities.

Occupied, as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Ordinance means any legislative action, however nominated, of a local government which has the force of law, including any amendment or repeal or any ordinance.

Owner means any person, group of persons, firm, corporation, or other legal entity having legal title to or sufficient proprietary interest in the land.

Park management means the person who owns or has charge, care or control of a mobile home park or travel trailer park.

Park street means a private way which affords the principal means of access to individual mobile home lots, travel trailer spaces or auxiliary buildings.

Permitted use. Uses listed under this heading are permitted as of right. This means that an applicant for a building permit shall be given a permit if he meets the other requirements of the chapter, e.g., yards, setbacks and so forth.

Person means any individual, firm, trust, partnership, public or private association, such as, but not limited to, clubs or corporation.

Principal building means the building of primary importance or permitted use on a parcel of land, in contrast to those which are accessory or of secondary importance.

Retail store means any place that offers merchandise for sale to the general public.

Roominghouse means a building other than a hotel where lodging only is provided for compensation for three or more persons not members of the owner's family.

Service building means a structure housing toilet, washing and bathing facilities and such other facilities as may be required by this chapter.

Setback means the minimum horizontal distance between the lot line and the nearest point of a building or any projection thereof, excluding uncovered steps.

Sign means a structure or device on which advertising is displayed, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye.

Standard soils survey means a soils survey of the county by the Soil Conservation Service, U.S. Department of Agriculture.

Standards means the setbacks, using vision corners, sideline requirements, height limitations, square footage requirements and other specifications as required by this chapter.

Story means that portion of a building included between the floor and the surface of the floor next above it, or the space between the floor and the ceiling next above it, if there is not a floor above it. A basement or cellar having one-half or more of its height above grade is a story for purposes of height regulation.

Story, half means the space under any roof except a flat roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.

Street means all property dedicated or intended for public or private street purposes or subject to public easements 21 feet or more in width.

Street right-of-way line means the dividing line between a lot, tract or parcel of land and an abutting street.

Structural alteration means any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders, or any substantial change in the roof structure or in the exterior or interior walls.

Structure means anything constructed or erected having location on the ground. The term "structure" also includes any part thereof.

Subdivision means a division of a lot, parcel or tract of land by the owner thereof or his agent, for the purpose of sale of building development, where:

(1) The act of division creates five or more parcels or building sites.

(2) Five or more parcels or building sites are created by successive divisions from the original parent parcel.

Taper means the point at which the access road to or from a highway interchange meets another intersecting road.

Temporary structure means a removable structure not designed for human occupancy or for the protection of goods or chattels and not forming an enclosure.

Tenant storage area means an enclosed space designed to provide auxiliary general storage space for the occupants of an individual mobile home.

Tourist camp or court means a tract of land of at least one acre upon which two or more camp cottages are located or where temporary accommodations are provided for two or more trailers or house cars, open to the public either free or for a fee.

Trailer space means a parcel of land in a travel trailer parking area for the placement of a single trailer and the exclusive use of its occupants.

Travel trailer means a vehicular, portable unit designed as a temporary living unit for travel, recreation and vacation, which may take one of the following forms, or a similar form:

(1) A unit built on a chassis, having a body width not exceeding eight feet and body length not exceeding 32 feet;

(2) A unit designed to be mounted on a truck chassis;

(3) A unit constructed as an integral part of a self-propelled vehicle; or

(4) A canvas folding unit mounted on wheels.

Travel trailer camp means a parcel of land in which two or more spaces are occupied, or intended for occupancy, by travel trailers for transient dwelling purposes.

Turning lanes means an existing or proposed connecting roadway between an arterial street and any other street. Turning lanes include grade-separated interchange ramps.

Usable open space means land which is drainable, not covered by buildings and not dedicated to vehicular or utility uses, but can be part of a required setback.

Use (land use) means that which is customarily or habitually done, may include seasonal uses, and need not have extended to the entire tract of land at the time of the adoption of the ordinance from which this chapter is derived.

Used, as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Variance means authority granted to the owner to use his property in a manner which is prohibited by this chapter. A variance is a departure from the terms of this chapter where it is shown that unique physical circumstances applying to a land parcel causes a hardship to the owner and that the condition permitted by the departure still will be in fundamental harmony with surrounding uses.

(1) *Area variance* means one which does not involve a use which is prohibited by this chapter. Area variances involve matters such as setback lines, frontage requirements, height limitations, lot size restrictions, density, density regulations and yard requirements.

(2) *Use variance* means one which permits a use of land other than that which is prescribed by this chapter, except that such term does not refer to variances for utility purposes as provided for in Wis. Stats. § 62.23(7)(e)7. It is primarily a grant to erect, alter or use a structure for a permitted use in a manner other than that prescribed by this chapter. A use variance shall not be granted under this chapter.

Vision clearance triangle means an unoccupied triangular space at a corner lot which is bounded by the street lines and a setback line connecting points determined by measurement from the corner of each street line.

Waterline means the shortest straight line at the waterfront end of a stream lot that lies wholly within the lot, provided that not less than 75 percent of the length of such waterline shall be either on or on the landward side of the normal high-water mark of such stream.

Yard means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided in this code.

Yard, front means a yard extending the full width of the lot between the front lot line and the nearest part of the principal building, excluding uncovered steps. For the purpose of fence standards, a yard extending the full width of the lot between the front lot line to the front of the building (Exhibit 1).

Yard, rear means a yard extending the full width of the lot between the rear lot line and the nearest part of the principal building, excluding only such projections as are permitted in this chapter. For the purpose of fence standards, a yard as described for each of the following types of lots (1) interior lot, that area that extends across the rear of a lot between the side yard lot lines from the rear lot line to the back of the building, and (2) corner lot, that area that extends across the rear of the lot between the side yard abutting the street right-of-way and the opposing side lot line from the rear lot line to the back of the building (Exhibit 1).

Yard, side means a yard extending from the front yard, or front lot line where no front yard is required, to the rear yard, between the side lot line and the nearest part of the principal building. For the purpose of fence standards, a yard as described for each of the following types of lots (1) interior lot, that area that extends between the front and rear yards from the side lot line to the side of the building, and (2) corner lot, that area as described for an interior lot, except when a side yard abuts a street right of way, the side yard extends between the front yard and the rear lot line from the side lot line to the side of the building (Exhibit 1).

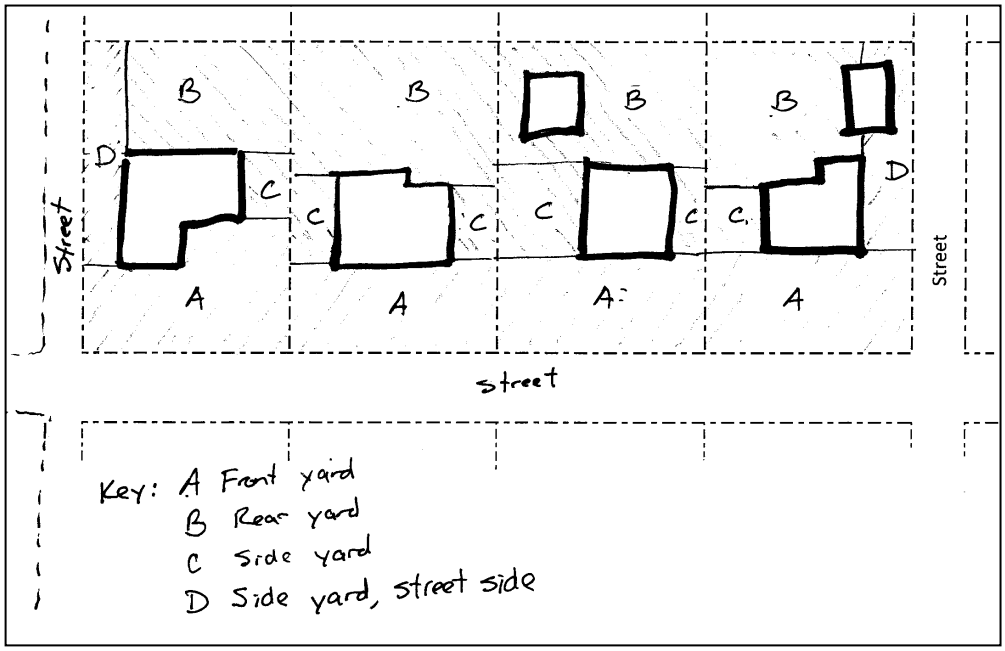

Exhibit 1. Front, Side, and Rear Yards in Various Settings

Zoning administrator means the city administrator or designees of the city administrator.

(Code 1986, § 17.06; Ord. No. 2002-4, §§ 2--6, 4-9-2002, Ord. 2006-25, Ord 2007-10)

Cross references: Definitions generally, § 1-2.

Sec. 130-7. Compliance with chapter.

No structure, land, or water shall hereafter be used without compliance with this chapter and all other applicable local, county, and state regulations. The zoning administrator, with the aid of the police department, shall investigate all complaints, give notice of violations, and enforce this chapter. The zoning administrator may enter, at any reasonable time as permitted by the property owner, onto any public or private lands or waters to make inspection. If the zoning administrator is refused entry, hemay apply for, obtain, and execute a special inspection warrant for premises pursuant to Wis. Stats. §§ 66.122 and 66.123. The zoning administrator may set time limits and conditions for the correction of violations.

(Code 1986, § 17.20)

Sec. 130-8. Hearings on proposed amendments to be held before plan commission.

The city elects, pursuant to Wis. Stats. § 66.01, to have the hearings on proposed zoning amendments before the city plan commission and elects not to be governed by Wis. Stats. § 62.23(7)(d)1, insofar as such section conflicts with this section.

(Ord. No. 13-79, § 1, 4-10-1979)

Editor's note: The preceding section, exercising authority under Wis. Stats. § 66.01 to have hearings on zoning amendments before the city plan commission, was adopted by a Charter ordinance, No. 13-79, which requires special procedures for amendment under Wisconsin law.

Sec. 130-9. Official map.

(a) *Purpose.* The purpose of this section is to preserve and promote the public health, safety, convenience and general welfare; to provide for the orderly, safe and economical expansion of the developed area of the community; and to facilitate adequate provision for transportation, parks and playgrounds.

(b) *Official map established; adoption.*

(1) There is hereby established an official map of the city, showing the location and width of streets, highways, and parkways and location and extent of parks and playgrounds. Such official map consists of eight sheets showing the location and width of streets within the city limits and into the adjacent unincorporated area over which the city can exercise extraterritorial jurisdiction in accordance with Wis. Stats. § 236.10(1)(b)2.

(2) This map is made a part of this section, and all notations, references and other information shown thereon shall be as much a part of this section as though the matters and information were fully described in this section.

(3) There shall be a certified copy of the official map, which shall be kept in the office of the city clerk-treasurer, and shall be available for inspection by any interested person during regular office hours. Such copy shall bear on its face a certification that it is a true copy of the official map and shall show the date of the adoption of the ordinance from which this section is derived (November 14, 1978) and shall be signed by the mayor and countersigned by the city clerk-treasurer.

Thereafter, no change or addition to such official map shall become effective until it shall have been indicated by the appropriate convention on the certified copy of the official map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the mayor and countersigned by the city clerk-treasurer.

(c) *Effect.*

(1) The official map is intended to be final and conclusive with respect to the location and width of streets, highways and parkways and the location and extent of parks and playgrounds.

(2) The placing of any street, highway, parkway, park or playground line upon the official map shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street, parkway, park or playground, or the taking or acceptance of any land for such purposes.

(d) *Changes and additions.* The city council may, whenever and as often as it deems in the public interest, change or add to the official map to establish the exterior lines of planned new streets, highways, parkways, parks, or playgrounds or to widen, narrow, extend or close existing streets, highways, parkways, park or playgrounds by the following procedure:

(1) Before making such addition or change, the council shall refer the matter to the plan commission for report thereon.

(2) The plan commission shall make a report and recommendation upon the proposed change to the city council within 60 days.

(3) Such additions and changes, when adopted and added to the certified copy of the official map, shall become a part of the official map of the city, and shall be final and conclusive with respect to the location and width of the streets, highways and parkways and the location and extent of parks and playgrounds shown thereon.

(4) The locating, widening, or closing or the approval of the locating, widening or closing of streets, highways, parkways, parks or playgrounds by the city under provisions of law other than this section shall be deemed to be a change or addition to the official map and shall be subject to the provisions of this section.

(5) Changes or additions made by a subdivision plat approved by the city under Wis. Stats. ch. 236 shall not require a public hearing if the changes or additions do not affect any land outside the platted area.

(e) *Municipal improvements.* No public sewer or other municipal street utility or improvement shall be constructed in any street, highway, or parkway until such street, highway, or parkway is duly placed on the official map.

(f) *Restrictions on issuance of building permits.*

(1) For the purpose of preserving the integrity of the official map, no permit shall be issued for any building in the bed of any street, highway, or parkway shown on the official map. No permit for the erection of any building shall be issued unless a street, highway, or parkway giving access to such proposed structure has been duly placed on this map.

(2) The zoning administrator shall require each applicant to submit a plot plan (unless the site is a lot in a recorded subdivision or certified survey plat) showing accurately the location of any proposed building with reference to adjacent streets, highways, or parkways shown on the official map.

(3) The zoning administrator shall grant or deny the application within 30 days of proper submission, unless such time period is extended by agreement with the applicant.

(g) *Authority of board of appeals.* The board of appeals shall have the power to grant relief from the requirements of this section in accordance with the provisions of Wis. Stats. § 62.23(6)(d), (f) and (g).

(1) Before taking any action authorized in this section, the board of appeals shall hold a public hearing at which parties in interest and others shall have an opportunity to be heard. At least 15 days before the hearing, notice of the time and place of the hearing shall be published as a class 1 notice under Wis. Stats. ch. 985.

(2) Permits granted by the board shall as little as practicable increase the cost of opening such street, highway, or parkway or tend to cause a change in the official map.

(3) The board may impose reasonable requirements as a condition of granting the permit. Such requirements shall be designated to promote the health, safety or general welfare of the community and protect any future street, highway or parkway layout.

(4) The board shall refuse a permit where the applicant will not be substantially damaged by placing his building outside the mapped street, highway or parkway.

(5) Decisions of the board of appeals relating to the official map shall be subject to judicial review in the same manner as its decisions relating to zoning regulations.

(h) *Enforcement.* It shall be the duty of the city zoning administrator and the chief of police to enforce the provisions of this section.

(i) *Penalty.* Any person who fails to comply with this section shall be subject to the provisions of section 1-11. Each day a violation exists shall constitute a separate offense. No damages shall be allowed for the taking by any governmental agency for street, highway or parkway purposes of any building erected in violation of this section.

(Code 1986, § 17.50)

Sec. 130-10. Reserved.

Editor's note: Ord. No. 2002-9, § 1, adopted March 11, 2003, repealed § 130-10, which pertained to outdoor advertising signs regulation and derived from Ord. No. 2000-7, § 1(17.80), adopted March 14, 2000.

Sec. 130-11. Repeal of certain districts[1]. Divisions 12A, 12B, 12C, 13A, 13B, 14A, 14B and 14C of Article VIII of this chapter are repealed effective January 1, 2008, unless this section is repealed or amended before such date.

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[1] Editor's Note: The named districts were repealed when the sunset date was not further extended.

[Ord. 2004-2, Ord. 2005-39]

Secs. 130-12--130-30. Reserved.

Sec. 130-6. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Above-grade floor area means the total floor area within the exterior walls and at or above grade level of a building which is habitable as living quarters. Above-grade floor area may be comprised of the floor area of one or more floors. If a floor is partially above the grade level, the floor is counted as above-grade if it has direct doorway access to the outdoors and is habitable as living quarters.

Accessory building means any building except the principal building on a lot, which is subordinate in area, extent and purpose to the principle building and contributes to the comfort, convenience or necessity of the occupants of the principal building. An accessory building includes, but is not limited to, the following:

1. A utility shed, garden house or private greenhouse.
2. A children's playhouse, gazebo, dog kennel and run, chicken coop and run.

An accessory building in a residential district shall be limited in area as follows: 150 square feet.

Accessory structure means a detached subordinate structure, which is clearly incidental to, and customarily found in connection with, the principle structure or use to which it is related, and which is located on the same lot as the principle structure. An accessory structure includes, but is not limited to, the following:

1. A play structure, detached deck, above and in ground swimming pools and lawn ornament.

Airport not open to the public means any airport on privately owned land used solely by the property owner.

Airport open to the public means any airport, whether publicly or privately owned, which is open for use by the general public without the necessity of obtaining prior use approval.

Alley means a street or thoroughfare less than 21 feet wide and affording only secondary access to abutting properties.

Applicant means the owner of the land or his representative. Consent shall be required in writing from the legal owner of the premises.

Arterial street means a public street or highway intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways.

Attached private garage means a private garage so constructed as to form an integral part of the principal building or portion of the principle building designed, arranged, used or intended to be used exclusively for parking or temporary storage of passenger vehicles, trucks and trailers of the occupant.

Automotive vehicle means a vehicle that is self-propelled, except a snowmobile, unless specifically referred to as a motor vehicle in this chapter.

Basement means a story partly underground.

Bed and breakfast establishment shall be as defined by the state department of health and family services in Wis. Admin. Code § HFS 197.03(3).

Boardinghouse means a building other than a hotel where meals or lodging and meals are provided for compensation for three or more persons not members of the owner's family.

Bond means any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit, in the amount and form satisfactory to the city council. All bonds shall be approved by the plan commission wherever a bond is required by this chapter.

Building means any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. The term "building" also includes any part thereof.

Building area means total ground coverage in square feet of all buildings and structures, including garages, carports and other attached or accessory structures.

Building height means the vertical distance from the top of the building roof to the top of the basement or to the foundation, whichever is less.

Commission means the city plan commission.

Common area means an area or space designed for joint use of tenants or owners residing in a planned unit development.

Community means a legal entity organized under appropriate statutory authority as a body corporate which represents a town, village, city or county such as the case may be.

Conditional use means a use of land which is of such a special nature, or is so dependent upon contemporary circumstances, as to make impractical the predetermination of permissibility. A conditional use shall be denied unless the applicant can demonstrate that the use will not create major undesirable impacts on nearby properties, the environment, or the community as a whole.

Density means the number of dwelling units per acre allowable under a schedule of district regulations.

Dependent mobile home means a mobile home which does not have complete bathroom facilities.

Developer means the owner of land proposed for subdivision or his representative. Consent shall be required from the legal owner of the premises.

Development means any manmade change to improved or unimproved real estate, including but not limited to, the construction of buildings, structures or accessory structures; the construction or additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning,

dredging, filling, grading, paving, excavation or drilling operations; and the deposition or excavation of earthen materials.

Development guide means the city master plan (Wis. Stats. § 62.23) or the town's development plan (segment of the county's development plan, Wis. Stats. § 59.97).

Drive-in establishment means a place of business in which patrons can be served while remaining in their automobiles.

Driveway means a minor private way used by vehicles and pedestrians for common access to a lot, small group of lots or facilities.

Dwelling, multiple-family means a building or portion thereof designed for or occupied by three or more families or households.

Dwelling, single-family means a detached building designed for or occupied exclusively by one family or household.

Dwelling, two-family means a building containing two dwelling units that are either vertically stacked one above the other or side-by-side, with a separate entrance to each unit and with yards on all sides of the dwelling.

Dwelling, two-family twin means a dwelling designed for or occupied exclusively by one family or household which is attached on one side to another dwelling of the same nature with a common side wall, each of which is located on an individual lot.

Earthwork means the moving of more than two cubic yards of any type of soils.

Easement means authorization by a property owner for the use by another and for specified purpose of any designated part of his property.

Emergency shelter means public or private enclosures designed to protect people from flood, windstorm, fire, riots or invasions, and from aerial, radiological, biological or chemical warfare.

Essential services means services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electricity, steam, water, sanitary sewerage, and stormwater drainage and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but does not include buildings.

Expressway means a divided arterial street or highway, either with full or partial control of access, and with or without grade-separated intersections.

Family means a group of persons related by blood or marriage and living together as a single housekeeping entity.

Fence means a linear structure constructed for aesthetics, as a visual barrier, and/or to control entry or exit into an area. Typical materials include but may not be limited to wood, concrete, metal, wire, masonry, or stacked rocks.

Floodplain means the land adjacent to a body of water which is subject to periodic overflow therefrom.

Floodway means the channel of a stream and such adjacent portions of the floodplain as are required to accommodate flood flows.

Floor area means the area within the exterior walls of a building which is usable as living quarters.

Freeway means an expressway with full control of access and with fully grade-separated intersections.

Frontage means the side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Garage, detached private means a private garage entirely separated from the principal building.

Garage, private means a building or portion thereof used exclusively for parking or temporary storage of passenger vehicles, trucks and trailers.

Garage, public means any building or premises, other than a private or storage garage, where motor vehicles are equipped, repaired, serviced, hired, sold or stored.

Garage, storage means any building or premises used for storage only of motor vehicles.

Gas service station means a business at which the primary activities are the sale of gasoline to the public and the repair and maintenance of motor vehicles. Grocery items may also be sold.

Green area means land that is covered by a pervious surface on which vegetation is growing.

High density means those residential zoning districts in which the density is greater than one dwelling unit per 8,500 square feet.

Home occupation means a small home-based family or professional business where economic activity is performed entirely within a dwelling unit or an attached garage. A home occupation may include, for example, personal and professional services or handicrafts. (See division 9, section 130-531 of this chapter)

Hotel means a building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five sleeping rooms, with no cooking facilities in any individual room or apartment.

Household pet means tame animals which have been traditionally kept in the home, to include dogs, cats, rabbits, birds, hamsters, and other animals which in their adult life do not exceed 250 pounds, or four feet in height at normal posture.

Household unit means the body of persons who live together in one dwelling unit as a single housekeeping unit.

Intensive soils survey means the testing of soil at a particular geographic location as to its individual assets and limitations.

Interchange means a grade-separated highway intersection with one or more turning lanes for travel between intersecting roads or highways.

Land division means the division of a lot, parcel, or tract of land by the owner thereof of his agent, for the purpose of sale or building development, which creates:

(1) One or more lots, parcels or ownership units; or

(2) The need for a public dedication of land for public road, parkland, or open space.

Large farm animal means any horse, head of cattle, pony, sheep, goat, or hog.

License means a written license issued by the city allowing a person to operate and maintain a mobile home park under the provisions of this chapter and regulations issued under this chapter.

Loading area means a completely off-street space or berth on a lot for the loading or unloading of freight carriers, having adequate ingress from and egress to a public street or alley.

Lodginghouse means a building other than a hotel where lodging only is provided for compensation for not more than 12 persons not members of the owner's family.

Lot. A tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds.

Lot area means the total area reserved for exclusive use of the owners of a particular piece of real property.

Lot, corner means a lot abutting on two or more streets at their intersection.

Lot depth. The mean horizontal distance between the front lot line and rear lot line, or, in the case of a lot with two front lot lines, the mean horizontal distance between the front lot lines.

Lot line, front. The boundary of a lot which abuts a public or private street. In the case of a corner lot, the front lot line shall be the shortest dimension along the street, unless otherwise specified by the Zoning Administrator based upon site conditions. Any such decision by the Zoning Administrator shall account for the impact of the decision on surrounding lots and be kept on file at City Hall. Lots that are not corner lots that abut more than one street frontage shall be considered to have two front lot lines.

Lot line, rear. The boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be aligned ten feet in length within the lot, connecting the side lot lines and parallel to the front lot line.

Lot line, side. Any boundary of a lot that is not a front, rear, or street side lot line.

Lot line, street side. The boundary of a lot that fronts a public street that is not a front lot line.

Lot width. The horizontal distance between the side lot lines measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required front setback line for the principal building. *Low density* means those residential zoning districts in which the density is over 12,000 square feet per dwelling unit.

Master plan means a comprehensive plan for development of the local government, prepared and adopted by the local government, pursuant to state law, and including any part of such plan separately adopted in any amendment to such plan, or parts thereof.

Medium density means those residential zoning districts in which the density is over 8,500 and up to and including 12,000 square feet per dwelling unit.

Minor structure means any small, movable accessory structure or construction, such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four feet in height.

Mobile home means a structure which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and is designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances.

Mobile home lot means a parcel of land designed for the placement of a single mobile home and for the exclusive use of its occupants.

Mobile home park means a parcel of land under single ownership designed, maintained, intended or used for the purpose of providing a location and accommodations for two or more mobile homes, including all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home park or its facilities; except that a mobile home subdivision shall not be deemed a mobile home park.

Mobile home stand means that part of an individual lot which has been reserved for the placement of one mobile home unit.

Mobile home subdivision means a parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of a single mobile home and its facilities.

Motel means a series of attached, semi-attached or detached sleeping units for the accommodation of transient guests.

Nonconforming structure means a building or premises lawfully used, occupied or erected at the time of the passage of the ordinance from which this chapter is derived or at the time of an amendment thereto, which does not conform to the regulations of this chapter with respect to frontage, width, height, area, yard, parking, loading or distance requirements.

Nonconforming use means the use or occupancy of a building or premises, which is lawful at the time of enactment of the ordinance from which this chapter is derived or at

the time of enactment of amendments thereto, but which use or occupancy does not conform to the provisions of this chapter or any amendments thereto.

Nondependent mobile home means a mobile home which has complete bathroom facilities.

Occupied, as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Ordinance means any legislative action, however nominated, of a local government which has the force of law, including any amendment or repeal or any ordinance.

Owner means any person, group of persons, firm, corporation, or other legal entity having legal title to or sufficient proprietary interest in the land.

Park management means the person who owns or has charge, care or control of a mobile home park or travel trailer park.

Park street means a private way which affords the principal means of access to individual mobile home lots, travel trailer spaces or auxiliary buildings.

Permitted use. Uses listed under this heading are permitted as of right. This means that an applicant for a building permit shall be given a permit if he meets the other requirements of the chapter, e.g., yards, setbacks and so forth.

Person means any individual, firm, trust, partnership, public or private association, such as, but not limited to, clubs or corporation.

Principal building means the building of primary importance or permitted use on a parcel of land, in contrast to those which are accessory or of secondary importance.

Retail store means any place that offers merchandise for sale to the general public.

Roominghouse means a building other than a hotel where lodging only is provided for compensation for three or more persons not members of the owner's family.

Service building means a structure housing toilet, washing and bathing facilities and such other facilities as may be required by this chapter.

Setback. The minimum distance by which the principal building or structure must be separated from a right-of-way or lot line, excluding uncovered steps.

Sign means a structure or device on which advertising is displayed, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye.

Standard soils survey means a soils survey of the county by the Soil Conservation Service, U.S. Department of Agriculture.

Standards means the setbacks, using vision corners, sideline requirements, height limitations, square footage requirements and other specifications as required by this chapter.

Story means that portion of a building included between the floor and the surface of the floor next above it, or the space between the floor and the ceiling next above it, if

there is not a floor above it. A basement or cellar having one-half or more of its height above grade is a story for purposes of height regulation.

Story, half means the space under any roof except a flat roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.

Street means all property dedicated or intended for public or private street purposes or subject to public easements 21 feet or more in width.

Street right-of-way line means the dividing line between a lot, tract or parcel of land and an abutting street.

Structural alteration means any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders, or any substantial change in the roof structure or in the exterior or interior walls.

Structure means anything constructed or erected having location on the ground. The term "structure" also includes any part thereof.

Subdivision means a division of a lot, parcel or tract of land by the owner thereof or his agent, for the purpose of sale of building development, where:

(1) The act of division creates five or more parcels or building sites.

(2) Five or more parcels or building sites are created by successive divisions from the original parent parcel.

Taper means the point at which the access road to or from a highway interchange meets another intersecting road.

Temporary structure means a removable structure not designed for human occupancy or for the protection of goods or chattels and not forming an enclosure.

Tenant storage area means an enclosed space designed to provide auxiliary general storage space for the occupants of an individual mobile home.

Tourist camp or court means a tract of land of at least one acre upon which two or more camp cottages are located or where temporary accommodations are provided for two or more trailers or house cars, open to the public either free or for a fee.

Trailer space means a parcel of land in a travel trailer parking area for the placement of a single trailer and the exclusive use of its occupants.

Travel trailer means a vehicular, portable unit designed as a temporary living unit for travel, recreation and vacation, which may take one of the following forms, or a similar form:

(1) A unit built on a chassis, having a body width not exceeding eight feet and body length not exceeding 32 feet;

(2) A unit designed to be mounted on a truck chassis;

(3) A unit constructed as an integral part of a self-propelled vehicle; or

(4) A canvas folding unit mounted on wheels.

Travel trailer camp means a parcel of land in which two or more spaces are occupied, or intended for occupancy, by travel trailers for transient dwelling purposes.

Turning lanes means an existing or proposed connecting roadway between an arterial street and any other street. Turning lanes include grade-separated interchange ramps.

Usable open space means land which is drainable, not covered by buildings and not dedicated to vehicular or utility uses, but can be part of a required setback.

Use (land use) means that which is customarily or habitually done, may include seasonal uses, and need not have extended to the entire tract of land at the time of the adoption of the ordinance from which this chapter is derived.

Used, as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

Variance means authority granted to the owner to use his property in a manner which is prohibited by this chapter. A variance is a departure from the terms of this chapter where it is shown that unique physical circumstances applying to a land parcel causes a hardship to the owner and that the condition permitted by the departure still will be in fundamental harmony with surrounding uses.

(1) *Area variance* means one which does not involve a use which is prohibited by this chapter. Area variances involve matters such as setback lines, frontage requirements, height limitations, lot size restrictions, density, density regulations and yard requirements.

(2) *Use variance* means one which permits a use of land other than that which is prescribed by this chapter, except that such term does not refer to variances for utility purposes as provided for in Wis. Stats. § 62.23(7)(e)7. It is primarily a grant to erect, alter or use a structure for a permitted use in a manner other than that prescribed by this chapter. A use variance shall not be granted under this chapter.

Vision clearance triangle means an unoccupied triangular space at a corner lot which is bounded by the street lines and a setback line connecting points determined by measurement from the corner of each street line.

Waterline means the shortest straight line at the waterfront end of a stream lot that lies wholly within the lot, provided that not less than 75 percent of the length of such waterline shall be either on or on the landward side of the normal high-water mark of such stream.

Yard. Open space on a lot between the principal building and any lot lines, unoccupied and unobstructed from the ground upward, except as otherwise provided in this code.

Yard, front. A yard extending the full width of the lot between the front lot line and the principal building (Exhibit 1).

Yard, rear. A yard extending the full width of the lot between the rear lot line and the principal building, excluding only such projections as are permitted in this chapter. When there is a street side yard present, the rear yard extends only to the street side yard, and not the full width of the lot (Exhibit 1).

Yard, side. A yard extending from the front yard to the rear yard, between the side lot line and the principal building (Exhibit 1).

Yard, street side. A yard extending along a street side lot line from the front yard to the rear lot line, between the street side lot line and the principal building.

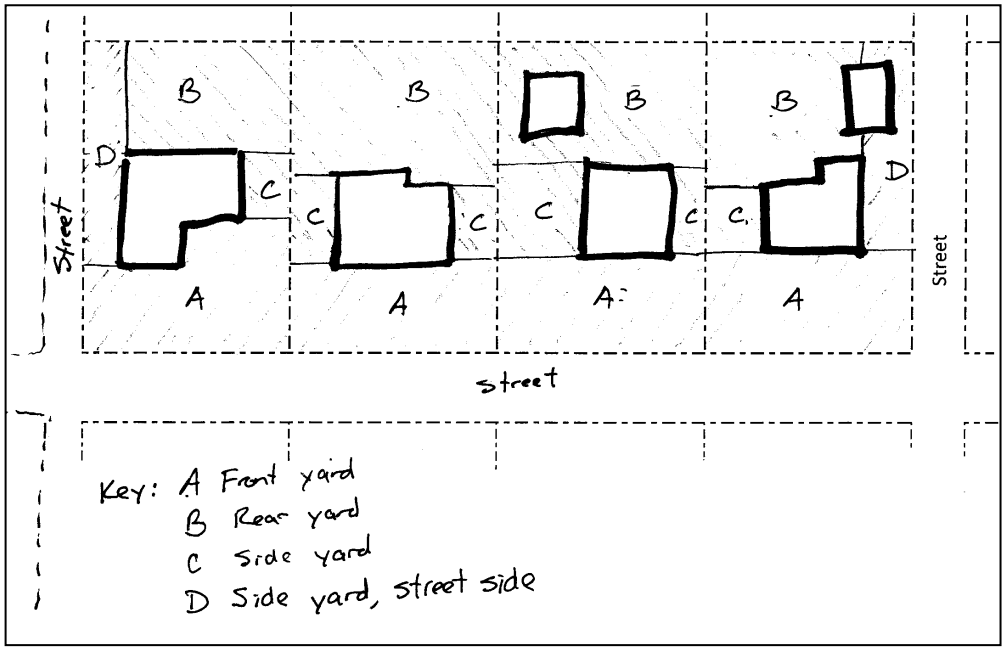

Exhibit 1. Front, Side, and Rear Yards in Various Settings

Zoning administrator means the city administrator or designees of the city administrator.

(Code 1986, § 17.06; Ord. No. 2002-4, §§ 2--6, 4-9-2002, Ord. 2006-25, Ord 2007-10, Ord. 2007-21, Ord. 2012-02, Ord. 2012-15, Ord. 2016-18)

Cross references: Definitions generally, § 1-2.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

DIVISION 1. GENERALLY

Sec. 130-31. Land use permits and certificates of occupancy.

(a) *Approval by zoning administrator.* No permit pertaining to the use of land, buildings or structures shall be issued unless the application for such permit has been examined by the zoning administrator and he has signed it indicating that the proposed use of land, buildings, or structures and any future proposed buildings or structures comply with all of the provisions of this chapter. Any permit or certificate of occupancy issued in conflict with the provisions of this chapter shall be null and void.

(b) *Application for building permit.* An application for a building permit shall be made to the zoning administrator upon forms furnished and shall include, for the purpose of proper enforcement of this chapter, the following data:

(1) An accurate property map, in duplicate, properly dimensioned, showing:

a. The boundaries of the property involved.

b. The location of the centerline of any abutting streets or highways.

c. The location on the lot of any existing buildings, proposed additions or proposed new buildings, including the measured distances between such buildings, and from the lot lines, and from the centerline of any abutting streets or highways to the nearest portion of such building.

d. The high-water line of any stream or lake on which the property abuts.

(2) The use to be made of the building, structure, or land, and such other information as may be required by the zoning administrator for the proper enforcement of this chapter.

(c) *Building permit fee.* The applicant, upon filing of the building permit application with the zoning administrator, shall pay a fee to the zoning administrator in accordance with the building permit requirements of the building code. (See also section 18-4.)

(d) *Certificate of occupancy.*

(1) *Required.* No vacant land shall be occupied or used and no building hereafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued by the zoning administrator showing that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter.

(2) *Application; issuance.* Such certificate shall be applied for when application is made for a land use permit and shall be issued within ten days after the completion of the work specified in such land use permit application, provided the building or premises and the proposed use thereof conform with all the requirements of this chapter.

(3) *Temporary certificates.* Under such rules and regulations as may be established by the city council, the zoning administrator may issue a temporary certificate of occupancy for part of a building.

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* **Cross references:** Administration, ch. 2.

(Code 1986, § 17.11)

Sec. 130-32. Violations; penalties; civil remedies.

(a) *Violations.* No person shall construct or use any structure, land or water in violation of any of the provisions of this chapter. In case of any violation, the city council, the zoning administrator, the plan commission or any neighboring property owner who would be specifically damaged by such violation may institute an appropriate action or proceeding to enjoin a violation of this chapter or cause a structure to be vacated or removed.

(b) *Penalties.* Any person who fails to comply with or violates any of this chapter shall be subject to the provisions of section 1-11. Each day a violation exists or continues shall constitute a separate offense.

(c) *Civil remedies.* Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this chapter, prevent unlawful construction, recover damages, restrain, correct or abate a violation, or prevent illegal occupancy of a building or premises, and these remedies shall be in addition to the penalties described in subsection (b) of this section.

(Code 1986, § 17.18)

Secs. 130-33--130-50. Reserved.

DIVISION 2. ADMINISTRATOR*

Sec. 130-51. Designated; general duties.

The community development director is designated as the administrative and enforcement officer for the provisions of this chapter, and is referred to in this chapter as the zoning administrator. The duty of the zoning administrator, or a designee of the zoning administrator, is to interpret and administer this chapter and to issue, after on-site inspection, all permits required by this chapter. The zoning administrator may designate other city staff or consultants to serve as designees for the purposes of administration and enforcement.

(Ord. No. 1998-7, § 1(17.06)(112)(a), 7-14-1998, Ord. 2009-05, Ord. 2013-01)

Sec. 130-52. Specific duties.

The provisions of this chapter shall be administered and enforced by the zoning administrator or a designee, who in addition thereto and in furtherance of such authority shall:

(1) Receive, file, and forward all applications for any and all procedures governed by this chapter to the designated officials.

(2) Maintain permanent and current records of this chapter, including but not limited to all maps, amendments, conditional uses, sign permits, site plans, occupancy permits, variances, appeals, interpretations, and applications therefor.

(3) Make available to the public, to the fullest extent possible, all reports and documents concerning the city's comprehensive plan and ordinances. In addition, information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely

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* **Cross references:** Officers and employees, § 2-91 et seq.

distributed. The city council may set fees necessary to recover the cost of providing information to the public.

(4) Determine that all building permits and certificates of occupancy comply with all provisions of this chapter.

(5) Conduct inspections of buildings, structures, waters and land to determine compliance with all provisions of this chapter.

(6) Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this chapter. If, however, he is refused entry after presentations of his identification, he may procure a special inspection warrant in accordance with Wis. Stats. § 66.122. He shall conduct inspections of buildings, structures, waters and land to determine compliance with all provisions of this chapter.

(7) Record the first floor and lowest floor (basement or crawlway) elevations of all structures erected, moved, altered, or improved in the floodland districts.

(8) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.

(9) Determine that all zoning text amendments, zoning map amendments, conditional use permits, sign permits, site plans, detailed site analyses, variances, and interpretations of this chapter comply with all provisions of this chapter. (10) Where useful, set marks on bridges or buildings or other markers which show the depth of the regional flood, or set marks delineating the boundaries of wetlands.

(11) Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this chapter to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the city attorney in a manner specified by him.

(12) Institute, in the name of the city, any appropriate actions or proceedings against a violator of this chapter, as provided by law.

(13) Request assistance and cooperation from the city police department and city attorney, as deemed necessary.

(14) Provide the plan commission with reports concerning compliance of development proposals with this chapter and the city's comprehensive plan.

(Ord. No. 1998-7, § 1(17.06)(112)(b), 7-14-1998, Ord. 2009-05)

Secs. 130-53--130-70. Reserved.

DIVISION 3. BOARD OF ZONING APPEALS*

Sec. 130-71. Membership.

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* **Cross references:** Boards, commissions and committees, § 2-191 et seq.

The board of appeals shall consist of five members appointed, on the third Tuesday in April, by the mayor and confirmed by the city council.

(Code 1986, § 17.15(1), Ord. 2006-18)

Sec. 130-72. Term of members.

Terms of members of the board of appeals shall be for staggered three-year periods and shall expire on the third Tuesday in April of the appropriate year.

(Code 1986, § 17.15(2), Ord. 2006-18)

Sec. 130-73. Oath of members.

All members of the board of appeals shall take the official oath in accordance with Wis. Stats. § 19.01 within ten days of receiving notice of their appointment.

(Code 1986, § 17.15(8))

Sec. 130-74. Vacancies.

Vacancies on the board of appeals shall be filled for unexpired terms in the same manner as appointments for full terms.

(Code 1986, § 17.15(9))

Sec. 130-75. Compensation of members.

Compensation of members of the board of appeals shall be as determined by the city council.

(Code 1986, § 17.15(10))

Sec. 130-76. Alternate members.

The mayor shall appoint two alternate members to the board of appeals for staggered terms of three years. Annually, the mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the board of appeals refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board of appeals so refuses or is absent.

(Code 1986, § 17.15(5), Ord. 2006-37)

Sec. 130-77. Chairperson*.

The chairperson of the board of appeals shall be designated by the mayor.

(Code 1986, § 17.15(3))

Sec. 130-78. Secretary.

The board of appeals shall elect one of its members as secretary.

(Code 1986, § 17.15(6))

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* **Cross references:** Officers and employees, § 2-91 et seq.

Sec. 130-79. Conflicts of interest.

Any member of the board of appeals who has any interest in a matter before the board shall not vote thereon and shall remove himself from any meeting or hearing at which such matter is under consideration.

(Code 1986, § 17.15(4))

Sec. 130-80. Technical assistance by zoning administrator.

The zoning administrator shall attend all meetings of the board of appeals for the purpose of providing technical assistance when requested by the board of appeals.

(Code 1986, § 17.15(7))

Sec. 130-81. Organization; meetings and rules of procedure; records.

(a) The board of appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

(b) Meetings shall be held at the call of the chairperson and at such other times as the board may determine, and shall be open to the public.

(c) Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, the reasons for the board's determination, and its finding of facts. The secretary shall keep records of the board's examinations and other official actions, all of which shall be immediately filed with the city clerk-treasurer and shall be a public record.

(d) If a quorum is present, the board may take action by a majority vote of the members present..

(Code 1986, § 17.15(11), Ord. 2006-37)

Sec. 130-82. Powers; assistance by other agencies.

(a) The board of appeals shall have the following powers:

(1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto.

(2) Hear and decide special exceptions to the terms of this chapter upon which such board is required to pass under this chapter.

(3) Authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. This power includes hearing and deciding appeals from decisions of the plan commission to grant or deny variances in connection with site plan reviews.

(4) Permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter, a building or premises to be

erected or used for public utility purposes in any location which is reasonably necessary for the public convenience and welfare. Except for such utility purposes, use variances are not permitted.

(5) Hear and decide appeals from decisions of the plan commission to grant or deny conditional use permits.

(b) The board may request assistance from other city officials, departments, committees, and boards.

(Code 1986, § 17.15(12); Ord. No. 2003-12, § 4, 10-14-2003)

Secs. 130-83--130-100. Reserved.

DIVISION 4. CONDITIONAL USES

Sec. 130-101. Purpose of division.

(a) The purpose of this division is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses.

(b) Certain uses in situations which are of such a special nature, or are so dependent upon actual contemporary circumstances, as to make impractical the predetermination of permissibility, or the detailing in this chapter of specific standards, regulations, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses.

(c) Under this chapter, a proposed conditional use shall be denied unless the applicant can demonstrate, to the satisfaction of the city, that the proposed conditional use will not create major undesirable impacts on nearby properties, the environment, or the community as a whole, as determined by the plan commission per section 130-104(4).

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(1)), 1-19-1998)

Sec. 130-102. Initiation of request for approval.

Proceedings for approval of a conditional use may be initiated by an application of the owner of the subject property.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(2)), 1-19-1998)

Sec. 130-103. Application for approval.

(a) All applications for proposed conditional uses shall be approved and certified as complete by the zoning administrator prior to the initiation of this procedure. No placement of the application on any agenda as an item to be acted upon shall occur unless such certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the zoning administrator, without an application. Prior to the submittal of the official notice regarding the application to the newspaper by the city clerk-treasurer, the applicant shall provide the city clerk-treasurer with 12 copies of the complete application as certified by the zoning administrator. The complete application shall comprise all of the following:

(1) A map of the subject property showing all lands for which the conditional use is proposed. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

(2) A map of the subject property and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on such map as the names and addresses appear on the current tax records of the city.

The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction which maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. (This map may be provided by the city, at the discretion of the zoning administrator.)

(3) A map, such as the land use plan map, of the generalized location of the subject property in relation to the city as a whole. (This map may be provided by the city, at the discretion of the zoning administrator.)

(4) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.

(5) A site plan of the subject property as proposed for development. The site plan shall conform to all the requirements of section 130-203. If the proposed conditional use is a group development, a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided the plat contains all information required on the site plan per division 8 of this article.

(b) As an additional requirement, the applicant should provide written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in section 130-104(3)a--f.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(3)), 1-19-1998)

Sec. 130-104. Review by zoning administrator.

The proposed conditional use shall be reviewed by the zoning administrator as follows:

(1) The zoning administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the zoning administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the zoning administrator determines that the application is complete, he shall so notify the applicant.

(2) Upon notifying the applicant that his application is complete, the zoning administrator shall review the application and evaluate and comment on the written justification for the proposed conditional use provided in the application per section 130-103.

(3) The zoning administrator may also evaluate the application to determine whether the requested conditional use is in harmony with the recommendations of the city's master plan, particularly as evidenced by compliance with the following standards:

a. How is the proposed conditional use (the use in general, independent of its location) in harmony with the purposes, goals, objectives, policies and standards of the city's master plan, this chapter, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city?

b. How is the proposed conditional use (in its specific location) in harmony with the purposes, goals, objectives, policies and standards of the city's master plan, this chapter, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city?

c. Does the proposed conditional use, in its proposed location and as depicted on the required site plan (see section 130-103(a)(5)) result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementationof the provisions of this chapter, the master plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the city or other governmental agency having jurisdiction to guide development?

d. Does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?

e. Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property?

f. Do the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use (as identified in subsections (3)a--e of this section), after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts?

(4) The zoning administrator shall forward the report per subsection (2) of this section, and, if prepared, the report per subsection (3) of this section, to the plan commission for the commission's review and use in taking action on the conditional use. If the zoning administrator determines that the proposal may be in conflict with the provisions of the city's master plan, the zoning administrator shall note this determination in the report.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(4)), 1-19-1998)

Sec. 130-105. Preliminary review by plan commission; public hearing.

(a) The plan commission shall schedule a public hearing to consider the application for a conditional use within 45 days after the acceptance and determination of the complete application as determined by the zoning administrator. The applicant may appear in person, or by agent, and/or by attorney. Notice of the proposed conditional use and the public hearing shall conform to the requirements of Wis. Stats. § 62.23(7)(d). The notice shall contain a description of the subject property and the proposed conditional use per section 130-103(a)(1) and (4). In addition, at least ten days before the public hearing, the city clerk-treasurer shall mail an identical notice to the applicant, to all property owners within 250 feet of the

boundaries of the subject property as identified in section 130-103(a)(2), and to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this chapter. Failure to mail such notice, provided it is unintentional, shall not invalidate proceedings under this section.

(b) Within 60 days after the public hearing (or within an extension of such period requested in writing by the applicant and granted by the plan commission), the plan commission shall make its preliminary findings regarding section 130-104 and its recommendations regarding the application as a whole. If the plan commission makes a favorable preliminary finding on an application, it shall state in the minutes, and in a subsequently issued written conditional use permit, its conclusion and any finding of facts supporting its conclusion as to the following: that the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use, as identified in section 130-104(3)a--f, after taking into consideration the proposal by the applicant.

(c) If the plan commission so chooses, the plan commission may suspend the regulations outlined in subsection (b) of this section, by roll call vote, and may take action on the proposed conditional use on the same night as the public hearing. The plan commission may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the zoning administrator, the applicant, other city staff, authorized outside experts, the general public, or its own members) or may deny approval of the proposed conditional use.

(d) If a favorable preliminary finding is made by the plan commission, the city staff shall prepare a written conditional use permit.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(5)), 1-19-1998)

Sec. 130-106. Final action by plan commission.

The plan commission shall review its preliminary findings regarding the proposed conditional use and the written conditional use permit. The plan commission may request further information and/or additional reports from the zoning administrator, city staff and/or the applicant. The plan commission may take final action on the application at the time of its initial consideration of the written conditional use permit, or may continue the proceedings at its discretion or at the applicant's request. The plan commission may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the zoning administrator, the applicant, other city staff, authorized outside experts, general public, or its own members) or may deny approval of the proposed conditional use. If the plan commission wishes to make significant changes in the proposed conditional use, then the procedure set forth in Wis. Stats. § 62.23(7)(d) shall be followed prior to plan commission action. Any action to amend the provisions of the proposed conditional use permit requires a majority vote of the plan commission. The plan commission's approval of the proposed conditional use shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed conditional use.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(6)), 1-19-1998)

Sec. 130-107. Resubmittal of application after denial.

No application which has been denied under this division (either wholly or in part) shall be resubmitted for a period of 12 months from the date of the order of denial, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(7)), 1-19-1998)

Sec. 130-108. Revocation of approval.

Upon approval by plan commission, the applicant must demonstrate that the proposed conditional use meets all general and specific conditional use requirements in the site plan required for initiation of development activity on the subject property per division 8 of this article. Once a conditional use is granted, no erosion control permit, site plan approval, certificate of occupancy, or building permit shall be issued for any development which does not comply with all requirements of this chapter. Any conditional use found not to be in compliance with the terms of this chapter shall be considered in violation of this chapter and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the city council, following the procedures outlined in sections 130-102--130-107.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(8)), 1-19-1998)

Sec. 130-109. Time limit for commencing and completing development.

The start of construction of any and all conditional uses shall be initiated within 365 days of their approval by plan commission and such uses shall be operational within 730 days of such approval. Failure to initiate or complete development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this section, the term "operational" shall be defined as complying with the conditions of the conditional use permit. Prior to such a revocation, the applicant may request an extension of this period. Such request shall require formal approval by plan commission and shall be based upon a showing of acceptable justification (as determined by the plan commission).

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(9)), 1-19-1998)

Sec. 130-110. Discontinuance of use.

Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(10)), 1-19-1998)

Sec. 130-111. Change of ownership of property.

All requirements of the approved conditional use shall be continued regardless of ownership of the subject property. Modification, alteration, or expansion of any conditional use in violation as approved per section 130-106, without approval by the plan commission, shall be grounds for revocation of the conditional use approval per section 130-108.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(11)), 1-19-1998)

Sec. 130-112. Recording of site plan and other documents.

Except for conditional use approvals for temporary uses, all documents associated with the written description, the approved site plan, and the specific requirements of approval, and a memorandum referring to and stating the general purpose of the conditional use (along with a legal description of the subject property), shall be recorded by the applicant with the county register of deeds office, and the applicant shall submit evidence of such recordation to the city staff.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(12)), 1-19-1998)

Sec. 130-113. Notice to the state department of natural resources regarding uses affected by conservancy regulations.

The plan commission shall transmit a copy of each application for a conditional use for conservancy regulations in the shoreland-wetland, floodway, floodplain, or flood fringe overlay zoning districts to the state department of natural resources for review and comment at least ten days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the department of natural resources has made its recommendation, whichever comes first. A copy of all decisions relating to conditional uses for shoreland-wetland conservancy regulations or floodland regulations shall be transmitted to the state department of natural resources within ten days of the date of such decision.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(13)), 1-19-1998)

Sec. 130-114. Appeals.

The decision of the plan commission under this division may be appealed to the board of appeals by the applicant for the conditional use permit, or any person or persons jointly or severally aggrieved by a decision of the plan commission on a conditional use permit, or any officer, department, board, or bureau of the city. Such appeal must specify the grounds thereof with respect to the findings of the plan commission and must be filed with the city clerk-treasurer within ten days of the final action of the plan commission. The city clerk-treasurer shall not issue the conditional use permit or a building permit related to the conditional use permit during the ten-day appeal period. The city clerk-treasurer shall transmit such appeal to the board of appeals.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(14)), 1-19-1998; Ord. No. 2003-12, § 5, 10-14-2003)

Sec. 130-115. Fees.

A fee as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs, is required for the procedure described in this division.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(15)), 1-19-1998)

Sec. 130-116. Imposition of conditions.

(a) *Generally*. The plan commission or city council may impose such conditions as may be necessary to mitigate any potential impacts between the proposed use and surrounding land uses, both existing and those reasonably anticipated.

(b) *Bufferyards*. Depending on the circumstances, the plan commission or city council may require the applicant to provide a bufferyard on the subject property with an opacity level of 0.1 or 0.2 consistent with the standards listed in table 130-270 (d)(1).

[Ord. 2005-40]

Secs. 130-117--130-130. Reserved.

DIVISION 5. STANDARDS FOR EVALUATING PROPOSED CONDITIONAL USES, ZONING DISTRICT CHANGES AND SITE PLANS

Sec. 130-131. Information to be considered.

The plan commission or the city council may consider any relevant factors, including, but not limited to, the factors identified below, when considering an application for a conditional use permit, change in zoning district, or site plan approval, to the extent such factors are deemed relevant to the particular application. In addition, the plan commission may consider the information required under section 130-203 when considering an application for site plan approval. The plan commission or common council may attach conditions on approval of an application for application for a conditional use permit, change in zoning district, or site plan approval to address problems that are not in direct conflict with this chapter.

(1) *Site design and physical characteristics.*

a. Existing topography, drainage patterns and vegetative cover and the suitability of the proposed use in this regard.

b. Availability of water, sewer, rail and other services and the utility requirements of the proposed site.

c. Where public sewers are not available, the percolation characteristics of the soil.

d. Adequacy of the proposed internal circulation system, including safety considerations.

e. Access to sites from the internal circulation system.

f. The costs of providing various public services.

g. Appearance (how the area will look).

(2) *Site location relative to public road network.*

a. Convenient access to a public road network (safety of access points).

b. Visibility from the proposed road and the need for visibility.

c. Access; the location is to provide access primarily by righthand turning movements.

(3) *Land use.*

a. Compatibility with existing or proposed uses in the area.

b. Relation to any existing land use plan.

c. Relation to existing or proposed development at nearby interchanges.

d. In reviewing an application for a zoning district change to the local business district (B-1), central business district (B-2), community business district (B-3), regional business district (B-4), or planned office district (O-1), the plan commission and city council shall consider whether the proposed zoning district change likely will result in increased vehicular traffic on nearby local streets in areas of existing residential development and whether such increased traffic will have an adverse impact on the existing residential development.

(4) *Traffic generation.*

a. Amount of daily and peak hour traffic to be generated, related to site size. Traffic shall be subclassified as to arterial, collector and local streets.

b. Amount of traffic generated relative to existing and anticipated ultimate generated traffic in the area.

c. Expected composition of site-generated traffic by vehicle types.

d. Effect of site-generated traffic on the operation of the area.

e. Safety and convenience to future users.

(5) *Community effects.*

a. Immediate and long range tax base.

b. Access to market or service area.

c. Relation to scenic or recreation values.

d. Relation to the public interest, the purpose and intent of this chapter and substantial justice to all parties concerned.

e. Compliance with the master plan's goals and objectives.

(6) *Other relevant factors.*

a. Compliance with the performance standards in article III of this chapter.

b. Additional impacts.

(Code 1986, § 17.12, Ord. 2006-11)

Secs. 130-132--130-150. Reserved.

DIVISION 6. APPEAL AND VARIANCE PROCEDURES

Sec. 130-151. Application.

Appeals from the decision of the zoning administrator concerning the literal enforcement of this chapter or from the decision of the plan commission to grant or deny a variance in connection with a site plan review may be made by any person aggrieved or bay any officer, department, board or bureau of the city. Such appeals shall be filed with the city clerk within ten days, after the date of written notice of the decision or order of the zoning administrator or plan

commission. Applications may be made by the owner or lessee of the structure, land or water to be affected at any time and shall be filed with the city clerk. Such appeals and applications shall include the following:

(1) The name and address of the appellant or applicant, all abutting and opposite property owners of record and owners within 250 feet.

(2) Plat of survey prepared by a registered land surveyor showing all of the information required under section 130-31 for a building permit.

(3) Additional information required by the plan commission, board of appeals or zoning administrator.

(4) Fee receipt from the city clerk in the amount established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs. If the appeal is from a decision by the plan commission to grant or deny a variance in connection with a site plan review, the fee for this appeal is in addition to the fee paid to request a variance from the plan commission. Such fees are nonrefundable.

(5) If the appeal is from a decision to grant or deny a variance in connection with site plan approval, a copy of the minutes of all plan commission meetings at which the site plan review or application for variance was discussed or decided.

The city clerk shall transmit such appeals and applications and required documents to the board of appeals.

(Code 1986, § 17.16(1); Ord. No. 2003-12, § 6, 10-14-2003, Ord. 2009-05)

Sec. 130-152. Hearing.

The board of appeals shall hold a public hearing pursuant to this division within a reasonable time to be set by it, after receiving written application for the hearing, shall give public notice thereof at least 15 days prior to the hearing by publication of a class 2 notice under Wis. Stats. ch. 985, and shall give due notice to the parties in interest, the zoning administrator and the plan commission. At the hearing, the appellant or applicant may appear in person, by agent or by attorney.

(Code 1986, § 17.16(2))

Sec. 130-153. Findings.

No variance to the provisions of this chapter shall be granted by the board of appeals unless it has considered the standards in section 130-131 and it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

(1) *Exceptional circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance would not be of such a general or recurrent nature as to suggest that this chapter should be changed.

(2) *Absence of detriment.* The variance shall not create substantial detriment to adjacent property and shall not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

(3) *Conclusions of law.* The findings of the board shall be accompanied by findings of fact and conclusions of law.

(Code 1986, § 17.16(3))

Sec. 130-154. Decision; time limit for commencing development.

(a) The board of appeals shall decide all appeals and applications under this division within 30 days after final hearing and shall transmit a signed copy of the board's decision, including the reasons for the board's determination and its findings of fact, to the appellant or applicant, zoning administrator and plan commission.

(b) Conditions appropriate to effect the determination of the board on appeal may be placed upon any building permit ordered or authorized by the board pursuant to Wis. Stats. § 62.23(7)(e)8.

(c) Variances and permits granted by the board shall expire within six months unless substantial work has commenced pursuant to such grant.

(Code 1986, § 17.16(4))

Sec. 130-155. Review by court.

Any person aggrieved by any decision of the board of appeals under this division may present to a court of record a verified petition setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the city clerk-treasurer.

(Code 1986, § 17.16(5))

Secs. 130-156--130-170. Reserved.

DIVISION 7. AMENDMENT OF OFFICIAL ZONING MAP AND/OR ZONING CLASSIFICATION

Sec. 130-171. Purpose of division.

The purpose of this division is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed amendments to provisions of the official zoning map and/or zoning classification. (Refer to the requirements of Wis. Stats. §§ 62.23(6)(b), 62.23(7)(d)2.)

(Ord. No. 1997-18, § 2(17.17(1)), 1-19-1998)

Sec. 130-172. Initiation of request for amendment.

Proceedings for amendment of the official zoning map and/or zoning classification may be initiated by any one of the following four methods:

(1) An application of the owner of the subject property;

(2) A petition for annexation, provided the current zoning of the territory proposed to be annexed is agricultural;

(3) A recommendation of the city staff or the plan commission; or

(4) Action of the city council.

(Ord. No. 1997-18, § 2(17.17(2)), 1-19-1998, Ord. 2005-27)

Sec. 130-173. Application.

(a) All applications for proposed amendments to the official zoning map and/or zoning classification, regardless of the party of their initiation per section 130-172, shall be filed in the office of the zoning administrator, and shall be approved and certified as complete by the zoning administrator prior to the formal initiation of the procedure described in this division. No placement of the application on any agenda as an item to be acted upon shall occur unless such certification has occurred. The item maybe placed on any agenda as a discussion-only item, with the permission of the zoning administrator, without an application. Prior to the submittal of the official notice regarding the application to the newspaper by the city clerk-treasurer, the applicant shall provide the city clerk-treasurer with 12 copies of the complete application as certified by the zoning administrator. The complete application shall comprise all of the following:

(1) A map of the subject property showing all lands for which the zoning map amendment is proposed. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

(2) A map of the subject property and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on the map as the names and addresses appear on the current tax records of the city. The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction that maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. (This map may be provided by the city at the discretion of the zoning administrator.)

(3) A map, such as the land use plan map, of the generalized location of the subject property in relation to the city as a whole. (This map may be provided by the city at the discretion of the zoning administrator.)

(b) As an optional requirement, the applicant may wish to provide written justification for the proposed map amendment, consisting of the reasons why the applicant believes the proposed map amendment is in harmony with the recommendations of the city's master plan, particularly as evidenced by compliance with the standards set out in section 130-174(3)a--c.

(c). If the current zoning of the territory proposed to be annexed is agricultural, a petition for annexation of such territory shall be deemed to be a complete application under this section for a change in the official zoning map to show such territory as being part of the agricultural zoning district most comparable to such territory’s current zoning, and not withstanding any provision in this section, no other document or copy need be submitted. If (i) the current zoning of territory

proposed to be annexed is agricultural and the owner of such territory desires to have the zoning changed to a non-agricultural classification or (ii) the current zoning of such territory is not agricultural, the owner or petitioner must submit an application that fully complies with this section.

(Ord. No. 1997-18, § 2(17.17(3)), 1-19-1998, Ord. 2005-27)

Sec. 130-174. Review by zoning administrator.

The proposed amendment to the official zoning map shall be reviewed by the zoning administrator as follows:

(1) The zoning administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the zoning administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the zoning administrator determines that the application is complete, he shall so notify the applicant.

(2) Upon notifying the applicant that his application is complete, the zoning administrator shall review the application and evaluate and comment on the factors listed in section 130-131 that the zoning administrator believes are relevant to the application and the written justification for the proposed map amendment provided in the application per section 130-173.

(3) The zoning administrator also shall evaluate the application to determine whether the requested amendment to the official zoning map is in harmony with the city's comprehensive plan, particularly as evidenced by compliance with the following standards:

a. How does the proposed official zoning map amendment further the purposes of this chapter as outlined in section 130-2 and the applicable rules and regulations of the state department of natural resources and the Federal Emergency Management Agency?

b. Which of the following factors has arisen which are not properly addressed on the current official zoning map and/or zoning classification?

1. The designations of the official zoning map and/or zoning classification should be brought into conformity with the comprehensive plan.

2. A mistake was made in mapping on the official zoning map and/or zoning classification (that is, an area is developing in a manner and purpose different from that for which it is mapped). If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the city may intend to stop an undesirable land use pattern from spreading.

3. Factors have changed (such as the availability of new data, the presence of new roads or other infrastructure, additional development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district.

4. Growth patterns or rates have changed, thereby creating the need for an amendment to the official zoning map and/or zoning classification.

c. How does the proposed amendment to the official zoning map and/or zoning classification maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?

(4) The zoning administrator shall forward the report per subsection (2) and subsection (3) of this section to the plan commission for the commission's review and use in making its final recommendation to the city council. If the zoning administrator determines that the proposal may be in conflict with the provisions of the city's master plan, the zoning administrator shall note this determination in the report.

(Ord. No. 1997-18, § 2(17.17(4)), 1-19-1998, Ord. 2006-11)

Sec. 130-175. Review and recommendation by plan commission.

(a) The city council shall not make an amendment to the official zoning map and/or zoning classification without allowing for a recommendation from the plan commission per the provisions of this division.

(b) The plan commission shall schedule a reasonable time and place for a public hearing to consider the application within 60 days after the acceptance and determination of the complete application as determined by the zoning administrator. The applicant may appear in person, or by agent, and/or by attorney.

(c) Notice of the proposed amendment to the official zoning map shall conform to the requirements of Wis. Stats. § 62.23(7)(d). The notice shall contain a description of the subject property and the proposed change in zoning. In addition, ten days prior to the public hearing, the city clerk-treasurer shall mail an identical notice to the applicant, to all property owners within 250 feet of the boundaries of the subject property as identified in section 130-173(a)(1); and to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed plan and regulations. Failure to mail the notice, shall not invalidate proceedings under this section.

(d) Within 60 days (or within an extension of such period requested in writing by the applicant and granted by the plan commission), the plan commission may make a written report stating to the city council, and/or shall state in the minutes, its findings regarding sections 130-173 and 130-174, and its recommendations regarding the application as a whole. The report may include a formal finding of facts developed and approved by the plan commission concerning the requirements of section 130-174(3)a--c.

(e) If the plan commission fails to make a report within 60 days after the filing of the complete application (and in the absence of an applicant-approved extension per subsection (d) of this section), then the city council may take action after the expiration of the 60-day period. Failure to receive the written report from the plan commission per subsection (d) of this section shall not invalidate the proceedings or actions of the city council.

(f) If the plan commission recommends approval of an application, it shall state in the minutes, or in the subsequently issued written report to the city council, its conclusion and any finding of facts supporting its conclusion as to the following: that the potential public benefits of the proposed amendment to the official zoning map outweigh, or do not outweigh, any and all potential adverse impacts of the proposed map amendment, as identified in section 130-174(3)a--c, after taking into consideration the proposal by the applicant.

(Ord. No. 1997-18, § 2(17.17(5)), 1-19-1998)

Sec. 130-176. Action by city council.

(a) The city council shall consider the plan commission's recommendation regarding the proposed amendment to the official zoning map. The city council may request further information and/or additional reports from the plan commission, the zoning administrator, and/or the applicant.

(b) The city council may take final action on the application, or may continue the proceedings at its discretion or at the applicant's request. The city council may approve the amendment to the official zoning map as originally proposed, may approve the proposed map amendment with modifications (per the recommendations of the zoning administrator, the plan commission, authorized outside experts, or its own members) or may deny approval of the proposed map amendment. If the city council wishes to make significant changes in the proposed map amendment, as recommended by the plan commission, then the procedure set forth in Wis. Stats. § 62.23(7)(d) shall be followed prior to city council action.

(c) When the city council takes action on the application, it shall state in the minutes, and/or in a subsequently issued written decision, its conclusion and any findings of facts supporting its conclusion as to the following: that the potential public benefits of the proposed map amendment outweigh, or do not outweigh, any and all potential adverse impacts of the proposed map amendment, as identified in section 130-174(3)a--c, after taking into consideration the proposal by the applicant and the recommendation of the plan commission. Any action to amend the provisions of proposed map amendment requires a majority vote of the city council. The city council's approval of the proposed map amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other amendment to the official zoning map.

(Ord. No. 1997-18, § 2(17.17(6)), 1-19-1998)

Sec. 130-177. Resubmittal of application after denial.

No application which has been denied under this division (either wholly or in part) shall be resubmitted for a period of 12 months from the date of the order of denial, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.

(Ord. No. 1997-18, § 2(17.17(7)), 1-19-1998)

Sec. 130-178. Fees.

A fee as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs, is required for the procedure described in this division, except that no fee is required if a petition for annexation is deemed to be a complete application under section 130-173(c).

(Ord. No. 1997-18, § 2(17.17(8)), 1-19-1998, Ord. 2005-27)

Secs. 130-179--130-200. Reserved.

DIVISION 8. SITE PLAN REVIEW AND APPROVAL

Sec. 130-201. Purpose of division.

The purpose of this division is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this division are designed to ensure that all proposed land use and development activity complies with the requirements of this chapter. Specifically, this division requires that the initiation of all development activity, except residential renovations and additions (including building permits, occupancy permits for a change of use of an existing lot or structure where there is contemplated a site plan revision, clear cutting, grading or filling) require the approval of site, building and operational plans by the plan commission before the building, occupancy, and zoning permits can be issued; except, however, that development activity associated with an approved final plat of subdivision or certified survey map for single-family and/or duplex dwelling units, and development activity associated with the full and complete implementation of a project approved within the precise implementation plan (PIP) phase of a planned unit development district is exempt from this requirement.

(Ord. No. 1997-18, § 3(17.19(1)), 1-19-1998)

Sec. 130-202. Initiation of request for approval; pre-application meeting; review by zoning administrator; appeal for variance.

(a) *Initiation of request for approval.* Proceedings for approval of a site plan shall be initiated by the owner of the subject property, or his legally authorized representative.

(b) *Pre-application meeting.* The applicant shall first meet with the zoning administrator and other applicable city staff to discuss preliminary concepts and plans for the development. Guidance will be provided to the applicant on technical requirements and procedures, and a timetable for project review may be discussed.

(c) *Review by zoning administrator.* The applicant shall apply to the zoning administrator for the scheduling of an appearance before the plan commission. The zoning administrator shall notify the applicant of the date and time of the applicable plan commission meeting. The appearance before the plan commission shall not be scheduled unless the application is approved as complete by the zoning administrator per the requirements of section 130-203. The review of the submitted application shall be completed within ten working days of application submittal. Once the application is approved as complete, the zoning administrator shall schedule an appearance before the plan commission a maximum of seven weeks from the date of complete application acceptance.

(d) *Appeal for variance.* If the zoning administrator, in connection with a site plan review, decides that the proposed development being reviewed is prohibited by a literal enforcement of this chapter, the applicant for site plan approval may elect to appeal from the zoning administrator's decision to the plan commission or the board of appeals. If the applicant elects to make the appeal to the plan commission, the applicant and plan commission shall follow the procedure, including payment of the required fee, set forth in sections 130-151 to 130-154. The plan commission may issue one decision on the appeal and the application for site plan approval or may issue separate decisions.

(Ord. No. 1997-18, § 3(17.19(2)), 1-19-1998; Ord. No. 1998-3, § 1, 6-9-1998; Ord. No. 2003-12, § 7, 10-14-2003, Ord. 2009-05)

Sec. 130-203. Application requirements.

All applications for proposed site plans shall be approved and certified as complete by the zoning administrator prior to the formal initiation of the procedure described in this division. No

placement of the application on any agenda as an item to be acted upon shall occur unless such certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the zoning administrator, without an application. Prior to the placement of the site plan application on the plan commission's agenda, the applicant shall provide the zoning administrator with 12 copies of the complete application as certified by the zoning administrator. The zoning administrator may waive the certain specific application submittal requirements for site plans or site plan amendments for minor projects where the scope and scale of a project requiring site plan approval does not warrant literal interpretation of the application requirements. Any waivers of submittal requirements must be specifically described and included in any motion by the plan commission acting on such minor projects. The complete application shall comprise all of the following:

(1) *Written description of intended use.* Written description of the intended use describing in reasonable detail:

a. The existing zoning district (and proposed zoning district if different);

b. Natural resources site evaluation worksheet (per the zoning administrator);

c. Current land uses present on the subject property;

d. Proposed land uses for the subject property;

e. Projected number of residents, employees, and daily customers;

f. Proposed amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;

g. Operational considerations relating to hours of operation, projected normal and peak water usage (optional), sanitary sewer or septic loadings (optional), and traffic generation;

h. Operational considerations relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in this chapter, including street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created (as indicated by complete and continuous compliance with the provisions of this chapter), then the statement "The proposed development shall comply with all requirements of this chapter" shall be provided;

i. Exterior building and fencing materials;

j. Possible future expansion and related implications relative to subsections (1)a--i of this section; and

k. Any other information pertinent to adequate understanding by the plan commission of the intended use and its relation to nearby properties.

(2) *Site plan.* A property site plan drawing (and reduction at 11 inches by 17 inches) which includes:

a. A title block which indicates the name, address and phone/fax numbers of the current property owner and/or agents (developer, architect, engineer, planner) for project;

b. The date of the original plan and the latest date of revision to the plan;

c. A north arrow and a scale. The scale shall not be smaller than one inch equals 100 feet;

d. A parcel number of the subject property;

e. All property lines and existing and proposed right-of-way lines, with bearings and dimensions clearly labeled;

f. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;

g. All required building setback lines;

h. All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;

i. The location and dimension (cross section and entry throat) of all access points onto public streets;

j. The location and dimensions of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by this chapter;

k. The location and dimension of all loading and service areas on the subject property and labels indicating the dimensions of such areas;

l. The location of all outdoor storage areas and the design of all screening devices;

m. The location, type, height, size and lighting of all signage on the subject property;

n. The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property, including clear demonstration of compliance with lighting requirements of this chapter;

o. The location and type of any permanently protected green space areas;

p. The location of existing and proposed drainage facilities; and

q. In the legend, data for the subject property as follows:

1. Lot area;

2. Floor area;

3. Floor area ratio;

4. Impervious surface area;

5. Impervious surface ratio; and

6. Building height.

(3) *Landscaping plan.* A detailed landscaping plan of the subject property, at the same scale as the main plan (and a reduction at 11 inches by 17 inches), showing the location of all required bufferyard and landscaping areas, and existing and proposed landscape point fencing and berm options for meeting such requirements. The landscaping plan shall demonstrate complete compliance with the requirements of

article IV of this chapter. (The individual plant locations and species, fencing types and heights, and berm heights shall be provided.)

(4) *Grading and erosion control plan.* A grading and erosion control plan at the same scale as the main plan (and a reduction at 11 inches by 17 inches) showing existing and proposed grades, including retention walls and related devices, and erosion control measures per the detailed requirements of this Code.

(5) *Elevation drawing.* Elevation drawing of proposed buildings or proposed remodeling of existing buildings showing finished exterior treatment shall also be submitted, with adequate labels provided to clearly depict exterior materials, texture, color and overall appearance. Perspective renderings of the proposed project and/or photos of similar structures may be submitted, but not in lieu of adequate drawings showing the actual intended appearance of the buildings.

(6) *Traffic impact report.* A traffic impact report that meets the requirements of this part if the number of trips per day for the existing and proposed development is 750 or more. When the number of trips per day is 300 or more but less than 750, the city may require a traffic impact report when circumstances warrant such review. When a traffic impact report is required, the applicant shall hire an engineer as approved by the city to prepare the report. The approved engineer shall have expertise in transportation planning. Trip generation rates for various land uses shall be based on the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if it can be shown that the alternative source better reflects local conditions. The traffic impact report shall be in written form along with supporting maps and other information as appropriate. At a minimum, the report shall include the following elements (1) existing traffic circulation conditions and patterns; (2) anticipated traffic circulation conditions and patterns, including truck movements; (3) effects of the project on traffic safety and efficiency; (4) recommendations/alternatives to alleviate negative effects; and (5) an executive summary.

(7) *Copies.* Three full-size copies of the items required by subsections (3)--(5) of this section.

(Ord. No. 1997-18, § 3(17.19(3)), 1-19-1998, Ord. 2006-30, Ord. 2009-05)

Sec. 130-204. Review by plan commission.

The plan commission, in its consideration of a submitted complete application for site plan approval, shall take into account the intent of this chapter to ensure attractive, efficient, and appropriate development of land in the community, exterior architectural design, construction materials, signage, color, and building form, and to ensure particularly that every reasonable step has been taken to avoid depreciating effects on surrounding property and the natural environment. The plan commission, in reviewing the application, may require such additional measures and/or modifications as it deems necessary to accomplish this objective. If such additional measures and/or modifications are required, the plan commission may withhold approval of the site plan until revisions depicting such additional measures and/or modifications are submitted to the satisfaction of the plan commission, or may approve the application subject to the provision of a revised application reflecting the direction of the plan commission to the satisfaction of the zoning administrator. Such amended plans and conditions applicable to the

proposed use shall be made a part of the official record, and development activity on the subject property may not proceed until the revised application has been approved by one of the two procedures described in this section as directed by the plan commission.

(Ord. No. 1997-18, § 3(17.19(4)), 1-19-1998)

Sec. 130-205. Approval required prior to initiation of land use or development activity.

Absolutely no land use or development activity, including site clearing, grubbing, or grading, shall occur on the subject property prior to the approval of the required site plan. Any such activity prior to such approval shall be a violation of this chapter and shall be subject to all applicable enforcement mechanisms and penalties.

(Ord. No. 1997-18, § 3(17.19(5)), 1-19-1998)

Sec. 130-206. Modification of approved plan.

The plan commission shall review all proposed deviations to an approved site plan with the procedures outlined in sections 130-202 and 130-204 when such deviation would result in consequences not considered in the initial review; would result in consequences of a greater magnitude not contemplated in the initial review; would materially change the appearance of a building or other structure, or would change one or more of the written findings. In other cases, the zoning administrator, upon written petition, may authorize a minor deviation in consultation with the city engineer and other city department heads, as may be appropriate, provided such deviation does not circumvent a condition imposed by the plan commission. Examples of a minor deviation in most situations include, but are not limited to, a change to an outdoor lighting plan, landscaping plan, pedestrian flow, and on-site parking. If the zoning administrator authorizes a minor deviation, he shall document such decision in writing and submit it to the plan commission at its next regularly scheduled meeting. If the zoning administrator does not authorize a minor deviation, the applicant may submit the application to the plan commission for review and action consistent with sections 130-202 and 130-204.

(Ord. No. 1997-18, § 3(17.19(6)), 1-19-1998, Ord. 2006-32, Ord. 2009-05)

Sec. 130-207. Fees.

A fee as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs, is required for the procedure described in this division.

(Ord. No. 1997-18, § 3(17.19(7)), 1-19-1998)

Sec. 130-208. Site evaluation worksheet.

The form of the natural resources site evaluation worksheet shall be substantially as follows:

NATURAL RESOURCES SITE EVALUATION WORKSHEET

TABLE INSET:

(a) Determine the Gross Site Area (GSA) of the Site:

1.	Total Site Area as determined by actual on-site survey.	_____ acres
2.	Subtract area located within proposed rights-of-ways of roads and within proposed boundaries of public facilities which are designated within the City's Comprehensive Master Plan and/or required for dedication per Subdivision regulations.	– _____ acres
3.	Subtract land which although part of the same parcel is not contiguous to, or is not accessible from, the proposed road network serving the project.	– _____ acres
4.	Subtract land which is proposed for a different development option or a different zoning district.	– _____ acres
5.	Subtract area of navigable waters (lakes and streams).	– _____ acres
6.	Equals Gross Site Area (GSA).	= _____ acres

(b) Determine the Required Resource Protection Area (RPA) of the Site:

1.	Portion of Gross Site Area containing Floodways.	_____ acres
2.	Add portion of Gross Site Area containing Floodplain Areas.	+ _____ acres
3.	Add portion of Gross Site Area containing Flood fringes.	+ _____ acres
4.	Add portion of Gross Site Area containing Wetlands.	+ _____ acres
5.	Add portion of Gross Site Area containing Drainageways.	+ _____ acres
6.	Add portion of Gross Site Area containing Lakeshores.	+ _____ acres
7.	Add portion of Gross Site Area containing Woodlands.	+ _____ acres
8.	Add portion of Gross Site Area containing Steep Slopes.	+ _____ acres
9.	Subtract portions of natural resource areas ((b)1--(b)8)) made developable by using approved environmental mitigation techniques.	– _____ acres

10.	Equals Required Resource Protection Area (RPA).	= _____ acres

(c) Determine the Net Developable Area (NDA) of the Site:

1.	Enter Gross Site Area (GSA) (from (a)6, above).	_____ acres
2.	Subtract Required Resource Protection Area (RPA) (from (b)10, above).	– _____ acres
3.	Equals Net Developable Area (NDA).	= _____ acres

(Ord. No. 1997-18, § 3(17.19), 1-19-1998)

Secs. 130-209--130-230. Reserved.

DIVISION 3. BOARD OF ZONING APPEALS*

Sec. 130-71. Membership.

The board of appeals shall consist of five members appointed, on the third Tuesday in April, by the mayor and confirmed by the city council.

(Code 1986, § 17.15(1), Ord. 2006-18)

Sec. 130-72. Term of members.

Terms of members of the board of appeals shall be for staggered three-year periods and shall expire on the third Tuesday in April of the appropriate year.

(Code 1986, § 17.15(2), Ord. 2006-18)

Sec. 130-73. Oath of members.

All members of the board of appeals shall take the official oath in accordance with Wis. Stats. § 19.01 within ten days of receiving notice of their appointment.

(Code 1986, § 17.15(8))

Sec. 130-74. Vacancies.

Vacancies on the board of appeals shall be filled for unexpired terms in the same manner as appointments for full terms.

(Code 1986, § 17.15(9))

Sec. 130-75. Compensation of members.

Compensation of members of the board of appeals shall be as determined by the city council.

(Code 1986, § 17.15(10))

Sec. 130-76. Alternate members.

The mayor shall appoint two alternate members to the board of appeals for staggered terms of three years. Annually, the mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the board of appeals refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board of appeals so refuses or is absent.

(Code 1986, § 17.15(5), Ord. 2006-37)

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* **Cross references:** Boards, commissions and committees, § 2-191 et seq.

Sec. 130-77. Chairperson*.

The chairperson of the board of appeals shall be designated by the mayor.

(Code 1986, § 17.15(3))

Sec. 130-78. Secretary.

The board of appeals shall elect one of its members as secretary.

(Code 1986, § 17.15(6))

Sec. 130-79. Conflicts of interest.

Any member of the board of appeals who has any interest in a matter before the board shall not vote thereon and shall remove himself from any meeting or hearing at which such matter is under consideration.

(Code 1986, § 17.15(4))

Sec. 130-80. Technical assistance by zoning administrator.

The zoning administrator shall attend all meetings of the board of appeals for the purpose of providing technical assistance when requested by the board of appeals.

(Code 1986, § 17.15(7))

Sec. 130-81. Organization; meetings and rules of procedure; records.

(a) The board of appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

(b) Meetings shall be held at the call of the chairperson and at such other times as the board may determine, and shall be open to the public.

(c) Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, the reasons for the board's determination, and its finding of facts. The secretary shall keep records of the board's examinations and other official actions, all of which shall be immediately filed with the city clerk-treasurer and shall be a public record.

(d) If a quorum is present, the board may take action by a majority vote of the members present..

(Code 1986, § 17.15(11), Ord. 2006-37)

Sec. 130-82. Powers; assistance by other agencies.

(a) The board of appeals shall have the following powers:

(1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto.

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* **Cross references:** Officers and employees, § 2-91 et seq.

(2) Hear and decide special exceptions to the terms of this chapter upon which such board is required to pass under this chapter.

(3) Authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. This power includes hearing and deciding appeals from decisions of the plan commission to grant or deny variances in connection with site plan reviews.

(4) Permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter, a building or premises to be erected or used for public utility purposes in any location which is reasonably necessary for the public convenience and welfare. Except for such utility purposes, use variances are not permitted.

(5) Hear and decide appeals from decisions of the plan commission to grant or deny conditional use permits.

(b) The board may request assistance from other city officials, departments, committees, and boards.

(Code 1986, § 17.15(12); Ord. No. 2003-12, § 4, 10-14-2003)

Secs. 130-83--130-100. Reserved.

DIVISION 4. CONDITIONAL USES

Sec. 130-101. Purpose of division.

(a) The purpose of this division is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses.

(b) Certain uses in situations which are of such a special nature, or are so dependent upon actual contemporary circumstances, as to make impractical the predetermination of permissibility, or the detailing in this chapter of specific standards, regulations, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses.

(c) Under this chapter, a proposed conditional use shall be denied unless the applicant can demonstrate, to the satisfaction of the city, that the proposed conditional use will not create major undesirable impacts on nearby properties, the environment, or the community as a whole, as determined by the plan commission per section 130-104(4).

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(1)), 1-19-1998)

Sec. 130-102. Initiation of request for approval.

Proceedings for approval of a conditional use may be initiated by an application of the owner of the subject property.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(2)), 1-19-1998)

Sec. 130-103. Application for approval.

(a) All applications for proposed conditional uses shall be approved and certified as complete by the zoning administrator prior to the initiation of this procedure. No placement of the application on any agenda as an item to be acted upon shall occur unless such certification has occurred. Prior to the submittal of the official notice regarding the application to the newspaper by the city clerk-treasurer, the applicant shall provide the city clerk-treasurer with 12 copies of the complete application as certified by the zoning administrator. The complete application shall comprise all of the following:

(1) A map of the subject property showing all lands for which the conditional use is proposed. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

(2) A map of the subject property and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on such map as the names and addresses appear on the current tax records of the city.

The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction which maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier. All lot dimensions of the subject property, a graphic scale,

and a north arrow shall be provided. (This map may be provided by the city, at the discretion of the zoning administrator.)

(3) A map, such as the land use plan map, of the generalized location of the subject property in relation to the city as a whole. (This map may be provided by the city, at the discretion of the zoning administrator.)

(4) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations.

(5) A site plan of the subject property as proposed for development. The site plan shall conform to all the requirements of section 130-203. If the proposed conditional use is a group development, a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided the plat contains all information required on the site plan per division 8 of this article.

(b) As an additional requirement, the applicant should provide written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in section 130-104(3)a--f.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(3)), 1-19-1998, Ord. 2012-03)

Sec. 130-104. Review by zoning administrator.

The proposed conditional use shall be reviewed by the zoning administrator as follows:

(1) The zoning administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the zoning administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the zoning administrator determines that the application is complete, he shall so notify the applicant.

(2) Upon notifying the applicant that his application is complete, the zoning administrator shall review the application and evaluate and comment on the written justification for the proposed conditional use provided in the application per section 130-103.

(3) The zoning administrator may also evaluate the application to determine whether the requested conditional use is in harmony with the recommendations of the city's master plan, particularly as evidenced by compliance with the following standards:

a. How is the proposed conditional use (the use in general, independent of its location) in harmony with the purposes, goals, objectives, policies and standards of the city's master plan, this chapter, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city?

b. How is the proposed conditional use (in its specific location) in harmony with the purposes, goals, objectives, policies and standards of the city's

master plan, this chapter, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the city?

c. Does the proposed conditional use, in its proposed location and as depicted on the required site plan (see section 130-103(a)(5)) result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementationof the provisions of this chapter, the master plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the city or other governmental agency having jurisdiction to guide development?

d. Does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?

e. Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property?

f. Do the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use (as identified in subsections (3)a--e of this section), after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts?

(4) The zoning administrator shall forward the report per subsection (2) of this section, and, if prepared, the report per subsection (3) of this section, to the plan commission for the commission's review and use in taking action on the conditional use. If the zoning administrator determines that the proposal may be in conflict with the provisions of the city's master plan, the zoning administrator shall note this determination in the report.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(4)), 1-19-1998)

Sec. 130-105. Preliminary review by plan commission; public hearing.

(a) The plan commission shall schedule a public hearing to consider the application for a conditional use within 45 days after the acceptance and determination of the complete application as determined by the zoning administrator. The applicant may appear in person, or by agent, and/or by attorney. Notice of the proposed conditional use and the public hearing shall conform to the requirements of Wis. Stats. § 62.23(7)(d). The notice shall contain a description of the subject property and the proposed conditional use per section 130-103(a)(1) and (4). In addition, at least ten days before the public hearing, the city clerk-treasurer shall mail an identical notice to the applicant, to all property owners within 250 feet of the boundaries of the subject property as identified in section 130-103(a)(2), and to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the

jurisdiction of this chapter. Failure to mail such notice, provided it is unintentional, shall not invalidate proceedings under this section.

(b) Within 60 days after the public hearing (or within an extension of such period requested in writing by the applicant and granted by the plan commission), the plan commission shall make its preliminary findings regarding section 130-104 and its recommendations regarding the application as a whole. If the plan commission makes a favorable preliminary finding on an application, it shall state in the minutes, and in a subsequently issued written conditional use permit, its conclusion and any finding of facts supporting its conclusion as to the following: that the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use, as identified in section 130-104(3)a--f, after taking into consideration the proposal by the applicant.

(c) If the plan commission so chooses, the plan commission may suspend the regulations outlined in subsection (b) of this section, by roll call vote, and may take action on the proposed conditional use on the same night as the public hearing. The plan commission may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the zoning administrator, the applicant, other city staff, authorized outside experts, the general public, orits own members) or may deny approval of the proposed conditional use.

(d) If a favorable preliminary finding is made by the plan commission, the city staff shall prepare a written conditional use permit.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(5)), 1-19-1998)

Sec. 130-106. Final action by plan commission.

The plan commission shall review its preliminary findings regarding the proposed conditional use and the written conditional use permit. The plan commission may request further information and/or additional reports from the zoning administrator, city staff and/or the applicant. The plan commission may take final action on the application at the time of its initial consideration of the written conditional use permit, or may continue the proceedings at its discretion or at the applicant's request. The plan commission may approve the conditional use as originally proposed, may approve the proposed conditional use with modifications (per the recommendations of the zoning administrator, the applicant, other city staff, authorized outside experts, general public, or its own members) or may deny approval of the proposed conditional use. If the plan commission wishes to make significant changes in the proposed conditional use, then the procedure set forth in Wis. Stats. § 62.23(7)(d) shall be followed prior to plan commission action. Any action to amend the provisions of the proposed conditional use permit requires a majority vote of the plan commission. The plan commission's approval of the proposed conditional use shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed conditional use.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(6)), 1-19-1998)

Sec. 130-107. Resubmittal of application after denial.

No application which has been denied under this division (either wholly or in part) shall be resubmitted for a period of 12 months from the date of the order of denial, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(7)), 1-19-1998)

Sec. 130-108. Revocation of approval.

Upon approval by plan commission, the applicant must demonstrate that the proposed conditional use meets all general and specific conditional use requirements in the site plan required for initiation of development activity on the subject property per division 8 of this article. Once a conditional use is granted, no erosion control permit, site plan approval, certificate of occupancy, or building permit shall be issued for any development which does not comply with all requirements of this chapter. Any conditional use found not to be in compliance with the terms of this chapter shall be considered in violation of this chapter and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the city council, following the procedures outlined in sections 130-102--130-107.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(8)), 1-19-1998)

Sec. 130-109. Time limit for commencing and completing development.

The start of construction of any and all conditional uses shall be initiated within 365 days of their approval by plan commission and such uses shall be operational within 730 days of such approval. Failure to initiate or complete development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this section, the term "operational" shall be defined as complying with the conditions of the conditional use permit. Prior to such a revocation, the applicant may request an extension of this period. Such request shall require formal approval by plan commission and shall be based upon a showing of acceptable justification (as determined by the plan commission).

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(9)), 1-19-1998)

Sec. 130-110. Discontinuance of use.

Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(10)), 1-19-1998)

Sec. 130-111. Change of ownership of property.

All requirements of the approved conditional use shall be continued regardless of ownership of the subject property. Modification, alteration, or expansion of any conditional use in violation as approved per section 130-106, without approval by the plan commission, shall be grounds for revocation of the conditional use approval per section 130-108.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(11)), 1-19-1998)

Sec. 130-112. Recording of site plan and other documents.

Except for conditional use approvals for temporary uses, all documents associated with the written description, the approved site plan, and the specific requirements of approval, and a memorandum referring to and stating the general purpose of the conditional use (along with a legal description of the subject property), shall be recorded by the applicant with the county register of deeds office, and the applicant shall submit evidence of such recordation to the city staff.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(12)), 1-19-1998)

Sec. 130-113. Notice to the state department of natural resources regarding uses affected by conservancy regulations.

The plan commission shall transmit a copy of each application for a conditional use for conservancy regulations in the shoreland-wetland, floodway, floodplain, or flood fringe overlay zoning districts to the state department of natural resources for review and comment at least ten days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the department of natural resources has made its recommendation, whichever comes first. A copy of all decisions relating toconditional uses for shoreland-wetland conservancy regulations or floodland regulations shall be transmitted to the state department of natural resources within ten days of the date of such decision.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(13)), 1-19-1998)

Sec. 130-114. Appeals.

The decision of the plan commission under this division may be appealed to the board of appeals by the applicant for the conditional use permit, or any person or persons jointly or severally aggrieved by a decision of the plan commission on a conditional use permit, or any officer, department, board, or bureau of the city. Such appeal must specify the grounds thereof with respect to the findings of the plan commission and must be filed with the city clerk-treasurer within ten days of the final action of theplan commission. The city clerk-treasurer shall not issue the conditional use permit or a building permit related to the conditional use permit during the ten-day appeal period. The city clerk-treasurer shall transmit such appeal to the board of appeals.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(14)), 1-19-1998; Ord. No. 2003-12, § 5, 10-14-2003)

Sec. 130-115. Fees.

A fee as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs, is required for the procedure described in this division.

(Code 1986, § 17.13; Ord. No. 1997-18, § 1(17.13(15)), 1-19-1998)

Sec. 130-116. Imposition of conditions.

(a) *Generally*. The plan commission or city council may impose such conditions as may be necessary to mitigate any potential impacts between the proposed use and surrounding land uses, both existing and those reasonably anticipated.

(b) *Bufferyards*. Depending on the circumstances, the plan commission or city council may require the applicant to provide a bufferyard on the subject property with an opacity level of 0.1 or 0.2 consistent with the standards listed in table 130-270 (d)(1).

[Ord. 2005-40]

Secs. 130-117--130-130. Reserved.

DIVISION 5. STANDARDS FOR EVALUATING PROPOSED CONDITIONAL USES, ZONING DISTRICT CHANGES AND SITE PLANS

Sec. 130-131. Information to be considered.

The plan commission or the city council may consider any relevant factors, including, but not limited to, the factors identified below, when considering an application for a conditional use permit, change in zoning district, or site plan approval, to the extent such factors are deemed relevant to the particular application. In addition, the plan commission may consider the information required under section 130-203 when considering an application for site plan approval. The plan commission or common council may attach conditions on approval of an application for application for a conditional use permit, change in zoning district, or site plan approval to address problems that are not in direct conflict with this chapter.

(1) *Site design and physical characteristics.*

a. Existing topography, drainage patterns and vegetative cover and the suitability of the proposed use in this regard.

b. Availability of water, sewer, rail and other services and the utility requirements of the proposed site.

c. Where public sewers are not available, the percolation characteristics of the soil.

d. Adequacy of the proposed internal circulation system, including safety considerations.

e. Access to sites from the internal circulation system.

f. The costs of providing various public services.

g. Appearance (how the area will look).

(2) *Site location relative to public road network.*

a. Convenient access to a public road network (safety of access points).

b. Visibility from the proposed road and the need for visibility.

c. Access; the location is to provide access primarily by righthand turning movements.

(3) *Land use.*

a. Compatibility with existing or proposed uses in the area.

a. Relation to any existing land use plan.

c. Relation to existing or proposed development at nearby interchanges.

d. In reviewing an application for a zoning district change to the local business district (B-1), central business district (B-2), community business district (B-3), regional business district (B-4), or planned office district (O-1), the

plan commission and city council shall consider whether the proposed zoning district change likely will result in increased vehicular traffic on nearby local streets in areas of existing residential development and whether such increased traffic will have an adverse impact on the existing residential development.

(4) *Traffic generation.*

a. Amount of daily and peak hour traffic to be generated, related to site size. Traffic shall be subclassified as to arterial, collector and local streets.

b. Amount of traffic generated relative to existing and anticipated ultimate generated traffic in the area.

c. Expected composition of site-generated traffic by vehicle types.

d. Effect of site-generated traffic on the operation of the area.

e. Safety and convenience to future users.

(5) *Community effects.*

a. Immediate and long range tax base.

b. Access to market or service area.

c. Relation to scenic or recreation values.

d. Relation to the public interest, the purpose and intent of this chapter and substantial justice to all parties concerned.

e. Compliance with the master plan's goals and objectives.

(6) *Other relevant factors.*

a. Compliance with the performance standards in article III of this chapter.

b. Additional impacts.

(Code 1986, § 17.12, Ord. 2006-11)

Secs. 130-132--130-150. Reserved.

DIVISION 6. APPEAL AND VARIANCE PROCEDURES

Sec. 130-151. Application.

Appeals from the decision of the city planner concerning the literal enforcement of this chapter or from the decision of the plan commission to grant or deny a variance in connection with a site plan review may be made by any person aggrieved or bay any officer, department, board or bureau of the city. Such appeals shall be filed with the city clerk-treasurer within ten days, after the date of written notice of the decision or order of the city planner or plan commission. Applications may be made by the owner or lessee of the structure, land or water to be affected at any time and shall be filed with the city clerk-treasurer. Such appeals and applications shall include the following:

(1) The name and address of the appellant or applicant, all abutting and opposite property owners of record and owners within 250 feet.

(2) Plat of survey prepared by a registered land surveyor showing all of the information required under section 130-31 for a building permit.

(3) Additional information required by the plan commission, board of appeals or zoning administrator.

(4) Fee receipt from the city clerk-treasurer in the amount established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs. If the appeal is from a decision by the plan commission to grant or deny a variance in connection with a site plan review, the fee for this appeal is in addition to the fee paid to request a variance from the plan commission. Such fees are nonrefundable.

(5) If the appeal is from a decision to grant or deny a variance in connection with site plan approval, a copy of the minutes of all plan commission meetings at which the site plan review or application for variance was discussed or decided.

The city clerk-treasurer shall transmit such appeals and applications and required documents to the board of appeals.

(Code 1986, § 17.16(1); Ord. No. 2003-12, § 6, 10-14-2003)

Sec. 130-152. Hearing.

The board of appeals shall hold a public hearing pursuant to this division within a reasonable time to be set by it, after receiving written application for the hearing, shall give public notice thereof at least 15 days prior to the hearing by publication of a class 2 notice under Wis. Stats. ch. 985, and shall give due notice to the parties in interest, the zoning administrator and the plan commission. At the hearing, the appellant or applicant may appear in person, by agent or by attorney.

(Code 1986, § 17.16(2))

Sec. 130-153. Findings.

No variance to the provisions of this chapter shall be granted by the board of appeals unless it has considered the standards in section 130-131 and it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

(1) *Exceptional circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance would not be of such a general or recurrent nature as to suggest that this chapter should be changed.

(2) *Absence of detriment.* The variance shall not create substantial detriment to adjacent property and shall not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

(3) *Conclusions of law.* The findings of the board shall be accompanied by findings of fact and conclusions of law.

(Code 1986, § 17.16(3))

Sec. 130-154. Decision; time limit for commencing development.

(a) The board of appeals shall decide all appeals and applications under this division within 30 days after final hearing and shall transmit a signed copy of the board's decision, including the reasons for the board's determination and its findings of fact, to the appellant or applicant, zoning administrator and plan commission.

(b) Conditions appropriate to effect the determination of the board on appeal may be placed upon any building permit ordered or authorized by the board pursuant to Wis. Stats. § 62.23(7)(e)8.

(c) Variances and permits granted by the board shall expire within six months unless substantial work has commenced pursuant to such grant.

(Code 1986, § 17.16(4))

Sec. 130-155. Review by court.

Any person aggrieved by any decision of the board of appeals under this division may present to a court of record a verified petition setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the city clerk-treasurer.

(Code 1986, § 17.16(5))

Secs. 130-156--130-170. Reserved.

DIVISION 7. AMENDMENT OF OFFICIAL ZONING MAP AND/OR ZONING CLASSIFICATION

Sec. 130-171. Purpose of division.

The purpose of this division is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed amendments to provisions of the official zoning map and/or zoning classification. (Refer to the requirements of Wis. Stats. §§ 62.23(6)(b), 62.23(7)(d)2.)

(Ord. No. 1997-18, § 2(17.17(1)), 1-19-1998)

Sec. 130-172. Initiation of request for amendment.

Proceedings for amendment of the official zoning map and/or zoning classification may be initiated by any one of the following four methods:

(1) An application of the owner of the subject property;

(2) A petition for annexation. The procedure for designating the zoning for annexed land shall proceed according to Chapter 16 of the City Code;

(3) A recommendation of the city staff or the plan commission; or

(4) Action of the city council.

(Ord. No. 1997-18, § 2(17.17(2)), 1-19-1998, Ord. 2005-27, Ord. 2012-19)

Sec. 130-173. Application.

(a) All applications for proposed amendments to the official zoning map and/or zoning classification, regardless of the party of their initiation per section 130-172, shall be filed in the office of the zoning administrator, and shall be approved and certified as complete by the zoning administrator prior to the formal initiation of the procedure described in this division. No placement of the application on any agenda as an item to be acted upon shall occur unless such certification has occurred. The item maybe placed on any agenda as a discussion-only item, with the permission of the zoning administrator, without an application. Prior to the submittal of the official notice regarding the application to the newspaper by the city clerk-treasurer, the applicant shall provide the city clerk-treasurer with 12 copies of the complete application as certified by the zoning administrator. The complete application shall comprise all of the following:

(1) A map of the subject property showing all lands for which the zoning map amendment is proposed. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

(2) A map of the subject property and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of

the owners of all lands on the map as the names and addresses appear on the current tax records of the city. The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction that maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. (This map may be provided by the city at the discretion of the zoning administrator.)

(3) A map, such as the land use plan map, of the generalized location of the subject property in relation to the city as a whole. (This map may be provided by the city at the discretion of the zoning administrator.)

(b) As an optional requirement, the applicant may wish to provide written justification for the proposed map amendment, consisting of the reasons why the applicant believes the proposed map amendment is in harmony with the recommendations of the city's master plan, particularly as evidenced by compliance with the standards set out in section 130-174(3)a--c.

(Ord. No. 1997-18, § 2(17.17(3)), 1-19-1998, Ord. 2005-27, Ord. 2012-19)

Sec. 130-174. Review by zoning administrator.

The proposed amendment to the official zoning map shall be reviewed by the zoning administrator as follows:

(1) The zoning administrator shall determine whether the application is complete and fulfills the requirements of this chapter. If the zoning administrator determines that the application is not complete or does not fulfill the requirements of this chapter, he shall return the application to the applicant. If the zoning administrator determines that the application is complete, he shall so notify the applicant.

(2) Upon notifying the applicant that his application is complete, the zoning administrator shall review the application and evaluate and comment on the factors listed in section 130-131 that the zoning administrator believes are relevant to the application and the written justification for the proposed map amendment provided in the application per section 130-173.

(3) The zoning administrator also shall evaluate the application to determine whether the requested amendment to the official zoning map is in harmony with the city's comprehensive plan, particularly as evidenced by compliance with the following standards:

a. How does the proposed official zoning map amendment further the purposes of this chapter as outlined in section 130-2 and the applicable rules and regulations of the state department of natural resources and the Federal Emergency Management Agency?

b. Which of the following factors has arisen which are not properly addressed on the current official zoning map and/or zoning classification?

1. The designations of the official zoning map and/or zoning classification should be brought into conformity with the comprehensive plan.

2. A mistake was made in mapping on the official zoning map and/or zoning classification (that is, an area is developing in a manner and purpose different from that for which it is mapped). If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the city may intend to stop an undesirable land use pattern from spreading.

3. Factors have changed (such as the availability of new data, the presence of new roads or other infrastructure, additional development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district.

4. Growth patterns or rates have changed, thereby creating the need for an amendment to the official zoning map and/or zoning classification.

c. How does the proposed amendment to the official zoning map and/or zoning classification maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?

(4) The zoning administrator shall forward the report per subsection (2) and subsection (3) of this section to the plan commission for the commission's review and use in making its final recommendation to the city council. If the zoning administrator determines that the proposal may be in conflict with the provisions of the city's master plan, the zoning administrator shall note this determination in the report.

(Ord. No. 1997-18, § 2(17.17(4)), 1-19-1998, Ord. 2006-11)

Sec. 130-175. Review and recommendation by plan commission.

(a) The city council shall not make an amendment to the official zoning map and/or zoning classification without allowing for a recommendation from the plan commission per the provisions of this division.

(b) The plan commission shall schedule a reasonable time and place for a public hearing to consider the application within 60 days after the acceptance and determination of the complete application as determined by the zoning administrator. The applicant may appear in person, or by agent, and/or by attorney.

(c) Notice of the proposed amendment to the official zoning map shall conform to the requirements of Wis. Stats. § 62.23(7)(d). The notice shall contain a description of the subject property and the proposed change in zoning. In addition, ten days prior to the public hearing, the city clerk-treasurer shall mail an identical notice to the applicant, to all property owners within 250 feet of the boundaries of the subject property as identified in section 130-173(a)(1); and to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed plan and regulations. Failure to mail the notice, shall not invalidate proceedings under this section.

(d) Within 60 days (or within an extension of such period requested in writing by the applicant and granted by the plan commission), the plan commission may make a written report stating to the city council, and/or shall state in the minutes, its findings regarding sections 130-173 and 130-174, and its recommendations regarding the application as a whole. The report may include a formal finding of facts developed and

approved by the plan commission concerning the requirements of section 130-174(3)a--c.

(e) If the plan commission fails to make a report within 60 days after the filing of the complete application (and in the absence of an applicant-approved extension per subsection (d) of this section), then the city council may take action after the expiration of the 60-day period. Failure to receive the written report from the plan commission per subsection (d) of this section shall not invalidate the proceedings or actions of the city council.

(f) If the plan commission recommends approval of an application, it shall state in the minutes, or in the subsequently issued written report to the city council, its conclusion and any finding of facts supporting its conclusion as to the following: that the potential public benefits of the proposed amendment to the official zoning map outweigh, or do not outweigh, any and all potential adverse impacts of the proposed map amendment, as identified in section 130-174(3)a--c, after taking into consideration the proposal by the applicant.

(Ord. No. 1997-18, § 2(17.17(5)), 1-19-1998)

Sec. 130-176. Action by city council.

(a) The city council shall consider the plan commission's recommendation regarding the proposed amendment to the official zoning map. The city council may request further information and/or additional reports from the plan commission, the zoning administrator, and/or the applicant.

(b) The city council may take final action on the application, or may continue the proceedings at its discretion or at the applicant's request. The city council may approve the amendment to the official zoning map as originally proposed, may approve the proposed map amendment with modifications (per the recommendations of the zoning administrator, the plan commission, authorized outside experts, or its own members) or may deny approval of the proposed map amendment. If the city council wishes to make significant changes in the proposed map amendment, as recommended by the plan commission, then the procedure set forth in Wis. Stats. § 62.23(7)(d) shall be followed prior to city council action.

(c) When the city council takes action on the application, it shall state in the minutes, and/or in a subsequently issued written decision, its conclusion and any findings of facts supporting its conclusion as to the following: that the potential public benefits of the proposed map amendment outweigh, or do not outweigh, any and all potential adverse impacts of the proposed map amendment, as identified in section 130-174(3)a--c, after taking into consideration the proposal by the applicant and the recommendation of the plan commission. Any action to amend the provisions of proposed map amendment requires a majority vote of the city council. The city council's approval of the proposed map amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other amendment to the official zoning map.

(Ord. No. 1997-18, § 2(17.17(6)), 1-19-1998)

Sec. 130-177. Resubmittal of application after denial.

No application which has been denied under this division (either wholly or in part) shall be resubmitted for a period of 12 months from the date of the order of denial, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.

(Ord. No. 1997-18, § 2(17.17(7)), 1-19-1998)

Sec. 130-178. Fees.

A fee as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs, is required for the procedure described in this division, except that no fee is required if a petition for annexation is deemed to be a complete application under section 130-173(c).

(Ord. No. 1997-18, § 2(17.17(8)), 1-19-1998, Ord. 2005-27)

Secs. 130-179--130-200. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

DIVISION 8. SITE PLAN REVIEW AND APPROVAL

Sec. 130-201. Purpose of division.

The purpose of this division is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this division are designed to ensure that all proposed land use and development activity complies with the requirements of this chapter. Specifically, this division requires that the initiation of all development activity (including building permits, occupancy permits for a change of use of an existing lot or structure where there is contemplated a site plan revision, clear cutting, grading or filling) require the approval of site, building and operational plans by the plan commission before the building, occupancy, and zoning permits can be issued; except that the following activities are exempt:

(a) Single family and two-family residences

(b) Interior renovations that do not alter the building footprint

(c) Alterations of exterior siding, window and door openings, or roofing, that do not alter the building footprint

(d) Additions of uncovered decks, stairs, and handicap ramps, except for decks used for outside seating for eating or drinking establishments.

(e) Fences permitted under Section 130-540 of the City of Evansville Zoning Ordinance

(f) Signs permitted under Section 130-1270 through 130-1283 of the City of Evansville Zoning Ordinance

(Ord. No. 1997-18, § 3(17.19(1)), 1-19-1998, Ord. 2009-10)

Sec. 130-202. Initiation of request for approval; pre-application meeting; review by zoning administrator; appeal for variance.

(a) *Initiation of request for approval.* Proceedings for approval of a site plan shall be initiated by the owner of the subject property, or his legally authorized representative.

(b) *Pre-application meeting.* The applicant shall first meet with the zoning administrator and other applicable city staff to discuss preliminary concepts and plans for the development. Guidance will be provided to the applicant on technical requirements and procedures, and a timetable for project review may be discussed.

(c) *Review by zoning administrator.* The applicant shall apply to the zoning administrator for the scheduling of an appearance before the plan commission. The zoning administrator shall notify the applicant of the date and time of the applicable plan commission meeting. The appearance before the plan commission shall not be scheduled unless the application is approved as complete by the zoning administrator per the requirements of section 130-203.

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* **Cross references:** Administration, ch. 2.

The review of the submitted application shall be completed within ten working days of application submittal. Once the application is approved as complete, the zoning administrator shall schedule an appearance before the plan commission a maximum of seven weeks from the date of complete application acceptance.

(d) *Appeal for variance.* If the zoning administrator, in connection with a site plan review, decides that the proposed development being reviewed is prohibited by a literal enforcement of this chapter, the applicant for site plan approval may elect to appeal from the zoning administrator's decision to the plan commission or the board of appeals. If the applicant elects to make the appeal to the plan commission, the applicant and plan commission shall follow the procedure, including payment of the required fee, set forth in sections 130-151 to 130-154. The plan commission may issue one decision on the appeal and the application for site plan approval or may issue separate decisions.

(Ord. No. 1997-18, § 3(17.19(2)), 1-19-1998; Ord. No. 1998-3, § 1, 6-9-1998; Ord. No. 2003-12, § 7, 10-14-2003, Ord. 2009-05)

Sec. 130-203. Application requirements.

All applications for proposed site plans shall be approved and certified as complete by the zoning administrator prior to the formal initiation of the procedure described in this division. No placement of the application on any agenda as an item to be acted upon shall occur unless such certification has occurred. The item may be placed on any agenda as a discussion-only item, with the permission of the zoning administrator, without an application. Prior to the placement of the site plan application on the plan commission's agenda, the applicant shall provide the zoning administrator with 12 copies of the complete application as certified by the zoning administrator. The zoning administrator may waive the certain specific application submittal requirements for site plans or site plan amendments for minor projects where the scope and scale of a project requiring site plan approval does not warrant literal interpretation of the application requirements. Any waivers of submittal requirements must be specifically described and included in any motion by the plan commission acting on such minor projects. The complete application shall comprise all of the following:

(1) *Written description of intended use.* Written description of the intended use describing in reasonable detail:

a. The existing zoning district (and proposed zoning district if different);

b. Natural resources site evaluation worksheet (per the zoning administrator);

c. Current land uses present on the subject property;

d. Proposed land uses for the subject property;

e. Projected number of residents, employees, and daily customers;

f. Proposed amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;

g. Operational considerations relating to hours of operation, projected normal and peak water usage (optional), sanitary sewer or septic loadings (optional), and traffic generation;

h. Operational considerations relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in this chapter, including street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created (as indicated by complete and continuous compliance with the provisions of this chapter), then the statement "The proposed development shall comply with all requirements of this chapter" shall be provided;

i. Exterior building and fencing materials;

j. Possible future expansion and related implications relative to subsections (1)a--i of this section; and

k. Any other information pertinent to adequate understanding by the plan commission of the intended use and its relation to nearby properties.

(2) *Site plan.* A property site plan drawing (and reduction at 11 inches by 17 inches) which includes:

a. A title block which indicates the name, address and phone/fax numbers of the current property owner and/or agents (developer, architect, engineer, planner) for project;

b. The date of the original plan and the latest date of revision to the plan;

c. A north arrow and a scale. The scale shall not be smaller than one inch equals 100 feet;

d. A parcel number of the subject property;

e. All property lines and existing and proposed right-of-way lines, with bearings and dimensions clearly labeled;

f. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;

g. All required building setback lines;

h. All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;

i. The location and dimension (cross section and entry throat) of all access points onto public streets;

j. The location and dimensions of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by this chapter;

k. The location and dimension of all loading and service areas on the subject property and labels indicating the dimensions of such areas;

l. The location of all outdoor storage areas and the design of all screening devices;

m. The location, type, height, size and lighting of all signage on the subject property;

n. The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property, including clear demonstration of compliance with lighting requirements of this chapter;

o. The location and type of any permanently protected green space areas;

p. The location of existing and proposed drainage facilities; and

q. In the legend, data for the subject property as follows:

1. Lot area;

2. Floor area;

3. Floor area ratio;

4. Impervious surface area;

5. Impervious surface ratio; and

6. Building height.

(3) *Landscaping plan.* A detailed landscaping plan of the subject property, at the same scale as the main plan (and a reduction at 11 inches by 17 inches), showing the location of all required bufferyard and landscaping areas, and existing and proposed landscape point fencing and berm options for meeting such requirements. The landscaping plan shall demonstrate complete compliance with the requirements of article IV of this chapter. (The individual plant locations and species, fencing types and heights, and berm heights shall be provided.)

(4) *Grading and erosion control plan.* A grading and erosion control plan at the same scale as the main plan (and a reduction at 11 inches by 17 inches) showing existing and proposed grades, including retention walls and related devices, and erosion control measures per the detailed requirements of this Code.

(5) *Elevation drawing.* Elevation drawing of proposed buildings or proposed remodeling of existing buildings showing finished exterior treatment shall also be submitted, with adequate labels provided to clearly depict exterior materials, texture, color and overall appearance. Perspective renderings of the proposed project and/or photos of similar structures may be submitted, but not in lieu of adequate drawings showing the actual intended appearance of the buildings.

(6) *Traffic impact report.* A traffic impact report that meets the requirements of this part if the number of trips per day for the existing and proposed development is 750 or more. When the number of trips per day is 300 or more but less than 750, the city may require a traffic impact report when circumstances warrant such review. When a traffic impact report is required, the applicant shall hire an engineer as approved by the city to prepare

the report. The approved engineer shall have expertise in transportation planning. Trip generation rates for various land uses shall be based on the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if it can be shown that the alternative source better reflects local conditions. The traffic impact report shall be in written form along with supporting maps and other information as appropriate. At a minimum, the report shall include the following elements (1) existing traffic circulation conditions and patterns; (2) anticipated traffic circulation conditions and patterns, including truck movements; (3) effects of the project on traffic safety and efficiency; (4) recommendations/alternatives to alleviate negative effects; and (5) an executive summary.

(7) *Copies.* Three full-size copies of the items required by subsections (3)--(5) of this section.

The zoning administrator may waive the certain specific application submittal requirements for site plans or site plan amendments for minor projects where the scope and scale of a project requiring site plan approval does not warrant literal interpretation of the application requirements. Any waivers of submittal requirements must be specifically described and included in any motion by the Plan Commission acting on such minor projects.

(Ord. No. 1997-18, § 3(17.19(3)), 1-19-1998, Ord. 2006-30, Ord. 2009-05, Ord. 2009-10)

Sec. 130-204. Review by plan commission.

The plan commission, in its consideration of a submitted complete application for site plan approval, shall take into account the intent of this chapter to ensure attractive, efficient, and appropriate development of land in the community, exterior architectural design, construction materials, signage, color, and building form, and to ensure particularly that every reasonable step has been taken to avoid depreciating effects on surrounding property and the natural environment. The plan commission, in reviewing the application, may require such additional measures and/or modifications as it deems necessary to accomplish this objective. If such additional measures and/or modifications are required, the plan commission may withhold approval of the site plan until revisions depicting such additional measures and/or modifications are submitted to the satisfaction of the plan commission, or may approve the application subject to the provision of a revised application reflecting the direction of the plan commission to the satisfaction of the zoning administrator. Such amended plans and conditions applicable to the proposed use shall be made a part of the official record, and development activity on the subject property may not proceed until the revised application has been approved by one of the two procedures described in this section as directed by the plan commission.

(Ord. No. 1997-18, § 3(17.19(4)), 1-19-1998)

Sec. 130-205. Approval required prior to initiation of land use or development activity.

Absolutely no land use or development activity, including site clearing, grubbing, or grading, shall occur on the subject property prior to the approval of the required site plan. Any such

activity prior to such approval shall be a violation of this chapter and shall be subject to all applicable enforcement mechanisms and penalties.

(Ord. No. 1997-18, § 3(17.19(5)), 1-19-1998)

Sec. 130-206. Modification of approved plan.

The plan commission shall review all proposed deviations to an approved site plan with the procedures outlined in sections 130-202 and 130-204 when such deviation would result in consequences not considered in the initial review; would result in consequences of a greater magnitude not contemplated in the initial review; would materially change the appearance of a building or other structure, or would change one or more of the written findings. In other cases, the zoning administrator, upon written petition, may authorize a minor deviation in consultation with the city engineer and other city department heads, as may be appropriate, provided such deviation does not circumvent a condition imposed by the plan commission. Examples of a minor deviation in most situations include, but are not limited to, a change to an outdoor lighting plan, landscaping plan, pedestrian flow, and on-site parking. If the zoning administrator authorizes a minor deviation, he shall document such decision in writing and submit it to the plan commission at its next regularly scheduled meeting. If the zoning administrator does not authorize a minor deviation, the applicant may submit the application to the plan commission for review and action consistent with sections 130-202 and 130-204.

(Ord. No. 1997-18, § 3(17.19(6)), 1-19-1998, Ord. 2006-32, Ord. 2009-05)

Sec. 130-207. Fees.

A fee as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consulting costs, is required for the procedure described in this division.

(Ord. No. 1997-18, § 3(17.19(7)), 1-19-1998)

Sec. 130-208 deleted with Ord. 2009-10.

(Ord. No. 1997-18, § 3(17.19), 1-19-1998, Ord. 2009-10)

Secs. 130-208--130-230. Reserved.

ARTICLE III. PERFORMANCE STANDARDS

Sec. 130-231. Generally.

This chapter permits specific uses in specific districts, and the performance standards in this article are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land, or water shall hereafter be used except in compliance with the district regulations and with the performance standards in this article. The zoning administrator shall refer any violation of this article affecting public health to the board of health.

(Code 1986, § 17.21)

Sec. 130-232. Air pollution.

No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grain per cubic foot of the conveying gas or any color visible smoke equal to or darker than no. 2 on the Ringelmann Chart described in the United States Bureau of Mine's Information Circular 7718.

(Code 1986, § 17.21(1))

Sec. 130-233. Fire and explosive hazards*.

All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The aboveground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

TABLE INSET:

Closed Cup Flash Point	Gallons
Over 187° F	400,000
105° F to 187° F	200,000
Below 105° F	100,000

(Code 1986, § 17.21(2))

Sec. 130-234. Glare and heat.

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* **Cross references:** Fire prevention and protection, ch. 50.

No activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the I-2 heavy industrial district or I-3 special industrial district, which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside the premises.

(Code 1986, § 17.21(3))

Sec. 130-235. Liquid or solid wastes*.

No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive elements, can overload the existing municipal utilities or can injure or damage persons or property.

(Code 1986, § 17.21(4))

Sec. 130-236. Noise.

(a) No activity shall produce a sound level outside the I-1, light industrial district, I-2, heavy industrial district or I-3 special industrial district boundaries which exceeds the following sound level, measured by a sound level meter and associated octave band filter:

TABLE INSET:

Octave Band Frequency (cycles per second)	Sound Level (decibels)
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
600 to 1,200	53
1,200 to 2,400	47
2,400 to 4,800	41
Above 4,800	39

(b) No activity in any other district shall produce a sound level outside its premises that exceeds the following:

TABLE INSET:

---

* **Cross references:** Solid waste, ch. 102.

Octave Band Frequency (cycles per second)	Sound Level (decibels)
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
Above 4,800	32

(c) All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

(Code 1986, § 17.21(5))

Sec. 130-237. Odors.

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside the premises. The guide for determining odor measurement and control shall be Wis. Admin. Code § NR 429.03. Agriculture odors associated with normal agricultural activities are exempted from this section.

(Code 1986, § 17.21(6))

Sec. 130-238. Radioactivity and electrical disturbances.

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

(Code 1986, § 17.21(7))

Sec. 130-239. Vibration.

No activity in any district except an industrial district (I-1, I-2 or I-3) shall emit vibrations which are discernible without instruments outside its premises. No activity in an industrial district shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

TABLE INSET:

Frequency	Outside the Premises	Outside the District

(cycles per second)		
0 to 10	0.0020	0.0004
10 to 20	0.0010	0.0002
20 to 30	0.0006	0.0001
30 to 40	0.0004	0.0001
40 to 50	0.0003	0.0001
50 and over	0.0002	0.0001

(Code 1986, § 17.21(8))

Sec. 130-240. Water quality protection.

(a) No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that would be likely to run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life.

(b) In addition, no activity shall discharge any liquid, gaseous or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in Wis. Admin. Code ch. NR 102 for all navigable waters.

(Code 1986, § 17.21(9))

Secs. 130-241--130-260. Reserved.

ARTICLE IV. LANDSCAPING REGULATIONS

Sec. 130-261. Purpose of article.

The purpose of this article is to provide minimum requirements for landscaping and landscaping plans based on the amount of impervious surface on a lot or combination of lots proposed for development.

(Ord. No. 1997-18, § 12(17.601), 1-19-1998, Ord. 2010-02)

Sec. 130-262. Intent, scope and organization of article.

(a) This article contains the standards that govern the amount, size, type, installation and maintenance of required landscaping. This article recognizes the important and diverse benefits which landscaping provides in terms of protecting the health, safety, and general welfare of the community, and implementing the master plan. The requirements of this article are intended to:

(1) Protect and restore the natural environment throughout the development process.

(2) Reduce the negative environmental effects of development while fostering aesthetically pleasing development which will enhance the appearance and character of the community.

(3) Reduce the “heat island” effect of impervious surfaces such as parking lots by cooling the shading the surface area.

(4) Increase the compatibility of adjacent uses, by minimizing adverse impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views, activities or impacts to adjacent or surrounding uses.

(b) The landscaping requirements described in this article are required for all new developments and expansions of existing developments, except single-family and two-family residential dwellings.

(c) A "landscaping point" concept is used to provide a maximum amount of flexibility and individual preference in terms of the selection of plant materials.

(d) The landscaping proposed by the applicant shall address the following areas that generally require landscape treatments:

(1) Building foundations

(2) Street yard beautification

(3) Parking lot and loading area screening

(4) Buffer areas between potentially conflicting land uses

(5) Screening of site elements, such as trash and outside storage areas

(Ord. No. 1997-18, § 12(17.602), 1-19-1998, Ord. 2010-02)

Sec. 130-263. Required landscaping points and landscaping plan.

(a) *(a Landscaping points.* Landscaping requirements are stated in terms of the number of landscaping points required. The required number of landscaping points is dependent upon the amount of impervious surface on a lot or combination of lots proposed for development based on the landscape point requirements described in Table 1 below:

Table 1
Landscape Point Requirements

Impervious Surface	Required Points
Under 10,000 SF	100 points per 1,000 SF
10,000 to 19,999 SF	80 points per 1,000 SF
20,000 to 49,999 SF	60 points per 1,000 SF
50,000 SF and Over	40 points per 1,000 SF

For purposes of interpreting this requirement, impervious surfaces include all area under principal and accessory buildings and paved surfaces.

(b) *Point Scoring.* A different number of points are awarded for each plant, depending upon its typical growth rate, its mature height, and whether it is a deciduous or evergreen species. There is a minimum plant size at the time installation in order for plants to be eligible for landscape points. In calculating the number of required landscaping points under the provisions of this article, all areas and distances for which required calculations are based shall be rounded up to the nearest whole number. Table 2 below describes the points awarded for different plant categories.

Table 2
Landscape Points Per Plant and Minimum Installation Sizes

Plant Category	Landscape Points per Plant	Minimum Permitted Plant Installation Size
Tall deciduous tree (40 to 100 feet)	50	2" caliper
Medium deciduous tree (30 to 40 feet)	30	6' tall
Low deciduous tree (15-30 feet)	20	4' tall

Evergreen tree	40	5' tall
Tall deciduous shrub (8 to 10 feet)	10	36" tall
Medium deciduous shrub (5 to 8 feet)	4	24" tall
Low deciduous shrub (2 to 5 feet)	2	18" tall
Tall to medium evergreen shrub	8	18" tall/wide
Low evergreen shrub	2	12" tall/wide
Decorative screening fence	1 point per linear foot	N/A

(c) *Existing plant material.* Existing plant materials on site may be included in point calculations, if the materials are non-invasive, desirable species and will be preserved and protected during construction.

(d) *Landscaping Plan.* Plant materials and other elements of landscaping required to meet the standards of this article shall be clearly depicted and labeled on a landscaping plan. Landscaping plans may be prepared by an owner, a landscape company, landscape architect, or other qualified landscape professional. Landscaping plans shall include:

(1) Notation of drawing scale and directional north arrow

(2) Name, address and phone number of the owner and the person who prepared the plan.

(3) Location of existing deciduous trees greater than three-inch caliper and evergreen trees 10 feet high or greater

(4) Description of plant materials to be removed

(5) Location and schedule of proposed new plant materials listing the common name and botanical name of proposed plant materials, quantity, and plant size at installation.

(6) Location and description of all proposed walls, fences, and other similar site landscape features.

(7) Labeling of mulching, edging & curbing

(8) Areas of seeding or sodding

(9) Areas to remain undisturbed and limits of land disturbance

(e) *Landscaping plan review and approval*. Landscaping plans shall be reviewed and approved by the Plan Commission as part of the site plan review and approval process described in Article II Division 8 of this chapter.

(f) *Additional landscaping or screening.* Additional landscaping or screening may be required by the Plan Commission in order achieve the intent of this section as described in Section 130-262.

(g) *Exceptions*: The Plan Commission may grant exceptions to the point requirements stated in this section in situations where there is sufficient existing or proposed landscaping to meet the intent of this article as described in Section 130-262.

(Ord. No. 1997-18, § 12(17.603), 1-19-1998, Ord. 2010-02, Ord. 2011-07)

Sec. 130-264. Plants Suitable for South Central Wisconsin

Common species suitable for landscaping use in south central Wisconsin are listed in *A Guide to Selecting Landscape Plants for Wisconsin*, E.R. Hasselkus, UW Extension Publication: A2865, which is adopted by reference as a part of this section. The City and applicants shall use this publication as a guideline for plant selection.

(Ord. 2011-07)

Sec. 130-265. Installation and maintenance of landscaped areas.

(a) *Installation.*

(1) All landscaping material required by the provisions of this article shall be installed on the subject property, in accordance with the approved landscaping plan, within 365 days of the issuance of an occupancy permit for any building on the subject property.

(2) All new plant materials credited for landscape points shall be nursery-grown stock grown in accordance with the *USA Standards for Nursery Stock*, latest edition. All plants shall be hardy plants suitable for south central Wisconsin climatic conditions. All plants shall be typical of their species or variety and shall have a normal habit of growth. Installed plant materials shall be sound, healthy and vigorous, well-branched and densely foliated when in leaf with healthy, well-developed root systems. They shall be free of disease and insect pests, eggs, or larvae.

(3) All pervious portions of each lot, not otherwise landscaped, shall be seeded with lawn or native ground cover unless such vegetation is already fully established.

(4) Landscaping materials, fences and berms which are located within duly recorded utility easements and/or pedestrian easements shall be located and selected so that they will not interfere with the intent of the easement. In the event of construction activity or maintenance within a recorded easement, replacement of any plant materials or landscape features in an easement shall be the responsibility of the property owner.

(5) On corner lots in all zoning districts, no fence, wall, vegetation, hedge, planting, or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct the vision clearance triangle between a height of 2 1/2 feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the edge of right-of-way street lines of such corner lots and a line joining the points along such street lines 15 feet from the point of intersection. If arterial streets intersect with other arterial streets or railways, the triangular vision clearance triangle shall be increased to 30 feet from the point of intersection.

(b) *Maintenance.*

(1) The continued and continual maintenance of all required landscaping materials and ground cover shall be the responsibility of the owner of the property on which the materials are required. Plant material that has died shall be replaced within 365 days. This requirement shall run with the property and is binding upon all future property owners.

(2) The owner of any lot or parcel in the city which is five acres or less in area shall maintain lawns, turf areas, plantings beds, and other decorative surface treatments, so as to present an attractive appearance in all yard areas in accordance with generally accepted landscaping practices in south central Wisconsin.

(3) Lawns shall be maintained to a height not to exceed 8 inches.

(Ord. No. 1997-18, § 12(17.613), 1-19-1998, Ord. 2010-02, Ord. 2011-07)

Secs. 130-266 -- 130-300 Reserved.

(Ord. No. 1997-18, § 12(17.604-612, 614), 1-19-1998; Ord. No. 1998-12, § 4(17.604-607,610), 9-8-1998, Ord. 2005-40, Ord. 2005-44, Ord. 2010-02, Ord. 2011-07)

ARTICLE V. DETAILED LAND USE DESCRIPTIONS AND REGULATIONS

DIVISION 1. GENERALLY

Sec. 130-301. Scope of article.

A land use that is not listed in this article and which can not be interpreted to be the same as a listed land use is prohibited.

(Ord. No. 1997-18, § 13(17.70), 1-19-1998, Ord. 2006-27)

Sec. 130-302. Table of land uses.

The following table lists uses permitted by right, permitted as a conditional use, or permitted as a temporary use pursuant to this article:

TABLE OF LAND USES

TABLE INSET:

P	Permitted by right
C	Permitted as a conditional use
T	Permitted as a temporary use.

TABLE INSET:

O-1	Planned Office
B-1	Local Business
B-2	Central Business
B-3	Community Business
B-4	Regional Business
B-5	Special Use Business
I-1	Light Industrial
I-2	Heavy Industrial
I-3>	Special Industrial

TABLE INSET:

Type of Land Use	O-	B-1	B-2	B-3	B-4	B-5	I-	I-	I-	TN

	1						1	2	3	D
NONRESIDENTIAL LAND USES										
Agricultural uses:										
130-341 Cultivation	P	P	P	P	P	P	P	P	P	P
130-342 Husbandry										
130-343 Intensive agriculture										
130-344 Agricultural service									C	
130-345 On-site agricultural retail uses										
130-346 Selective cutting	P	P	P	P	P	P	P	P	P	P
130-347 Clear cutting	C	C	C	C	C	C	C	C	C	C
Institutional uses:										
130-371 Passive outdoor public recreational uses	P	P	P	P	P	C	P	P	P	P
130-372 Active outdoor public recreational uses	P	P	P	P	P	C	P			P
130-373 Indoor institutional uses	P	P	P	P	P	C	P			P
130-374 Outdoor institutional uses	C	C	C	C	C	C	C			C
130-375 Public services and utilities	P	P	P	P	P	P	P	P	P	P
130-376 Institutional residential uses	C	C	C	C	C					C
130-377 Community living arrangement (1--8 residents)		C								P
130-378 Community living arrangement (9--15 residents)	C	C								P
130-379 Community living arrangement (16+ residents)	C	C								P
Commercial uses:										
130-401 Office	P	P	P	P		P	P	P	P	P*
130-402 Personal or professional service	P	P	P	P	C	P				P*
130-403 Indoor sales or service	C	P	P	P	P	P	C			P*
130-404 Outdoor display				C	C	C		C		P*
130-405 Indoor maintenance service		P	P	P	P	P	P	P	P	
130-406 Outdoor maintenance service						C		C	C	
130-407 In-vehicle sales or service				C		C				
130-408 Indoor commercial entertainment	C	C	C	C	C	C				P*
130-409 Outdoor commercial entertainment				C		C			C	

130-410 Commercial animal boarding				C		C				
130-411 Commercial indoor lodging			C	C	C					
130-412 Bed and breakfast establishment		C	C	C						C
130-413 Group day care center (9+ children)	C	C	C	C	C		C	C		C
130-414 Campground										
130-415 Boardinghouse		C	C	C	C					
130-416 Sexually oriented land use									C	
130-417 Vehicle repair and maintenance				C	C	C	C	C		
130-418 Group development	C	C	C	C	C	C	C	C		C
130-419 Gas station/convenience store/food counter		C		C	C	C				C
130-420 Carwash				C	C	C				
130-421 Special central business district commercial/residential uses			C							
130-422 Large-format retail store					C					
130-423 Artisan Studio		C	P	P	P	P	P	C		
Storage or disposal uses:										
130-451 Indoor storage or wholesaling						P	P	P	P	
130-452 Outdoor storage or wholesaling						C	C	C		
130-453 Personal storage facility				C		C	C	C		
130-454 Junkyard or salvage yard									C	
130-455 Waste disposal facility									C	
130-456 Composting operation									C	
130-457 Motor vehicle storage yard				C			C	C	C	
Transportation uses:										
130-481 Off-site parking lot			P	P		C		P	P	
130-482 Airport/heliport	C						C	C	C	
130-483 Freight terminal						C			C	
130-484 Distribution center						C	C	P	P	
130-485 Railroad line	C	C	C	C	C	C	C	C	C	C
Industrial uses:										
130-501 Light industrial uses						C	P	P	P	

130-502 Heavy industrial uses								C	C	
130-503 Communication tower									C	
130-504 Extraction use									C	
Accessory uses:										
130-522 Commercial apartment		C	P	C	C					
130-523 Farm residence	P	P	P	P	P		P	P	P	
130-524 Private residential garage or shed	P	P	P	P	P		P	P	P	P
130-525 Company cafeteria	P		P	P	P	P	P	P	P	
130-526 Company-provided on-site recreation	C		C	C	C	C	C	C	C	
130-527 Outdoor display incidental to indoor sales and service				C	C	C		C		
130-528 In-vehicle sales and service				C		P	C			
130-529 Indoor sales incidental to light industrial use						P	P	P	P	
130-530 Light industrial use incidental to indoor sales			C	C	C	C	C			
130-531 Home occupation	P	P	P	P	P					P/C
130-532 Family day care home										P
130-533 Intermediate day care home										
130-534 Migrant labor camp										
130-535 On-site parking lot	P		P	P	P	P	P	P	C	P
130-536 Exterior communication device	P	P	P	P	P	P	P	P	C	P
130-537 Drive-in financial institution		C	C	C	C	C				
130-538 Outdoor commercial food & beverage service										C
130-539 Outdoor furnace							P	P	P	
Temporary uses:										
130-561 General temporary outdoor sales		T	T	T	T	T				
130-562 Outdoor assembly	T	T	T	T	T	T	T	T	T	
130-563 Contractor's project office	T	T	T	T	T	T	T	T	T	T
130-564 Contractor's on-site equipment storage	T	T	T	T	T	T	T	T	T	T
130-565 Relocatable building	T	T	T	T	T	T	T	T	T	
130-566 On-site real estate sales	T	T	T	T	T	T	T	T	T	T
130-567 Outdoor sales of farm products		T	T	T	T	T	T			

130-568 Sidewalk Cafe			T							T

*The floor area of individual businesses in the TND district shall be less than 6000 sf.

(Ord. No. 1997-18, § 13(17.70), 1-19-1998; Ord. No. 1998-12, § 5(17.70), 9-8-1998; Ord. No. 2002-11, § 9, 11-12-2002, Ord. 2005-44,Ord. 2005-47, Ord. 2006-25, Ord. 2006-36, Ord. 2006-42, Ord. 2007-4, Ord. 2011-17)

Secs. 130-303--130-320. Reserved.

Sec. 130-302. Table of land uses.

The following table lists uses permitted by right, permitted as a conditional use, or permitted as a t

P	Permitted by right
C	Permitted as a conditional use
T	Permitted as a temporary use.

O-1	Planned Office
B-1	Local Business
B-2	Central Business
B-3	Community Business
B-4	Regional Business
B-5	Special Use Business
I-1	Light Industrial
I-2	Heavy Industrial
I-3	Special Industrial
TND	Traditional Neighborhood Development

Type of Land Use	O-1	B-1	B-2	B-3	B-4
NONRESIDENTIAL LAND USES					
Agricultural uses:					
130-341 Cultivation	P	P	P	P	P
130-342 Husbandry					
130-343 Intensive agriculture					
130-344 Agricultural service					
130-345 On-site agricultural retail uses					
130-346 Selective cutting	P	P	P	P	P
130-347 Clear cutting	C	C	C	C	C
Institutional uses:					
130-371 Passive outdoor public recreational uses	P	P	P	P	P
130-372 Active outdoor public recreational uses	P	P	P	P	P
130-373 Indoor institutional uses	P	P	P	P	P
130-374 Outdoor institutional uses	C	C	C	C	C
130-375 Public services and utilities	P	P	P	P	P
130-376 Institutional residential uses	C	C	C	C	C

130-377 Community living arrangement (1--8 residents)		C			
130-378 Community living arrangement (9--15 residents)	C	C			
130-379 Community living arrangement (16+ residents)	C	C			
Commercial uses:					
130-401 Office	P	P	P	P	
130-402 Personal or professional service	P	P	P	P	C
130-403 Indoor sales or service	C	P	P	P	P
130-404 Outdoor display				C	C
130-405 Indoor maintenance service		P	P	P	P
130-406 Outdoor maintenance service					
130-407 In-vehicle sales or service				C	
130-408 Indoor commercial entertainment	C	C	C	C	C
130-409 Outdoor commercial entertainment				C	
130-410 Commercial animal boarding				C	
130-411 Commercial indoor lodging			C	C	C
130-412 Bed and breakfast establishment		C	C	C	
130-413 Group day care center (9+ children)	C	C	C	C	C
130-414 Campground					
130-415 Boardinghouse		C	C	C	C
130-416 Sexually oriented land use					
130-417 Vehicle repair and maintenance				C	C
130-418 Group development	C	C	C	C	C
130-419 Gas station/convenience store/food counter		C		C	C
130-420 Carwash				C	C

130-421 Special central business district commercial/residential uses			C		
130-422 Large-format retail store					C
130-423 Artisan Studio		C	P	P	P
Storage or disposal uses:					
130-451 Indoor storage or wholesaling					
130-452 Outdoor storage or wholesaling					
130-453 Personal storage facility				C	
130-454 Junkyard or salvage yard					
130-455 Waste disposal facility					
130-456 Composting operation					
130-457 Motor vehicle storage yard				C	
Transportation uses:					
130-481 Off-site parking lot			P	P	
130-482 Airport/heliport	C				
130-483 Freight terminal					
130-484 Distribution center					
130-485 Railroad line	C	C	C	C	C
Industrial uses:					
130-501 Light industrial uses					
130-502 Heavy industrial uses					
130-503 Communication tower		C	C	C	C
130-504 Extraction use					
Accessory uses:					
130-522 Commercial apartment		C	P	C	C
130-523 Farm residence	P	P	P	P	P
130-524 Private residential garage or shed	P	P	P	P	P
130-525 Company cafeteria	P		P	P	P
130-526 Company-provided on-site recreation	C		C	C	C
130-527 Outdoor display incidental to indoor sales and service				C	C
130-528 In-vehicle sales and service				C	
130-529 Indoor sales incidental to light industrial use					
130-530 Light industrial use incidental to indoor sales			C	C	C
130-531 Home occupation	P	P	P	P	P
130-532 Family day care home					

130-533 Intermediate day care home					
130-534 Migrant labor camp					
130-535 On-site parking lot	P		P	P	P
130-536 Exterior communication device	P	P	P	P	P
130-537 Drive-in financial institution		C	C	C	C
130-538 Outdoor commercial food & beverage service					
130-539 Outdoor furnace					
Temporary uses:					
130-561 General temporary outdoor sales		T	T	T	T
130-562 Outdoor assembly	T	T	T	T	T
130-563 Contractor's project office	T	T	T	T	T
130-564 Contractor's on-site equipment storage	T	T	T	T	T
130-565 Relocatable building	T	T	T	T	T
130-566 On-site real estate sales	T	T	T	T	T
130-567 Outdoor sales of farm products		T	T	T	T
130-568 Sidewalk Cafe			T		

*The floor area of individual businesses in the TND district shall be less than 6000 sf.

(Ord. No. 1997-18, § 13(17.70), 1-19-1998; Ord. No. 1998-12, § 5(17.70), 9-8-1998; Ord. No. 200

temporary use pursuant to this article:

B-5	I-1	I-2	I-3	TND
P	P	P	P	P
			C	
P	P	P	P	P
C	C	C	C	C
C	P	P	P	P
C	P			P
C	P			P
C	C			C
P	P	P	P	P
				C

				P
				P
				P
P	P	P	P	P*
P				P*
P	C			P*
C		C		P*
P	P	P	P	
C		C	C	
C				
C				P*
C			C	
C				
				C
	C	C		C
			C	
C	C	C		
C	C	C		C
C				C
C				

P	P	C		
P	P	P	P	
C	C	C		
C	C	C		
			C	
			C	
			C	
	C	C	C	
C		P	P	
	C	C	C	
C			C	
C	C	P	P	
C	C	C	C	C
C	P	P	P	
		C	C	
C	C	C	C	
			C	
	P	P	P	
	P	P	P	P
P	P	P	P	
C	C	C	C	
C		C		
P	C			
P	P	P	P	
C	C			
				P/C
				P

P	P	P	C	P
P	P	P	C	P
C				
				C
	P	P	P	
T				
T	T	T	T	
T	T	T	T	T
T	T	T	T	T
T	T	T	T	
T	T	T	T	T
T	T			
				T

2-11, § 9, 11-12-2002, Ord. 2005-44,Ord. 2005-47, Ord. 2006-25, Ord. 2006-36, Ord. 2006-42, Ord. 200

7-4, Ord. 2008-08, Ord. 2009-06, Ord. 2011-17)

DIVISION 2. RESIDENTIAL LAND USES

Sec. 130-321. Conventional residential development.

Conventional residential development includes but is not limited to all residential developments which do not provide permanently protected green space areas. Property which is under common ownership of a property owners' association is permitted, but is not a required component of this type of development. Up to ten percent of a conventional residential development's gross site area can contain natural resource areas which must be protected (or other permanently protected green space areas) without a reduction in maximum gross density. The following regulations are applicable to this use:

(1) Permitted by right: Residential districts, B-1.

(2) Conditional use regulations: Residential districts, B-1, B-2.

(3) Parking requirements: Three spaces for all single-family and two-family dwelling units; for multifamily dwelling units, two spaces per unit for two or more bedrooms, 1 1/2 spaces per unit for one or less bedrooms. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(1)(a)), 1-19-1998)

Sec. 130-322. Institutional residential development.

Institutional residential development is a form of residential development designed to accommodate institutional residential land uses, such as retirement homes, nursing homes, convents, dormitories and similar land uses that are not considered to be community living arrangements under Wis. Stat. chapter 62.23 (see sections 130-377, 130-378 and 130-379). Institutional residential development is regulated under section 130-376.

(Ord. No. 1997-18, § 13(17.70(1)(b)), 1-19-1998, Ord. 2005-23)

Sec. 130-323. Two family twin dwelling.

Two family twin dwellings, as defined in Sec. 130-6, shall meet the following standards:

(1) Compliance with Comm 21.08 of the Wisconsin Administrative code, concerning fire separation of units (units must be completely separated from foundation to roof).
(2) The common wall separating the units shall be roughly perpendicular to the right-of-way line.
(3) Dwellings shall have separate: water service, lines, meters, sanitary sewer service laterals, gas and electric service and meters.
(4) Complementary colors and materials shall be used for such units.
(5) A joint cross-access and maintenance agreement or covenant must be submitted with the land division that creates the zero lot line duplex lot(s). Such an agreement or covenant shall be subject to Zoning Administrator approval, then recorded with the County Register of Deeds by the developer against all affected

properties. The developer shall provide proof of recordation to the Zoning Administrator. The agreement or covenant must include:

a. Maintenance standards for the common wall .
b. Maintenance and replacement standards for exterior surfaces of the building to maintain a neat and harmonious appearance over time.
c. Maintenance standards for any common features.
d. Provisions or procedures for addressing emergency maintenance of one side of the duplex in the event that one owner is unreachable or uncooperative and maintenance must be performed to preserve the value and livability of the other unit.
e. A restriction against construction of a detached single-family home in the event either or both sides of the twin dwelling are destroyed.
f. Language that the agreement or covenant shall not be terminated, amended or otherwise altered without the approval of the City Council.

(Ord. 2012-02)

Sec. 130-324. Two family dwelling.

Two family dwellings, as defined in Sec. 130-6, shall meet the following standards:

a. Provisions or procedures for addressing emergency maintenance of one side of the duplex in the event that one owner or occupant is unreachable or uncooperative and maintenance must be performed to preserve the livability of the other unit shall be recorded with the County Register of Deeds for two family dwellings created after June 1, 2012.

(Ord. 2012-02)

Secs. 130-325--130-340. Reserved.

DIVISION 3. AGRICULTURAL LAND USES

Sec. 130-341. Cultivation.

Cultivation land uses include all operations primarily oriented to the on-site outdoor raising of plants. This land use includes trees which are raised as a crop to be replaced with more trees after harvesting, such as in nursery or Christmas tree operations. The raising of plants for consumption by farm animals is considered cultivation if the plants are consumed by animals which are located off-site. The following regulations are applicable to this use:

(1) Permitted by right: All districts.

a. On buildable lots, cultivation areas shall not exceed 20 percent of the lot's area.

b. Cultivation areas shall not be located within the required front yard or street yard of any buildable or developed lot.

(2) Conditional use regulations: Not applicable.

(3) Parking requirements: One space per employee on the largest work shift. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(2)(a)), 1-19-1998)

Sec. 130-342. Husbandry.

Husbandry land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity of less than one animal unit per acre. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural districts.

a. Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property, and 100 feet from all other lot lines.

b. All outdoor animal containments (pasture) shall be located a minimum of ten feet from any residentially zoned property.

(3) Parking requirements: One space per employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(2)(b)), 1-19-1998)

Sec. 130-343. Intensive agriculture.

Intensive agricultural land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity equal to or exceeding one animal unit per acre, and/or agricultural activities requiring large investments in structures. Examples of such land uses include feedlots, hog farms, poultry operations, fish farms, commercial greenhouse operations and certain other operations meeting this criterion. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural districts.

a. Such uses shall not be located in, or adjacent to, an existing or platted residential subdivision.

b. Such uses shall be completely surrounded by a bufferyard with a minimum intensity per section 130-270.

c. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 300 feet from all residentially zoned property and 100 feet from all other lot lines.

d. Such uses shall be located in an area that is planned to remain commercially viable for agricultural land uses.

e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(2)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70)(2)(c)), 9-8-1998)

Sec. 130-344. Agricultural service uses.

Agricultural service land uses include all operations pertaining to the sale, handling, transport, packaging, storage, or disposal of agricultural equipment, products, byproducts, or materials primarily used by agricultural operations. Examples of such land uses include agricultural implement sales, storage, or repair operations; feed and seed stores; agricultural chemical dealers and/or storage facilities; animal feed storage facilities; commercial dairies; food processing facilities; canning and other packaging facilities; and agricultural waste disposal facilities (except commercial composting uses, see section 130-456). The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural district, I-2, and I-3.

a. Such uses shall not be located in, or adjacent to, an existing or platted residential subdivision.

b. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 100 feet from all lot lines.

c. If within the A-1 district, such uses shall be located in an area that is planned to remain commercially viable for agricultural land uses.

d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: As required by Chapter 130, Article XI, of the Municipal Code..

(Ord. No. 1997-18, § 13(17.70(2)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(2)(d)), 9-8-1998, Ord. 2013-02)

Sec. 130-345. On-site agricultural retail uses.

On-site agricultural retail land uses include land uses solely associated with the sale of agricultural products grown exclusively on the site. The sale of products grown or otherwise produced off-site shall not be permitted within on-site agricultural retail operations, and such activity constitutes retail sales as a commercial land use. Packaging and equipment used to store, display, package or carry products for the convenience of the operation or its customers (such as egg cartons, baskets, containers,and bags) shall be produced off-site. The following regulations are applicable to this use:

(1) Permitted by right: Agricultural districts.

a. No structure or group of structures shall exceed 500 square feet in floor area.

b. No structure shall exceed 12 feet in height.

c. All structures shall meet all required setbacks for nonresidential land uses.

d. Signage shall be limited to one on-site sign, which shall not exceed 30 square feet in area.

e. Such land use shall be served by no more than one driveway. The driveway shall require a valid driveway permit.

f. A minimum of one parking space shall be required for every 200 square feet of product display area.

g. The sale of products that are grown or otherwise produced on non-adjacent property under the same ownership, or on property under different ownership, shall be prohibited.

h. The structure and fencing shall be located a minimum of 300 feet from any residentially zoned property.

(2) Conditional use regulations: Not applicable.

(3) Parking requirements: One space per employee on the largest work shift, and four spaces for customers.

(Ord. No. 1997-18, § 13(17.70(2)(e)), 1-19-1998)

Sec. 130-346. Selective cutting.

Selective cutting land uses include any operation associated with the one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction of trees (including by fire) where the extent of such activity is limited to an area (or combined areas) of less than or equal to 40 percent of the woodlands on the property (or up to 100 percent for developments approved prior to the effective date of the ordinance from which this article is derived). Selective cutting activity shall be limited to areas located within development pads which are designated on recorded plats or certified survey maps. The destruction of trees in an area in excess of this amount of the woodlands on the property shall be considered clear cutting (see section 130-347). The following regulations are applicable to this use:

(1) Permitted by right: All districts.

(2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(2)(f)), 1-19-1998)

Sec. 130-347. Clear cutting.

Clear cutting land uses include the one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction (including by fire) of trees in an area (or combined areas) of more than 40 percent of the woodlands on a property (or up to 100 percent for developments approved prior to the effective date of the ordinance from which this article is derived). Clear cutting is permitted only as a conditional use within the jurisdiction of this chapter. Areas which have been clear cut as a result of intentional action following the effective date of the ordinance from which this article is derived without the granting of a conditional use permit are in violation of this chapter, and the property owner shall be fined for such violation and shall be required to implement the mitigation standards required for the destruction of woodlands solely at his expense, including costs associated with site inspection to confirm the satisfaction of mitigation requirements. Areas which have been clear cut unintentionally as a result of fire shall not subject the owner of the property to fines associated with the violation of this chapter, but shall require the satisfaction of mitigation requirements at the owner's expense, including cost associated with site inspection to confirm the satisfaction of mitigation requirements. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: All districts.

a. The applicant shall demonstrate that clear cutting will improve the level of environmental protection on the subject property.

b. Areas of the subject property that are clear cut beyond the limitations established in this section shall be replanted per the requirements of section 130-269. (The referenced section requires the replanting of trees in other portions of the subject property, thereby freeing the currently wooded area for development while ensuring that the amount of required wooded area on the subject property remains constant.)

c. Clear cutting shall not be permitted within a required bufferyard or landscaped area (see section 130-270), or within an area designated as permanently protected green space.

d. Such use shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(2)(g)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(2)(g)), 9-8-1998)

Secs. 130-348--130-370. Reserved.

DIVISION 4. INSTITUTIONAL LAND USES

Sec. 130-371. Passive outdoor public recreational uses.

Passive outdoor public recreational land uses include all recreational land uses located on public property which involve passive recreational activities. Such land uses include arboretums, natural areas, wildlife areas, hiking trails, bike trails, cross country ski trails, horse trails, open grassed areas not associated with any particular active recreational land use (see section 130-372), picnic areas, picnic shelters, gardens, fishing areas, and similar land uses. The following regulations are applicable to this use:

(1) Permitted by right: All districts except B-5.

(2) Conditional use regulations: B-5.

(3) Parking requirements: One space per four expected patrons at maximum capacity for any use requiring over five spaces. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(3)(a)), 1-19-1998, Ord. 2005-44)

Sec. 130-372. Active outdoor public recreational uses.

Active outdoor public recreational land uses include all recreational land uses located on public property which involve active recreational activities. Such land uses include playcourts (such as tennis courts and basketball courts), playfields (such as ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, fitness courses, public golf courses, and similar land uses. The following regulations are applicable to this use:

(1) Permitted by right: All districts, except A, B-5, I-2 and I-3.

a. Facilities using night lighting and adjoining residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity per section 130-270. The bufferyard shall be located at the property line adjacent to the residentially zoned property.

b. All structures and active recreational areas shall be located a minimum of 50 feet from any residentially zoned property.

c. Facilities that serve a community-wide function shall be located with primary vehicular access on a collector or arterial street or a street with a boulevard consisting of curbs and vegetation that separates the two directions of traffic from each other.

d. Facilities that serve a regional or community-wide function shall provide an off-street passenger loading area if the majority of the users will be children.

(2) Conditional use regulations: B-5.

(3) Parking requirements: For active outdoor public recreation, one space per four expected patrons at maximum capacity for any use requiring over five spaces. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(3)(b)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(3)(b)), 9-8-1998, Ord. 2004-17, Ord. 2005-44, Ord. 2012-18)

Sec. 130-373. Indoor institutional uses.

Indoor institutional land uses include all indoor public and not-for-profit recreational facilities (such as gyms, swimming pools, libraries, museums, and community centers), schools, churches, nonprofit clubs, nonprofit fraternal organizations, convention centers, hospitals, jails, prisons, and similar land uses. The following regulations are applicable to this use:

(1) Permitted by right: All nonresidential districts, except A, B-5, I-2 and I-3.

a. Such uses shall provide an off-street passenger loading area if the majority of the users will be children (as in the case of a school, church, library, or similar land use).

b. All structures shall be located a minimum of 50 feet from any residentially zoned property.

(2) Conditional use regulations: Residential districts and B-5.

a. Such uses shall meet all regulations listed in subsection (1) of this section.

b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: Generally, one space per three expected patrons at maximum capacity. However, see the following additional specific requirements. These requirements shall be waived for businesses in the B-2 district.

a. Church: One space per five seats at the maximum capacity.

b. Community or recreation center: One space per 250 square feet of gross floor area, or one space per four patrons to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.

c. Funeral home: One space per three patron seats at the maximum capacity, plus one space per employee on the largest work shift.

d. Hospital: Two spaces per three patient beds, plus one space per staff doctor and each other employee on the largest work shift.

e. Library or museum: One space per 250 square feet of gross floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.

f. Elementary and junior high: One space per teacher and per staff member, plus one space per two classrooms.

g. Senior high: One space per teacher and staff member, plus one space per five non-bused students.

h. College or trade school: One space per staff member on the largest work shift, plus one space per two students of the largest class attendance period.

(Ord. No. 1997-18, § 13(17.70(3)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(3)(c)), 9-8-1998, Ord. 2004-17, Ord. 2005-44, Ord. 2012-18)

Sec. 130-374. Outdoor institutional uses.

Outdoor institutional land uses include public and private cemeteries, privately held permanently protected green space areas, not-for-profit outdoor recreational facilities, country clubs, non-public golf courses, and similar land uses. Such land uses include playcourts (such as tennis courts and basketball courts) and playfields (such as ball diamonds, football fields, and soccer fields). The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: All districts, except A, I-2 and I-3.

a. Such uses shall be located with primary vehicular access on a collector or arterial street or a street with a boulevard consisting of curbs and vegetation that separates the two directions of traffic from each other.

b. Such uses shall provide an off-street passenger loading area if a significant proportion of the users will be children.

c. All structures and actively used outdoor recreational areas shall be located a minimum of 50 feet from any residentially zoned property.

d. Facilities using night lighting and adjoining residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity per section 130-270. The bufferyard shall be located at the property line adjacent to the residentially zoned property.

e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: Generally, one space per three expected patrons at maximum capacity. However, see the following additional specific requirements. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

a. Cemetery: One space per employee, plus one space per three patrons to the maximum capacity of all indoor assembly areas.

b. Golf course: 36 spaces per nine holes, plus one space per employee on the largest work shift, plus 50 percent of spaces otherwise required for any accessory uses (e.g., bars, restaurant).

c. Swimming pool: One space per 75 square feet of gross water area.

d. Tennis court: Three spaces per court.

(Ord. No. 1997-18, § 13(17.70(3)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(3)(d)), 9-8-1998, Ord. 2004-17, Ord. 2012-18)

Sec. 130-375. Public service and utilities uses.

Public service and utilities land uses include all town, county, state and federal facilities (except those otherwise treated in this article), emergency service facilities such as fire departments and rescue operations, wastewater treatment plants, public and/or private utility substations, water towers, utility and public service related distribution facilities, and similar land uses. The following regulations are applicable to this use:

(1) Permitted by right: All districts, except A.

a. Outdoor storage areas shall be located a minimum of 50 feet from any residentially zoned property.

b. All outdoor storage areas adjoining residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity per section 130-270. The bufferyard shall be located at the property line adjacent to the residentially zoned property.

c. All structures shall be located a minimum of 20 feet from any residentially zoned property.

d. The exterior of all buildings shall be compatible with the exteriors of surrounding buildings.

(2) Conditional use regulations: A.

a. Conditional uses shall follow the same regulations provided under section 130-375(1).

(3) Parking requirements: One space per employee on the largest work shift, plus one space per company vehicle normally stored or parked on the premises, plus one space per 500 square feet of gross square feet of office area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(3)(e)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(3)(e)), 9-8-1998, Ord. 2012-18)

Sec. 130-376. Institutional residential uses.

Institutional residential land uses include group homes, convents, monasteries, nursing homes, convalescent homes, limited care facilities, rehabilitation centers, and similar land uses not considered to be community living arrangements under the provisions of Wis. Stats. § 62.23 (see section 130-377, 130-378 and 130-379). The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: O-1, B-1, B-2, B-3, B-4, R-1, R-2, R-3.

a. No individual lots are required, although the development shall contain a minimum of 800 square feet of gross site area for each occupant of the development.

b. A minimum of 30 percent of the development's gross site area shall be held as permanently protected green space.

c. The proposed site shall be located so as to avoid disruption of an established or developing office area.

d. The applicant shall provide an off-street passenger loading area at a minimum of one location within the development.

e. All structures shall be located a minimum of 35 feet from any residentially zoned property which does not contain an institutional residential land use.

f. Parking requirements: Three spaces for all single-family and two-family dwelling units; for multi-family dwelling units, two spaces per unit for two or more bedrooms, 1 ½ spaces per unit for one or less bedrooms. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request for the applicant.

   i. Monastery or convent: One space per six residents, plus one space per employee on the largest work shift, plus one space per five chapel seats if the public may attend.

   ii. Nursing home: One space per six patient beds, plus one space per employee on the largest work shift, plus one space per staff member and per visiting doctor.

g. The applicant shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(3)(f)), 1-19-1998, Ord. 2004-18, Ord. 2005-23)

Sec. 130-377. Community living arrangement (one to eight residents).

Community living arrangement land uses include all facilities provided for in Wis. Stats. § 46.03(22), including child welfare agencies, group homes for children, and community-based residential facilities. Community living arrangements do not include day care centers (see separate listing); nursing homes (an institutional residential land use); or general hospitals, special hospitals, prisons, or jails (all indoor institutional land uses). Community living arrangement facilities are regulated depending upon their capacity as provided for in Wis. Stats. § 62.23. The following regulations are applicable to community living arrangements having one to eight residents:

(1) Permitted by right: RR. LL-R12, LL-R15, R-1, R-2, R-3.

a. No community living arrangement shall be established within 500 feet of any adult family homes and other such facilities, regardless of its capacity. Agents of a facility may request for an exception to this requirement, and such exception may be granted at the discretion of the city council. Two community living arrangements may be adjacent if the city council

authorizes that arrangement and if both facilities comprise essential components of the same program.

b. The applicant shall demonstrate that the total capacity of all community living arrangements (of all capacities) in the city shall not exceed one percent of the city's population (unless specifically authorized by the city council following a public hearing).

c. A foster home or a treatment foster home that is the primary domicile of a foster parent or treatment foster parent and adult family homes shall not be subject to subsections a. and b., except that foster homes and treatment foster homes operated by corporations, child welfare agencies, churches, associations or public agencies shall be subject to subsections a. and b.

(2) Conditional use regulations: O-1, B-1, B-2.

(3) Parking requirements: Three spaces.

(Ord. No. 1997-18, § 13(17.70(3)(g)), 1-19-1998, Ord. 2005-28)

Sec. 130-378. Community living arrangement (nine to 15 residents).

For a description of community living arrangement land uses, see section 130-377. The following shall apply to community living arrangements having nine to 15 residents:

(1) Permitted by right: R-2, R-3.

a. No community living arrangement shall be established within 500 feet of any other such facility, regardless of capacity. Agents of a facility may request for an exception to this requirement, and such exception may be granted at the discretion of the city council. Two community living arrangements may be adjacent if the city council authorizes that arrangement and if both facilities comprise essential components of the same program.

b. The applicant shall demonstrate that the total capacity of all community living arrangements (of all capacities) in the city shall not exceed one percent of the city's population (unless specifically authorized by the city council following a public hearing).

(2) Conditional use regulations: RR, LL-R12, LL-R15, R-1, O-1, B-1, B-2.

a. Such uses shall meet all regulations for permitted uses under subsection (1) of this section.

b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: Four spaces.

(Ord. No. 1997-18, § 13(17.70(3)(h)), 1-19-1998, Ord. 2005-28)

Sec. 130-379. Community living arrangement (16 or more residents).

For a description of community living arrangement land uses, see section 130-377. The following shall apply to community living arrangements having 16 or more residents:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: R-3, O-1, B-1, B-2.

a. No community living arrangement shall be established within 500 feet of any other such facility, regardless of capacity. Agents of a facility may request for an exception to this requirement, and such exception may be granted at the discretion of the city council. Two community living arrangements may be adjacent if the city council authorizes this arrangement and if both facilities comprise essential components of the same program.

b. The total capacity of all community living arrangements (of all capacities) in the city shall not exceed one percent of the city's population (unless specifically authorized by the city council following a public hearing).

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per every three residents.

(Ord. No. 1997-18, § 13(17.70(3)(i)), 1-19-1998, Ord. 2005-28)

Secs. 130-380--130-400. Reserved.

DIVISION 5. COMMERCIAL LAND USES*

Sec. 130-401. Office.

Office land uses include all exclusively indoor land uses whose primary functions are the handling of information or administrative services. Such land uses do not typically provide services directly to customers on a walk-in or on-appointment basis. The following regulations are applicable to this use:

(1) Permitted by right: O-1, B-1, B-2, B-3,B-5, I-1, I-2, I-3.

(2) Conditional use regulations: Not applicable.

(3) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(4)(a)), 1-19-1998, Ord. 2005-44)

Sec. 130-402. Personal or professional service.

Personal service and professional service land uses include all exclusively indoor land uses whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such uses include professional services, financial services such as those provided by banks or credit unions, insurance services, realty offices, medical offices and clinics, veterinary clinics, barbershops, beauty shops, and related land uses. The following regulations are applicable to this use:

(1) Permitted by right: O-1, B-1, B-2, B-3, B-5.

(2) Conditional use regulations: B-4, R-1, R-2, R-3.

(3) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(4)(b)), 1-19-1998, Ord. 2004-18, Ord. 2005-44)

Sec. 130-403. Indoor sales or service.

Indoor sales and service land uses include all land uses which conduct or display sales or rental merchandise or equipment, or nonpersonal or nonprofessional services, entirely within an enclosed building. This use includes self-service facilities such as coin-operated laundromats. Depending on the zoning district, such land uses may or may not display products outside of an enclosed building. Such activities are listed as "outdoor display incidental to indoor sales" under "accessory uses" in the table of landuses (section 130-302). A land use which contains both indoor sales and outdoor sales exceeding 15 percent of the total sales area of the buildings on the property shall be considered as an outdoor sales land use (see section 130-404). This land use category does not include retail stores in excess of 20,000 gross square feet which are regulated under Section 130-422. The following regulations are applicable to this use:

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* **Cross references:** Businesses, ch 22.

(1) Permitted by right: B-1, B-2, B-3, B-4, B-5.

(2) Conditional use regulations: O-1, I-1.

(3) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(4)(c)), 1-19-1998, Ord. 2005-44, Ord. 2006-25, Ord. 2007-4)

Sec. 130-404. Outdoor display.

Outdoor display land uses include all land uses which conduct sales or display sales or rental merchandise or equipment outside of an enclosed building. Example of such land uses include vehicle sales, vehicle rental, manufactured and mobile housing sales and monument sales. The area of outdoor sales shall be calculated as the area which would be enclosed by a fence installed and continually maintained in the most efficient manner that completely encloses all materials displayed outdoors. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. (See also division 6 of this article.) Land uses which conduct or display only a limited amount of product outside of an enclosed building are listed separately in section 130-527 as outdoor display incidental to indoor sales. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-3, B-4, B-5, I-2.

a. The display of items shall not be permitted in permanently protected green space areas, required landscaped areas, or required bufferyards.

b. The display of items shall not be permitted within required setback areas for the principal structure.

c. In no event shall the display of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions of this chapter. If the number of provided parking stalls on the property is already less than the requirement, such display area shall not further reduce the number of parking stalls already present.

d. Display areas shall be separated from any vehicular parking or circulation area by a minimum of ten feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, or line of planters, or by a clearly marked paved area.

e. Signs, screening, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either on-site or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.

f. Outdoor display shall be permitted during the entire calendar year; however, if goods are removed from the display area, all support fixtures used to display the goods shall be removed within ten calendar days of the goods' removal.

g. Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed for this land use.

h. The facility shall provide a bufferyard with a minimum opacity of 0.60 along all borders of the display area abutting residentially zoned property, except per subsection (2)e of this section (see section 130-270).

i. Such uses shall comply with article II, division 4 of this chapter, regarding conditional uses.

(3) Parking requirements:

a. In front of required principal building setback: One space per 300 square feet of gross floor area.

b. Behind required principal building setback: One space per 300 square feet of gross floor area.

(Ord. No. 1997-18, § 13(17.70(4)(d)), 1-19-1998, Ord. 2005-44)

Sec. 130-405. Indoor maintenance service.

Indoor maintenance services include all land uses that perform maintenance services (including repair) and contain all operations (except loading) entirely within an enclosed building. Because of outdoor vehicle storage requirements, vehicle repair and maintenance is considered a vehicle repair and maintenance land use (see section 130-417). The following regulations are applicable to this use:

(1) Permitted by right: B-1, B-2, B-3, B-4, B-5, I-1, I-2, I-3.

(2) Conditional use regulations: Not applicable.

(3) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

(Ord. No. 1997-18, § 13(17.70(4)(e)), 1-19-1998, Ord. 2004-18, Ord. 2005-44)

Sec. 130-406. Outdoor maintenance service.

Outdoor maintenance services include all land uses which perform maintenance services, including repair, and have all or any portion of their operations located outside of an enclosed building. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-5, I-2, I-3

a. All outdoor activity areas shall be completely enclosed by a minimum six-feet-high fence. Such enclosure shall be located a minimum of 50 feet from any residentially zoned property and shall be screened from such property by a bufferyard with a minimum opacity of 0.60 (see section 130-270).

b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per 300 square feet of gross floor area.

(Ord. No. 1997-18, § 13(17.70(4)(f)), 1-19-1998, Ord. 2005-44)

Sec. 130-407. In-vehicle sales or service.

In-vehicle sales and service, land uses include all land uses which perform sales and/or services to persons in vehicles, or to vehicles which may or may not be occupied at the time of such activity (except for vehicle repair and maintenance services, see section 130-417). Such land uses often have traffic volumes that exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through facilities. This use does not include drive-in financial institutions, carwashes, or gas station/convenience store/food counters. These uses are handled as separate land use categories. If performed in conjunction with a principal land use (for example, a drive-up window or an ATM machine), in-vehicle sales and service land uses shall be considered an accessory use (see section 130-528). The following regulations are applicable to this use:

(1) Permitted by right: B-4, as regulated in subsections (2)a--g. and (3) below.

(2) Conditional use regulations: B-3, B-5.

a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the drive-through lanes.

b. The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.

c. In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this article.

d. The setback of any overhead canopy or similar structure shall be a minimum of ten feet from all street right-of-way lines, a minimum of 20 feet from all residentially zoned property lines, and a minimum of five feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet as measured to the highest part of the structure.

e. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material that is designed to meet the requirements of a minimum four-ton axle load.

f. The facility shall provide a bufferyard with a minimum opacity of 0.60 along all property borders abutting residentially zoned property (see section 130-270).

g. Interior curbs shall be used to separate driving areas from exterior fixtures such as canopy supports and landscaped islands. The curbs shall be a minimum of six inches high and be of a nonmountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to any property line.

h. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per 50 square feet of gross floor area. Each drive-up lane shall have a minimum stacking length of 100 feet behind the pass-through window and 40 feet beyond the pass-through window.

(Ord. No. 1997-18, § 13(17.70(4)(g)), 1-19-1998; Ord. No. 2002-11, § 1, 11-12-2002, Ord. 2005-44)

Sec. 130-408. Indoor commercial entertainment.

Indoor commercial entertainment land uses include all land uses that provide entertainment services entirely within an enclosed building. Such activities often have operating hours that extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: O-1, B-1, B-2, B-3, B-4, B-5.

a. If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of residentially zoned property.

b. The facility shall provide a bufferyard along all borders of the property abutting residentially zoned property with a minimum opacity per section 130-270.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per every three patron seats or lockers (whichever is greater), or one space per three persons at the maximum capacity of the establishment, whichever is greater. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(h)), 1-19-1998, Ord. 2005-44)

Sec. 130-409. Outdoor commercial entertainment.

Outdoor commercial entertainment land uses include all land uses that provide entertainment services partially or wholly outside of an enclosed building. Such activities often have the potential to be associated with nuisances related to noise, lighting, dust, trash and late operating hours. Examples of such land uses include outdoor commercial swimming pools, driving ranges, miniature golf facilities, amusement parks, drive-in theaters, go-cart tracks, and racetracks. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-3, B-5, I-2, I-3.

a. Activity areas shall not be located closer than 300 feet to residentially zoned property.

b. The facility shall provide a bufferyard along all borders of the property abutting residentially zoned property with a minimum opacity per section 130-270.

c. Activity areas (including drive-in movie screens) shall not be visible from any residentially zoned property.

d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space for every three patron seats at the maximum capacity of the establishment.

(Ord. No. 1997-18, § 13(17.70(4)(i)), 1-19-1998, Ord. 2005-44)

Sec. 130-410. Commercial animal boarding.

Commercial animal boarding facility land uses include land uses that provide shortterm and/or longterm boarding for animals. Examples of these land uses include commercial kennels and commercial stables. Exercise yards, fields, training areas, and trails associated with such land uses are considered accessory to such land uses and do not require separate consideration. Animal boarding facilities and activities that, except for parking, excerise areas, and training areas, are completely and continuously contained indoors, are subject to a separate set of regulations (see subsection (3) of this section). The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations for agricultural districts:

a. A maximum of one animal unit per acre of fully enclosed outdoor area (and a maximum of five dogs, cats or similar animals) shall be permitted.

b. The minimum permitted size of a horse or similar animal stall shall be 100 square feet.

c. The following setbacks shall be required in addition to those of the zoning district:

1. No activity area, including pastures or runs, shall be located closer than ten feet to any property line.

2. Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property.

3. A vegetative strip at least 100 feet wide shall be maintained between any corral, manure pile, or manure application area and any surface water or well in order to minimize runoff, prevent erosion, and promote nitrogen absorption.

d. Special events such as shows, exhibitions, and contests shall only be permitted when a special events permit has been secured.

e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Conditional use regulations for B-3, B-4 and B-5, I-1 districts:

a. All activities, except vehicle parking, shall be completely and continuously contained indoors, except animal exercise and training areas which must occur within a securely fenced outside exercise enclosure that must be supervised by a staff person during all periods when animals are exercising or being trained.

b. The following setbacks shall be required in addition to those of the zoning district:

1. No activity are, including exercise or training areas, shall be located closer than ten feet to any property line.

c. Subsections (2)b, (2)d, and (2)e of this section shall be complied with.

(4) Parking requirements: As required by Chapter 130 Article XI, of the Municipal Code.

(Ord. No. 1997-18, § 13(17.70(4)(j)), 1-19-1998, Ord. 2005-44, Ord. 2009-02, Ord. 2014-07)

Sec. 130-411. Commercial indoor lodging.

Commercial indoor lodging facilities include land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurants, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-2, B-3, B-4.

a. If located on the same side of a building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of residentially zoned property.

b. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per bedroom, plus one space for each employee on the largest work shift. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(k)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(k)), 9-8-1998)

Sec. 130-412. Bed and breakfast establishment.

Bed and breakfast establishments are exclusively indoor lodging facilities that provide meals only to paying lodgers. Such land uses may provide indoor recreational

facilities for the exclusive use of their customers. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural and residential districts, B-1, B-2, B-3.

a. *Liquor permit; inspections.* All such facilities shall be required to obtain a permit to serve liquor, if applicable. They shall be inspected annually at a fee as established by the council from time to time by resolution, to verify that the land use continues to meet all applicable regulations.

b. *Signs.* One sign, with a maximum area of 20 square feet, shall be permitted on the property.

c. *Bufferyards.* The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity section 130-270.

d. *Safety and sanitation requirements.* No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from such premises. Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room. Each sleeping room used for the bed and breakfast operation shall have a separate operational smoke detector alarm, as required in the city building code. One lavatory and bathingfacility shall be required for every ten occupants, in addition to the owner's/occupant's personal facilities.

e. *Residency by operator.* The dwelling unit in which the bed and breakfast operation takes place shall be the principal residence of the operator/owner, and the operator/owner shall live on the premises when the bed and breakfast operation is active.

f. *Meals.* Only the meal of breakfast shall be served to overnight guests.

g. *Record of patrons.* Each operator shall keep a list of names of all persons staying at the bed and breakfast operation. This list shall be kept on file for a period of one year. Such list shall be available for inspection by city officials at any time.

h. *Maximum stay.* The maximum stay for any occupants of a bed and breakfast operations shall be 14 days.

i. *Conditional use permit required.* It shall be unlawful for any person to operate a bed and breakfast operation as defined and as permitted in this Code without first having obtained a conditional use permit.

j. *Application for license.* Applicants for a license to operate a bed and breakfast operation shall submit a floor plan of the single-family dwelling unit illustrating that the proposed operation will comply with this chapter and other applicable city codes and ordinances, and be within the terms of this chapter.

k. *Issuance of license.* After application duly filed with the clerk-treasurer for a license under this section, plan commission review and recommendation for a conditional use permit, the council shall hold a public hearing and

determine whether any further license shall be issued based upon the public convenience and necessity of the people in the city. In the council's determination of the number of bed and breakfast operations required to provide for such public convenience and necessity, the council shall consider the effectupon residential neighborhoods, conditions of existing holders of licenses, and the necessity of issuance of additional licenses for public service.

l. *Public nuisance violations.* Bed and breakfast operations shall not be permitted whenever the operation endangers or offends or interferes with the safety or rights of others so as to constitute a nuisance.

m. *Suspension, revocation and renewal of license.* Any license issued under the provisions of this section may be revoked by the city council for good cause shown after investigation and opportunity to the holder of such license to be heard in opposition thereto. In such investigation, compliance or noncompliance with the state law and local ordinances, the conduct of the licensee in regard to the public, and other considerations shall be weighed in determination of such issue.

n. *General regulations.* Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per each bedroom. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(l)), 1-19-1998)

Sec. 130-413. Group day care center (nine or more children).

Group day care centers are land uses in which qualified persons provide child care services for nine or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization. In such instances, group day care centers are not considered as accessory uses and therefore require review as a separate land use. The following regulations are applicable to group day care centers caring for nine or more children:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: All nonresidential districts except A.

a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

c. The property owner's permission is required as part of the conditional use permit application.

(3) Parking requirements: One space per five students, plus one space for each employee on the largest work shift. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(m)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(m)), 9-8-1998, Ord. 2004-18, Ord. 2012-18)

Sec. 130-414. Campground.

Campgrounds include any facilities designed for overnight accommodation of persons in tents, travel trailers, or other mobile or portable shelters or vehicles. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural districts.

a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: 1.5 spaces per campsite.

(Ord. No. 1997-18, § 13(17.70(4)(n)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(n)), 9-8-1998)

Sec. 130-415. Boardinghouse.

Boarding homes include any residential use renting rooms that do not contain private bathroom facilities (with the exception of approved bed and breakfast facilities). The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Multifamily residential districts, B-1, B-2, B-3, B-4.

a. The facility shall provide a bufferyard along a property borders abutting residentially zoned property with a minimum opacity per section 130-270.

b. Such uses shall provide a minimum of one on-site parking space for each room for rent.

c. Such uses shall be located in an area of transition from residential land uses to nonresidential land uses.

d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per room for rent, plus one space for each employee on the largest work shift. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(o)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(o)), 9-8-1998, Ord. 2004-18)

Sec. 130-416. Sexually oriented land uses.

Sexually oriented land uses include any facility oriented to the display of sexually oriented materials such as videos, movies, slides, photos, books, or magazines; or actual persons displaying and/or touching sexually specified areas. For the purpose of this chapter, the term "sexually specified areas" includes any one or more of the following: genitals, anal area, female areola or nipple, and the term "sexually oriented material" includes any media which displays sexually specified areas. This section is designed to reflect the city council's official finding that sexually oriented commercial uses have a predominant tendency to produce certain undesirable secondary effects on the surrounding community, as has been demonstrated in other similar jurisdictions. Specifically, the city council is concerned with the potential for such uses to limit the attractiveness of nearby locations for new development, the ability to attract and/or retain customers, and the ability to market and sell nearby properties at a level consistent with similar properties not located near such facilities. It is explicitly not the intent of this section to suppress free expression by unreasonably limiting alternative avenues of communication, but rather to balance the need to protect free expression opportunities with the need to implement the city's comprehensive master plan and protect the character and integrity of its commercial and residential neighborhoods. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: I-3.

a. Such uses shall be located a minimum of 1,000 feet from any agriculturally zoned property or residentially zoned property, and shall be located a minimum of 1,000 feet from any school, church, or outdoor recreational facility.

b. Exterior building appearance and signage shall be designed to ensure that the use does not detract from the ability of businesses in the vicinity to attract customers, or affect the marketability of properties in the vicinity for sale at their assessed values.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per 300 square feet of gross floor area, or one space per person at the maximum capacity of the establishment (whichever is greater).

(Ord. No. 1997-18, § 13(17.70(4)(p)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(4)(p)), 9-8-1998)

Sec. 130-417. Vehicle repair and maintenance.

Vehicle repair and maintenance services include all land uses which perform maintenance services (including repair) for motorized vehicles and contain all operations

(except vehicle storage) within an enclosed building. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-3, B-4, B-5, I-1, I-2.

a. Storage of abandoned vehicles shall be prohibited.

b. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per 300 square feet of gross floor area. Adequate on-site parking is required for all customer and employee vehicles.

(Ord. No. 1997-18, § 13(17.70(4)(q)), 1-19-1998; Ord. No. 1998-9, § 1, 7-14-1998; Ord. No. 1998-12, § 5(17.70(4)(q)), 9-8-1998, Ord. 2005-44)

Sec. 130-418. Group development.

A group development is any development containing two or more structures containing principal land uses on the same lot. Common examples of group developments include multiple-family dwellings, shopping centers and office centers. One-building office structures and other land uses in which each lot contains only one structure are not group developments, even though such developments may contain parcels under common ownership. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: O-1, B-1, B-2, B-3, B-4, B-5, I-1, I-2, R-3.

a. All required off-street parking spaces and access drives shall be located entirely within the boundaries of the group development.

b. The development shall contain a sufficient number of waste bins to accommodate all trash and waste generated by the land uses in a convenient manner.

c. No group development, except multiple-family dwellings, shall take access to a local residential street.

d. All development located within a group development shall be located so as to comply with the intent of this chapter regarding setbacks of structures and buildings from lot lines. As such, individual principal and accessory structures and buildings located within group developments shall be situated within building envelopes that serve to demonstrate complete compliance with such intent. The building envelopes shall be depicted on the site plan required for review of group developments. The use of this approach to designing group developments will also ensure the facilitation of subdividing group developments in the future, if such action is so desired.

e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(4)(r)), 1-19-1998, Ord. 2005-1, Ord. 2005-44)

Sec. 130-419. Gas station/convenience store/food counter.

Gas station/convenience store/food counter uses are gas station facilities which are commonly designed to include a convenience store and food counter within the enclosed building. With the exception of any development proposals which may have been submitted in writing to the plan commission prior to the time of adoption of the ordinance from which this article is derived, these uses shall not include any drive-in, drive-up and drive-through facilities, which are considered in-vehicle sales or service uses(see section 130-407). Such land uses often have high traffic volumes which exhibit their highest levels concurrent with peak traffic flows. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-1, B-3, B-4, B-5.

a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the gas pumps and driving lanes.

b. The gas pump areas shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.

c. In no instance shall a gas pump area be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this article.

d. The setback of any overhead canopy or similar structure shall be a minimum of ten feet from all street right-of-way lines, and a minimum of 20 feet from all residentially zoned property lines, and shall be a minimum of five feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet as measured to the highest part of the structure.

e. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material which is designed to meet the requirements of a minimum four-ton axle load.

f. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

g. Interior curbs shall be used to separate driving areas from exterior fixtures such as fuel pumps, vacuums, menu boards, canopy supports and landscaped islands. The curbs shall be a minimum of six inches high and be of a nonmountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to any property line.

h. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per 300 square feet of gross floor area of convenience store, plus one space per three seats of food counter seating, and one space per employee on the largest work shift of the food counter.

(Ord. No. 1997-18, § 13(17.70(4)(s)), 1-19-1998; Ord. No. 1998-19, § 1, 11-10-1998; Ord. No. 1998-12, § 5(17.70(4)(s)), 9-8-1998, Ord. 2005-44)

Sec. 130-420. Carwash.

Carwashes include any facility that provides for the washing of motorized vehicles. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-3, B-4, B-5.

a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the vehicular washing area and driving lanes.

b. The vehicular washing areas shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.

c. In no instance shall a vehicular washing area be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this article.

d. The setback of any overhead canopy or similar structure shall be a minimum of ten feet from all street right-of-way lines, a minimum of 20 feet from all residentially zoned property lines, and a minimum of five feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet as measured to the highest part of the structure.

e. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material that is designed to meet the requirements of a minimum four-ton axle load.

f. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

g. Interior curbs shall be used to separate driving areas from exterior fixtures. The curbs shall be a minimum of six inches high and be of a nonmountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to any property line.

h. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per bay.

(Ord. No. 1997-18, § 13(17.70(4)(t)), 1-19-1998; Ord. No. 1998-19, § 2, 11-10-1998; Ord. No. 1998-12, § 5(17.70(4)(t)), 9-8-1998, Ord. 2005-44)

Sec. 130-421. Special central business district commercial/residential uses.

The special central business district commercial/residential land use applies exclusively to property in the central business district (see article VIII, division 6 of this chapter) that contains dwelling and/or lodging units in addition to commercial space. This

use allows for dwelling units and lodging units to be located on the ground floor if there is a minimum of 700 square feet of commercial space on the street front. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-2.

a. If dwelling units are located on the ground floor, there must also be a minimum of 700 square feet of commercial space on the street front.

b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: A minimum of one off-street parking space for each bedroom within a commercial apartment. Parking spaces provided by nonresidential land uses on the site may be counted for purposes of this requirement with the approval of the zoning administrator. These requirements may be waived by the plan commission, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(4)(u)), 1-19-1998)

Sec. 130-422. Large format retail stores.

(a) A large-format store is any of the following (1) a single building that contains more than 20,000 gross square feet on a single parcel where the primary tenant occupies 65 percent or more of the gross floor area, (2) two or more buildings with a total of 20,000 gross square feet on a single parcel where the primary tenant occupies 65 percent or more of the gross floor area, or (3) a group of buildings on adjoining lots with more than 20,000 gross square feet of floor where the primary tenant owns the lots and occupies 65 percent or more of the gross floor area. The term does not include a retail store that is part of an industrial building or warehouse when the floor area of such store is less than 20,000 gross square feet. The following regulations are applicable to this use:

(1) Conditional use regulations: B-4.

(2) Parking requirements: One space per 300 square feet of gross floor area.

(b) *Legislative findings.* The Common Council makes the following findings:

(1) Abandoned buildings are a blighting influence on the community and large vacant stores are especially detrimental.

(2) Based on the city's smart growth comprehensive plan adopted in June 2005, most city residents and visitors appreciate and value Evansville "small-town" character.

(3) If not regulated, large retail stores could negatively affect Evansville's "small-town" character.

(4) Large retail stores may cause negative impacts to the economic vitality of certain retail sectors.

(5) Large retail buildings may be inconsistent with the existing community character and the surrounding neighborhood.

(6) A diverse retail economy is desirable in that it provides consumer choice and fosters competition.

(c) *Purpose*. The provisions of this section are intended to accomplish the following purposes:

(1) ensure that large retail stores are consistent with the city's general community character and the neighboring properties,

(2) ensure that large retail stores contribute to a diverse and sound economic base,

(3) prevent urban blight due to vacant stores,

(4) ensure that development complements the city's efforts to revitalize downtown, and

(5) provide the basis for a joint agreement with the Town of Union.

(d) *Development agreement*. Prior to issuance of a building permit for a large-format store, the building owner shall enter into a developer's agreement with the city, to run with the land, that includes all of the following:

(1) a provision that prevents the owner from prohibiting or otherwise limiting, through contract or other legal device, the reuse of the building for retail or other legitimate purposes

(2) a provision requiring long-term maintenance of the development including landscaping if the building is vacated

(3) a provision requiring the preparation of an adaptive reuse plan or a demolition plan acceptable to the city within 12 months of vacation

(4) a provision requiring the property owner to post a bond of sufficient amount to either convert the building to another use or demolish the building, which ever is greater, if the building remains vacant 24 months after the first date of vacation

(5) other provisions deemed necessary by the city to address the particular circumstances related to the project

(e) *Vacation of existing buildings*. When a large-format store is proposed as a replacement for another retail store already located in the city, the applicant shall not prohibit or otherwise limit, through contract or other legal device, the reuse of its former building.

(f) *Economic analysis*. When a large-format store exceeds 40,000 square feet, the developer shall provide funding to the city to hire a qualified consultant of the city's choice who will conduct an economic and fiscal impact study of the proposed project. Such study shall address the following:

(1) Identification and assessment of the positive, negative, and neutral effects which are directly attributable to the proposed project along with those indirect effects which may accrue as well.

(2) An analysis of how the proposed project may affect commercial vacancy rates in its trade area.

(3) An analysis of anticipated jobs to be created and potentially lost by type (e.g., construction, management, clerks, etc.) and by employment status (e.g., full-time, part-time, seasonal, etc.).

(4) A comparison of anticipated tax revenue from the project with the project's need for public services.

(5) The extent to which the proposed project would likely reduce the number of existing businesses within its trade area.
(6) The extent to which the proposed project would export dollars out of the local economy as compared to other locally, owned and operated businesses.
(7) Other elements deemed appropriate by the consultant to complete a balanced analysis of the project.

(g) *Absolute building area cap.* Under no circumstance shall the floor area of a large-format store exceed 60,000 square feet. The board of appeals may not grant a variance relating to this cap. The common council may allow a larger area only by amending this provision with an ordinance.

(h) *Architectural standards.* A large-format store shall comply with design standards as may be adopted by the city.

[Ord. 2006-25]

Sec. 130-423. Artisan Studio.

An artisan studio is a place used for creating, making, and selling works of art and/or handmade craft items on a small-scale. Examples of such items include, but may not be limited to, paintings, textiles, photography, sculptures, pottery, ceramics, leather products, hand-made paper, jewelry, hand-blown glass, small wooden items, candles, soaps, and body lotions.

(1) Permitted by right: B-2, B-3, B-4, B-5, I-1

(2) Conditional use regulations: B-1, I-2

(3) Standards. The following use standards shall apply:
   a. When located in a commercial district, at least 15 percent of the floor area shall be devoted to the retail sale of items produced on site and those of a similar nature.
   b. When located in a commercial district, all of the activities shall occur within a building.
   c. When located in an industrial district, no more than 20 percent of the floor area shall be devoted to the retail sale of items produced on site.
   d. The retail portion of the business, when provided, shall be located at the front of the building.
   e. Such use shall comply with the performance standards contained in article III[*].
   f. Such use shall comply with article II, division 4 of this chapter, pertaining to procedures applicable to all conditional uses.

[*] Drafter's note: These performance standards address air pollution, fire and explosive hazards, glare and heat, liquid or solid waste, noise, odors, radioactivity and electrical disturbances, vibration, and water quality.

(4) Parking requirements: One space per 300 square feet of gross floor area. These requirements shall be waived for businesses in the B-2 district.

[Ord. 2007-4]

Secs. 130-424--130-450. Reserved.

DIVISION 6. STORAGE OR DISPOSAL LAND USES

Sec. 130-451. Indoor storage or wholesaling.

Indoor storage and wholesaling land uses are primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, longterm indoor storage facilities, and joint warehouse and storage facilities. Retail outlets associated with this use shall be considered accessory uses per section 130-529. The following regulations are applicable to this use:

(1) Permitted by right:B-5, I-1, I-2, I-3.

(2) Conditional use regulations: Not applicable.

(3) Parking requirements: One space per 2,000 square feet of gross floor area.

(Ord. No. 1997-18, § 13(17.70(5)(a)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(a)), 9-8-1998, Ord. 2005-44)

Sec. 130-452. Outdoor storage or wholesaling.

Outdoor storage and wholesaling land uses are primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. Such a land use in which any activity beyond loading and parking is located outdoors is considered an outdoor storage and wholesaling land use. Examples of this land use include contractors' storage yards, equipment yards, lumberyards, coalyards, landscaping materials yards, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment or other materials typically associated with a junkyard or salvage yard. (See section 130-454.) The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-5, I-1, I-2.

Outdoor storage land use in the I-1 district shall require a conditional use permit and shall comply with the conditional use requirements associated with this land use that are outlined below.

a. All outdoor storage areas shall be enclosed by any permitted combination of buildings, structures, walls and fencing. Such walls and fencing shall be designed to screen all stored materials from view from nonindustrialized areas to the satisfaction of the plan commission.

b. The storage of items shall not be permitted in required front setback areas.

c. In no event shall the storage of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions of this chapter. If the number of provided parking stalls on the property is already less than the requirement, such storage area shall not further reduce the number of parking stalls already present.

d. Storage areas shall be separated from any vehicular parking or circulation area by a minimum of ten feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, or line of planters, or by a clearly marked paved area.

e. Materials being stored shall not interfere in any manner with either on- or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.

f. Inoperative vehicles or equipment, or other items typically stored in a junkyard or salvage yard, shall not be stored under the provisions of this land use.

g. All outdoor storage areas shall be located no closer to residentially zoned property than the required minimum setback for buildings on the subject property.

h. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: As required in article XI of this chapter.

(Ord. No. 1997-18, § 13(17.70(5)(b)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(b)), 9-8-1998, Ord. 2005-44, Ord. 2011-17)

Sec. 130-453. Personal storage facility.

Personal storage facilities are land uses oriented to the indoor storage of items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Such storage areas are also known as miniwarehouses. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-3, B-5, I-1, I-2.

a. The facility shall be designed so as to minimize adverse visual impacts on nearby developments. The color, exterior materials, and orientation of proposed buildings and structures shall complement surrounding development.

b. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

d. No electrical power shall be run to the storage facilities.

(3) Parking requirements: One space for each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(5)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(c)), 9-8-1998, Ord. 2005-44)

Sec. 130-454. Junkyard or salvage yard.

Junkyard or salvage yard facilities are any land or structure used for a salvaging operation, including but not limited to the aboveground outdoor storage and/or sale of

waste paper, rags, scrap metal, and any other discarded materials intended for sale or recycling; and/or the collection, dismantling, storage, or salvage of two or more unlicensed and/or inoperative vehicles. Recycling facilities involving on-site outdoor storage of salvage materials are included in this land use. The following regulationsare applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: I-3.

a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

b. All buildings, structures, and outdoor storage areas and any other activity areas shall be located a minimum of 100 feet from all lot lines.

c. In no instance shall activity areas be located within required frontage landscaping or bufferyard areas.

d. Such uses shall not involve the storage, handling or collection of hazardous materials.

e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space for every 20,000 square feet of gross storage area, plus one space for each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(5)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(d)), 9-8-1998, Ord. 2012-18)

Sec. 130-455. Waste disposal facility*.

Waste disposal facilities are any areas used for the disposal of solid wastes, including those defined by Wis. Stats. § 281.01(15), but not including composting operations (see section 130-456). The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: I-3.

a. Such uses shall comply with all county, state and federal regulations.

b. The facility shall provide a bufferyard along all borders of the property with a minimum opacity per section 130-270.

c. All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.

d. Operations shall not involve the on-site holding, storage or disposal of hazardous materials in any manner.

e. Required site plans shall include detailed site restoration plans, which shall, include at minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110 percent of the costs determined to be

* **State law references:** Water and sewage generally, Wis. Stats. § 281.01 et seq.

associated with such restoration (as determined by a third party selected by the city), shall be filed with the city by the petitioner (subject to approval by the city administrator), and shall be held by the city for the purpose of ensuring that the site is restored to its proposed condition. The requirement for such surety is waived for waste disposal facilities owned by public agencies.

f. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space for each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(5)(e)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(e)), 9-8-1998, Ord. 2012-18)

Sec. 130-456. Composting operation.

Composting operations are any land uses devoted to the collection, storage, processing and or disposal of vegetation. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural districts, I-3.

a. Such uses shall comply with all county, state and federal regulations.

b. The facility shall provide a bufferyard along all borders of the property occupied by non-agricultural land uses with a minimum opacity per section 130-270.

c. All buildings, structures, and activity areas shall be located a minimum of 100 feet from all lot lines.

d. No food scraps or other vermin-attracting materials shall be processed, stored or disposed of on-site.

e. Operations shall not involve the on-site holding, storage or disposal of hazardous wastes as defined by state statutes in any manner.

f. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space for each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(5)(f)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(5)(f)), 9-8-1998)

Sec. 130-457. Motor vehicle storage yard.

Motor vehicle storage yards are any land or structure used for the temporary storage of impounded motor vehicles or wrecked motor vehicles awaiting an insurance adjustment or transport to a repair shop. The salvaging of motor vehicle parts or the repair of motor vehicles is not allowed. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-3, I-1, I-2, I-3.

a. The facility shall provide a bufferyard consistent with section 130-270 and any additional bufferyard requirements deemed necessary to provide adequate screening between the facility and adjoining properties.
b. No portion of the parcel used to store motor vehicles may be located within 40 feet of a residentially-zoned parcel or within 20 feet of another nonindustrially-zoned parcel.
c. An eight-foot solid fence, subject to Plan Commission approval, shall be located around the perimeter of the area used to store the motor vehicles.
d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
e. The applicant shall submit a fence plan as part of the conditional use application which shall specify materials, the color scheme, and construction methods.

(3) Parking requirements: One space for every 20,000 square feet of gross storage area, plus one space for each employee on the largest work shift.

[Ord. 2006-42]

Secs. 130-458--130-480. Reserved.

DIVISION 7. TRANSPORTATION LAND USES

Sec. 130-481. Off-site parking lot.

Off-site parking lots are any areas used for the temporary parking of vehicles which are fully registered, licensed and operative. The following regulations are applicable to this use:

(1) Permitted by right: B-2, B-3, I-2, I-3.

a. Access to an off-site parking lot shall only be permitted from a collector or arterial street.

b. Access and vehicular circulation shall be designed so as to discourage cut-through traffic.

(2) Conditional use regulations: B-5.

(3) Parking requirements: No requirement.

(Ord. No. 1997-18, § 13(17.70(6)(a)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(6)(a)), 9-8-1998, Ord. 2005-44)

Sec. 130-482. Airport/heliport.

Airports and heliports are transportation facilities providing takeoff, landing, servicing, storage and other services to any type of air transportation. The operation of any type of air vehicle (including ultralight aircraft, hang gliders, parasails, and related equipment, but excepting model aircraft) within the jurisdiction of this chapter shall occur only in conjunction with an approved airport or heliport. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: O-1, I-1, I-2, and I-3.

a. All buildings, structures, and outdoor airplane or helicopter storage areas and any other activity areas shall be located a minimum of 100 feet from all lot lines.

b. The facility shall provide a bufferyard along all borders of the property not otherwise completely screened from activity areas by buildings or structures with a minimum opacity per section 130-270.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per each employee on the largest work shift, plus one space per every five passengers based on average daily ridership.

(Ord. No. 1997-18, § 13(17.70(6)(b)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(6)(b)), 9-8-1998, Ord. 2012-18)

Sec. 130-483. Freight terminal.

Freight terminals are defined as land and buildings representing either end of one or more truck carrier lines, which may have some or all of the following facilities: yards, docks, management offices, storage sheds, buildings and/or outdoor storage areas, freight stations, and truck maintenance and repair facilities, principally serving several or many businesses and always requiring transshipment. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-5, I-3.

a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

b. All buildings, structures, outdoor storage areas, and other activity areas shall be located a minimum of 100 feet from all lot fines abutting residentially zoned property.

c. In no instance shall activity areas be located within required frontage landscaping or bufferyard areas.

d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(6)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(6)(c)), 9-8-1998, Ord. 2005-44)

Sec. 130-484. Distribution center.

Distribution centers are facilities oriented to the shortterm indoor storage and possible repackaging and reshipment of materials involving the activities and products of a single user. Retail outlets associated with this use shall be considered accessory uses per section 130-529. The following regulations are applicable to this use:

(1) Permitted by right: I-2, I-3.

(2) Conditional use regulations: B-5, I-1.

a. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

b. All buildings, structures, outdoor storage areas, and other activity areas shall be located a minimum of 100 feet from all lot lines abutting residentially zoned property.

c. In no instance shall activity areas be located within required frontage landscaping or bufferyard areas.

d. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(6)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(6)(d)), 9-8-1998, Ord. 2005-44)

Sec. 130-485. Railroad line.

A railroad line is a strip of land with railroad tracks and auxiliary facilities for track operation. The term does not include freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, car yards, or the like.

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: All districts.

(3) Parking requirements: None.

[Ord. 2005-44]

Secs. 130-486--130-500. Reserved.

DIVISION 8. INDUSTRIAL LAND USES*

Sec. 130-501. Light industrial land uses.

Light industrial land uses are industrial facilities at which all operations (with the exception of loading operations) are conducted entirely within an enclosed building, are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line, do not pose a significant safety hazard (such as danger of explosion), and comply with all of the performance standards listed for potential nuisances. Light industrial land uses may conduct retail sales activity as an accessory use provided that the requirements of section 130-529 are complied with. The following regulations are applicable to this use:

(1) Permitted by right: I-1, I-2, I-3. All activities, except loading and unloading, shall be conducted entirely within the confines of a building.

(2) Conditional use regulations: B-5.

(3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(7)(a)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(7)(a)), 9-8-1998, Ord. 2005-44)

Sec. 130-502. Heavy industrial land use.

Heavy industrial land uses are industrial facilities which do not comply with one or more of the following criteria: are conducted entirely within an enclosed building, are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and do not pose a significant safety hazard (such as danger of explosion). More specifically, heavy industrial land uses are industrial land uses which may be wholly or partially located outside of an enclosed building, may have the potential to create certain nuisances which are detectable at the property line, and may involve materials which pose a significant safety hazard. Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers), including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: I-2, I-3.

a. The facility shall provide a bufferyard along all borders of the property abutting properties which are not zoned with a minimum opacity per section 130-270.

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* **Cross references:** Businesses, ch. 22.

b. All outdoor activity areas shall be located a minimum of 100 feet from residentially zoned property. No materials shall be stacked or otherwise stored so as to be visible over bufferyard screening elements.

(3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(7)(b)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(7)(b)), 9-8-1998)

Sec. 130-503. Communication tower.

Communication towers include all freestanding broadcasting, receiving, or relay structures, and similar principal land uses; and any office, studio or other land uses directly related to the function of the tower. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural districts, B-1, B-2, B-3, B-4, B-5, I-1, I-2, and I-3.

a. The tower shall be located so that there is a sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property.
b. The installation and continued maintenance of a bufferyard is required along property borders abutting residentially zoned property with a minimum opacity per section 130-270.
c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.
d. If unused for a period of twenty-four (24) months communication towers, pads, and any associated equipment must be removed.

(3) Parking requirements: One space per employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(7)(c)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(7)(c)), 9-8-1998, Ord. 2008-08, Ord. 2009-06)

Sec. 130-504. Extraction uses.

Extraction uses include any land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural districts, I-3.

a. Such uses shall receive approval from the county prior to action by the city, and shall comply with all county, state and federal regulations.

b. The facility shall provide a bufferyard along all borders of the property with a minimum opacity per section 130-270.

c. All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.

d. Required site plans shall include detailed site restoration plans, which shall include, at a minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110 percent of the costs determined to be associated with such restoration (as determined by a third party selected by the city), shall be filed with the city by the petitioner (subject to approval by the zoning administrator), and shall be held by the city for the purpose of ensuring that the site is restored to its proposed condition. The requirement for such surety is waived for waste disposal facilities owned by public agencies.

e. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: One space per each employee on the largest work shift.

(Ord. No. 1997-18, § 13(17.70(7)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(7)(d)), 9-8-1998)

Secs. 130-505--130-520. Reserved.

DIVISION 9. ACCESSORY LAND USES

Sec. 130-521. Generally.

Accessory uses are land uses which are incidental to the principal activity conducted on the subject property. With the exception of a commercial apartment (see section 130-522), or a farm residence (see section 130-523), in no instance shall an accessory use, cellar, basement, tent or recreational trailer be used as a residence. With the exception of farm buildings, accessory buildings located within a residential district shall be constructed or finished in an architectural style complementary to and with materials complementary to the principal residential buildings in the neighborhood. Accessory uses shall not be located between a principal building and a street frontage on the same lot, or within any required front yard or street side yard.

(Ord. No. 1997-18, § 13(17.70(8)), 1-19-1998)

Sec. 130-522. Commercial apartment.

Commercial apartments are dwelling units which are located above the ground floor of a building used for a commercial land use (as designated in division 5 of this article), most typically an office or retail establishment. The primary advantage of commercial apartments is that they are able to share required parking spaces with nonresidential uses. The following regulations are applicable to this use:

(1) Permitted by right: B-2.

(2) Conditional use regulations: B-1, B-3, B-4.

a. The gross floor area devoted to commercial apartments shall be counted toward the floor area of a nonresidential development.

b. A minimum of one off-street parking space shall be provided for each bedroom within a commercial apartment. Parking spaces provided by nonresidential land uses on the site may be counted for purposes of this requirement with the approval of the zoning administrator. These requirements shall be waived for businesses in the B-2 district.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(a)), 1-19-1998)

Sec. 130-523. Farm residence.

A farm residence is a single-family detached dwelling unit located on the same property as any of the principal agricultural land uses listed in division 3 of this article. The following regulations are applicable to this use:

(1) Permitted by right: All districts except B-5.

(2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(b)), 1-19-1998, Ord. 2005-44)

Sec. 130-524. Detached garage, carport, utility shed, play structure or lawn ornament.

A private residential garage, carport or utility shed is a building that primarily accommodates the sheltered parking of a passenger vehicle and/or the storage of residential maintenance equipment. Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sun dials, flagpoles, etc., shall be permitted in setback areas, but not closer than three feet to an abutting property line other than a street line. For the purposes of this section, children's play structures, including play houses or elevated play structures and climbing gyms, shall be considered accessory structures and shall comply with the requirements of this section whether such structures are placed on a foundation or not. Swing sets, slides, and sandboxes are not considered children's play structures for purposes of this section. A building permit is not required for construction of a play structure. Play structures shall not be used for storage or constructed out of materials that would constitute a nuisance. It may be located on the same lot as a residential unit, or on a separate lot in conjunction with a residential land use. The following regulations are applicable to this use:

(1) Permitted by right. Residential and nonresidential districts, except B-5, per the following requirements:

a. In all residential zoning districts, one or more private garages and, except in the RR zoning district, one accessory building not to exceed 150 square feet shall be permitted. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.

b. In the RR zoning district, two accessory buildings.

c. In all nonresidential zoning districts, one accessory structure, not to exceed 1,000 square feet, shall be permitted.

d. A detached garage or accessory structure shall not exceed the height of the principal building.

(2) Conditional use regulations. Agricultural districts. In all agricultural zoning districts, accessory structures in excess of 1,000 square feet shall require a conditional use permit.

(Ord. No. 1997-18, § 13(17.70(8)(c)), 1-19-1998; Ord. No. 2002-4, § 7, 4-9-2002; Ord. No. 2003-7, § 2, 10-14-2003, Ord. 2005-44)

Sec. 130-525. Company cafeteria.

A company cafeteria is a food service operation which provides food only to company employees and their guests, which meets state food service requirements, and

which is located on the same property as a principal land use engaged in an operation other than food service. The following regulations are applicable to this use:

(1) Permitted by right: O-1, B-2, B-3, B-4, B-5, I-1, I-2, I-3.

(2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(d)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(d)), 9-8-1998, Ord. 2005-44)

Sec. 130-526. Company-provided on-site recreation.

A company-provided on-site recreational facility is any active or passive recreational facility located on the same site as a principal land use, and which is reserved solely for the use of company employees and their guests. Facilities using activity night lighting shall be a conditional use. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: O-1, B-2, B-3, B-4, B-5, I-1, I-2, I-3.

a. All structures and actively used outdoor areas shall be located a minimum of 50 feet from any residentially zoned property.

b. Outdoor recreation facilities using night lighting and adjoining residentially zoned property shall install and continually maintain a bufferyard with a minimum opacity per section 130-270. The bufferyard shall be located at the property line adjacent to the residentially zoned property.

c. All structures and actively used outdoor areas shall be located a minimum of 50 feet from any residentially zoned property.

d. Such uses shall comply with article II, division 4 of this chapter, pertaining to procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(e)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(e)), 9-8-1998, Ord. 2005-44)

Sec. 130-527. Outdoor display incidental to indoor sales and service (more than 12 days).

For a description of outdoor display land uses, see section 130-404. The following shall apply to outdoor display incidental to indoor sales and service for more than 12 days:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-3, B-4, B-5, I-2.

a. Such uses shall comply with all conditions of section 130-404.

b. The display area shall not exceed 25 percent of the gross floor area of the principal building on the site.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(f)), 1-19-1998, Ord. 2005-44)

Sec. 130-528. In-vehicle sales and services incidental to on-site principal land use.

For a description of in-vehicle sales and service uses, see section 130-407. The following shall apply to in-vehicle sales and service uses incidental to an on-site principal land use:

(1) Permitted by right: B-4 and B-5, as regulated in section 130-407.

(2) Conditional use regulations: B-3, I-1.

a. Such uses shall comply with all conditions of section 130-407.

b. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(g)), 1-19-1998; Ord. No. 2002-11, § 2, 11-12-2002, Ord. 2005-44)

Sec. 130-529. Indoor sales incidental to storage or light industrial land use.

Indoor sales incidental to storage or light industrial land use include any retail sales activity conducted exclusively indoors which is incidental to a principal land use such as warehousing, wholesaling or any light industrial land use, on the same site. The following regulations are applicable to this use:

(1) Permitted by right: B-5, I-1, I-2, I-3.

a. Adequate parking shall be provided for customers. Such parking shall be in addition to that required for customary light industrial activities.

b. The total area devoted to sales activity shall not exceed 25 percent of the total area of the buildings on the property.

c. Such uses shall provide restroom facilities directly accessible from the retail sales area.

d. The retail sales area shall by physically separated by a wall from other activity areas.

(2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(h)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(h)), 9-8-1998, Ord. 2005-44)

Sec. 130-530. Light industrial activities incidental to indoor sales or service land use.

Light industrial activities incidental to indoor sales or service land use include any light industrial activity conducted exclusively indoors that is incidental to a principal land use such as indoor sales or service, on the same site. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-2, B-3, B-4, B-5, I-1.

a. The total area devoted to light industrial activity shall not exceed 15 percent of the total area of the buildings on the property, or 5,000 square feet, whichever is less.

b. The production area shall be physically separated by a wall from other activity areas and shall be soundproofed to the level required by this chapter for all adjacent properties.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(i)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(i)), 9-8-1998, Ord. 2005-44)

Sec. 130-531. Home occupation*.

It is the intent of this section to provide a means to accommodate a small home-based family or professional business without the necessity of rezoning from a residential to a commercial district. Approval of an expansion of a home occupation at a future time beyond the limitations of this section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary. Home occupations are economic activities performed within any single-family detached residence which comply with the following requirements. Examples include personal and professional services and handicrafts which comply with all of the following requirements:

(1) Permitted by right: All districts, except I-1, I-2, I-3.

a. The home occupation shall be conducted only within the enclosed area of the dwelling unit or an attached garage.

b. There shall be no exterior alterations that change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.

c. No storage or display of materials, goods, supplies, or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.

d. No home occupation use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.

e. Only one sign may be used to indicate the type of occupation or business. Such sign shall not be illuminated and shall not exceed three square feet.

f. The use shall not involve the use of commercial vehicles for more than occasional delivery of materials to or from the premises.

* **Cross references:** Businesses, ch 22.

g. A permitted home occupation is restricted to a service-oriented business prohibiting the manufacturing of items or products or the sale of items or products on the premises. Examples of service-oriented businesses are, but are not limited to, computer programming, accounting, insurance agencies and computer-based consulting and clerical services.

h. A permitted home occupation shall not occupy more than 30 percent of the floor area of the dwelling.

i. Persons employed by a permitted home occupation shall be limited to the resident family members and no more than one nonresident employee.

j. Under no circumstances shall a vehicle repair or body work business qualify as a home occupation.

(2) Conditional use regulations:

a. The plan commission may approve home occupations in residential districts which do not meet the standards in subsection (1) of this section as conditional uses. The standards in article II, division 4 of this chapter shall be applicable.

b. The type and number of equipment or machinery used on the conditional use site may be restricted by the plan commission.

c. Sale or transfer of the property or expansion of the home occupation shall cause the conditional use permit to be null and void.

(Ord. No. 1997-18, § 13(17.70(8)(j)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(j)), 9-8-1998)

Sec. 130-532. Family day care home (four to eight children)*.

Family day care homes are occupied residences in which a qualified person provides child care for four to eight children. The care of less than four children is not subject to the regulations of this chapter. The following regulations are applicable to family day care homes:

(1) Permitted by right: Agricultural and residential districts.

(2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(k)), 1-19-1998)

Sec. 130-533. Intermediate day care home (nine to 15 children)*.

Intermediate day care homes are occupied residences in which a qualified person provides child care for nine to 15 children. The following regulations are applicable to this use:

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* **State law references:** Family day care homes, Wis. Stats. § 66.304.

* **State law references:** Family day care homes, Wis. Stats. § 66.304(2).

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural and residential districts.

(Ord. No. 1997-18, § 13(17.70(8)(l)), 1-19-1998)

Sec. 130-534. Migrant labor camp.

Migrant labor camps include any facility subject to the regulations of Wis. Stats. § 103.90. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: Agricultural districts.

a. Such uses shall be surrounded by a bufferyard along all property lines adjacent to properties in residential, office or commercial zoning districts with a minimum opacity per section 130-270.

b. A migrant labor camp shall be an accessory use to an active principal use, under the same ownership, which is located within the city.

c. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(Ord. No. 1997-18, § 13(17.70(8)(m)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(m)), 9-8-1998)

Sec. 130-535. On-site parking lot.

On-site parking lots are any areas located on the same site as the principal land use which are used for the temporary parking of vehicles which are fully registered, licensed and operative. The following regulations are applicable to this use:

(1) Permitted by right: O-1, B-2, B-3, B-4, B-5, I-1, I-2, I-3.

a. Access to an on-site parking lot shall only be permitted from a collector or arterial street.

b. Access and vehicular circulation shall be designed so as to discourage cut-through traffic.

(2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(n)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(n)), 9-8-1998, Ord. 2005-44)

Sec. 130-536. Exterior communication devices.

Exterior communication devices include uses such as satellite dishes, ham radio towers, TV antennas, etc. The following regulations are applicable to this use:

(1) Permitted by right: All districts.

a. Exterior communication devices shall not be located in the excess front or street yards.

b. Devices must be sited an equal or greater number of feet from any property lines as their maximum height.

c. The applicant must demonstrate that all reasonable mechanisms have been used to mitigate safety hazards and the visual inputs of the device.

(2) Conditional use regulations: Not applicable.

(Ord. No. 1997-18, § 13(17.70(8)(o)), 1-19-1998)

Sec. 130-537. Drive-in financial institution.

Drive-in financial institutions are facilities that allow customers of banks, credit unions, and other financial institutions to conduct financial transactions while seated in their vehicles. Such land uses often have traffic volumes that exhibit their highest levels concurrent with peak traffic flows on adjacent roads. The following regulations are applicable to this accessory use, but not to the bank, credit union, or financial institution itself, which are considered a personal or professional service land use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: B-1, B-2, B-3, B-4, B-5.

a. Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the drive-through lanes.

b. The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement or exacerbate the potential for pedestrian/vehicular conflicts.

c. In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this article.

d. The setback of any overhead canopy or similar structure shall be a minimum of ten feet from all street right-of-way lines, a minimum of 20 feet from all residentially zoned property lines, and a minimum of five feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet as measured to the highest part of the structure.

e. All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material which is designed to meet the requirements of a minimum four-ton axle load.

f. The facility shall provide a bufferyard along all property borders abutting residentially zoned property with a minimum opacity per section 130-270.

g. Interior curbs shall be used to separate driving areas from exterior fixtures such as canopy supports and landscaped islands. The curbs shall be a minimum of six inches high and be of a nonmountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to any property line.

h. Such uses shall comply with article II, division 4 of this chapter, pertaining to standards and procedures applicable to all conditional uses.

(3) Parking requirements: If the drive-in facility is not a window or windows in the building that contains the teller and service desks of the bank, credit union, or other financial institution, one space per 50 square feet of gross floor area. In any event, each drive-up lane shall have a minimum stacking length of 100 feet behind the pass-through window and 40 feet beyond the pass-through window. These requirements may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

(Ord. No. 1997-18, § 13(17.70(8)(p)), 1-19-1998; Ord. No. 1998-12, § 5(17.70(8)(p)), 9-8-1998; Ord. No. 2002-11, § 3, 11-12-2002, Ord. 2004-18, Ord. 2005-44)

Sec. 130-538. Outdoor commercial food and beverage service.

Outdoor commercial food and beverage service uses include the sale of food or beverages for on-site consumption on the premises of a restaurant or tavern. The following regulations are applicable to this use:

(1) Permitted by right: Not applicable.

(2) Conditional use regulations: O-1, B-1, B-2, B-3, B-4

a. The size of the outdoor service area shall not be more than 50 percent of the floor area of the restaurant or tavern.

b. The outdoor service area shall lie within the same parcel as the restaurant or tavern and shall not lie within any public right of way.

c. The outdoor service area shall not lie within a required bufferyard or a required front, side, or rear yard setback.

d. If the parcel containing the restaurant or tavern and outdoor service area is adjacent to residentially zoned property, all borders of the outdoor service area that abut or would otherwise be visible from the residentially zoned property shall have a bufferyard with a minimum opacity per section 130-270.

e. If the parcel containing the restaurant or tavern and outdoor service area is adjacent to residentially zoned property, no person may occupy the outdoor service area after 9:30 PM.

f. No alcoholic beverages shall be served if the parcel containing the restaurant or tavern and outdoor service area is adjacent to residentially zoned property.

g. No alcoholic beverages shall be served unless the liquor, beer or wine license, whichever is applicable, as issued by the state of Wisconsin explicitly states that consumption is permitted within the outdoor service area.

h. If alcoholic beverages are served, the entrance or entrances to the outdoor service area shall be exclusively through the restaurant or tavern, and a barrier such as a rope or fence shall be erected to prevent entry to the outdoor service area by any other means.

i. The restroom facilities in the restaurant or tavern shall be of sufficient capacity to serve both the indoor and outdoor patrons, and no temporary toilet facilities will be permitted.

j. Such uses shall comply with article II, division 4 of this chapter, pertaining to procedures applicable to conditional uses.

(3) Parking requirements: One space per every three patron seats, calculated on the sum of the indoor and outdoor patron seats. This requirement may be waived by the plan commission for businesses in the B-2 district, following a request from the applicant.

[Ord. 2005-14]

Sec. 130-539. Outdoor furnace.

An outdoor furnace is an apparatus designed to burn solid or liquid combustible materials (e.g., corn, ear corn, wood, wood pellets, coal, fuel oil) to produce heat and/or heat hot water for a building in which it is not located.

(1) Permitted by right: A-1, A-2, A-3, RR, I-1, I-2, I-3

a. *Type of materials burned*. The following types of materials shall not be burned within an outdoor furnace (1) leaves, (2) rubbish or garbage, (3) waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code, (4) asphalt and products containing asphalt, (5) chemically-treated or painted wood, (6) any plastic material, (7) rubber and synthetic rubber-like products, (8) any material treated with petroleum products or chemicals, and (9) newspaper, corrugated cardboard, container board, paper, and other materials that must be recycled, except that such material may be used as a starter fuel.

b. *Performance*. An outdoor furnace shall comply with all applicable standards governing air quality and emissions as may be promulgated and amended by the United States Environmental Protection Agency and the Wisconsin Department of Natural Resources.

c. *Furnace certification.* An outdoor furnace shall be certified by a recognized product testing company such as UL, CSA, or ETL.

d. *Blower required*. An outdoor furnace shall be fitted with an electro-mechanical-draft combustion system.

e. *Heat exchanger*. An outdoor furnace shall be fitted with a secondary heat exchanger, also known as a two-pass heat exchanger.

f. *Locking device*. An outdoor furnace shall have a child-proof locking device on the fire door or shall be in an enclosure with the access door having such a locking device.

g. *Limits on when one can be used*. There are no limitations on when during the year an outdoor furnace can be used.

h. *Placement*. An outdoor furnace shall not be placed closer than 50 feet to the property boundary line of the parcel on which it is located or within the building setback line. Furthermore, an outdoor furnace shall not be located in the front yard or in the street-side yard of a corner lot.

i. *Separation from combustible materials*. An outdoor furnace shall maintain separation to combustible materials, such as LP tanks, consistent with standards of the National Fire Protection Association.

j. *Venting stack*. The opening of the venting stack shall meet the standards in table 130-539(1)j. For the purpose of this section, if an adjoining residentially-zoned parcel is vacant, the minimum building setback line shall be used as the edge of the building and the height of the highest eave shall be12 feet. If when the residential building is constructed the height of the eave is greater than 12 feet, the furnace operator shall at that time raise the stack so as to comply with the height standards in the table.

Table 130-159(1)j. Venting stack heights

Distance to Closest Residence Not Served By Furnace	**Minimum Height**
50 feet or less	The height of the highest eave of that residence plus 2 feet
More than 50 feet but less than 100 feet	75 percent of the height of the highest eave of that residence plus 2 feet
More than 100 feet but less than 150 feet	50 percent of the height of the highest eave of that residence plus 2 feet
More than 150 feet	25 percent of the height of the highest eave of that residence plus 2 feet

k. *Manufacturer operating instructions.* Manufacturer operating instructions shall be followed except when in conflict with this section.

l. *Installation requirements*. An outdoor furnace shall be installed by a licensed contractor consistent with the manufacturer instructions except when in conflict with this section.

m. *Location of burnable stockpiles*. Stockpiles of burnable materials may be kept inside of a building or out of doors. If kept indoors, the building may not also house the outdoor furnace. If kept out of doors, the stockpiles shall be no closer than 25 feet to the property boundary line of the parcel on which it is located or within the building setback whichever is greater. Furthermore, if kept outdoors, the stockpiles shall not be located in the front yard or in the street-side yard of a corner lot.

n. *Storage of corn*. If corn, or other similar food stuff, is burned within an outdoor furnace, it shall be stored in a vermin-proof container.

o. *Building permit*. A building permit shall be obtained from the city building inspector prior to the establishment of an outdoor furnace.

(2) Conditional use regulations: Not applicable

(3) Parking requirements: None

(4) Subsequent change in zoning designation: If a property owner submits an application to change the zoning designation of a parcel with an outdoor furnace to another designation that does not allow an outdoor furnace and the common council makes the requested change, the outdoor furnace shall cease to operate upon enactment of the ordinance changing the designation.

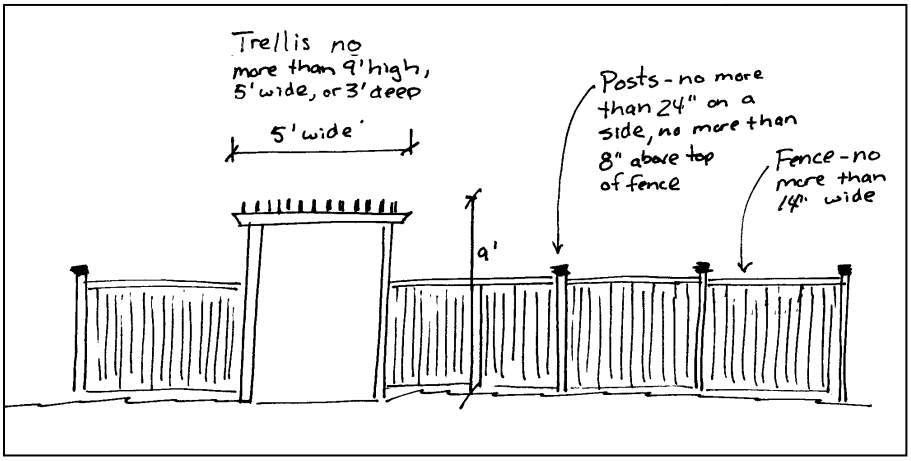
(5) Annual permit required. Prior to the establishment of this use and each year thereafter, the operator of the outdoor furnace shall obtain an annual permit from the city building inspector. The building inspector shall not issue an annual permit when the operator has failed to operate the furnace consistent with this section.

[Ord. 2006-36]

Sec. 130-540. Fences

(a) *Applicability*. The requirements of this section apply to fences more than 30 inches in height. All fences constructed or rebuilt after August 14, 2007, are subject to the provisions of this Section 130-540.

Exhibit 1. General construction specifications



(b) *Measurement of fence height*. The height of a

fence shall be measured from the adjoining ground surface to the top of the fence material (not the fence post, pole, or column).

(c) *Construction specifications*. A fence shall meet the following construction specifications, some of which are depicted in Exhibit 1:

(1) *Width*. With the exception of vertical supports, the width of a fence shall not exceed 14 inches.

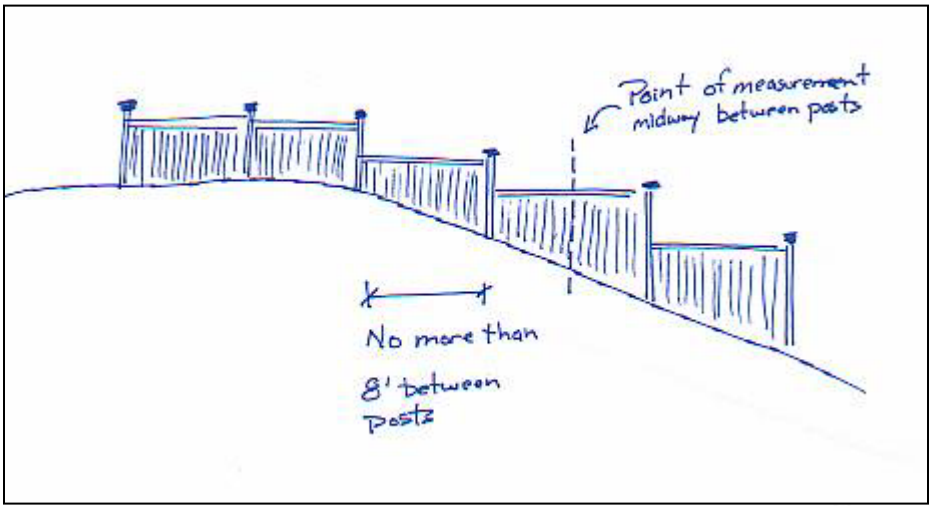
Exhibit 2. Maximum fence height

Location	Residential Zoning Districts	Commercial Zoning Districts	Industrial Zoning Districts
Front yard	3 feet	3 feet	8 feet
Side yard, street side	3 feet	3 feet	8 feet
Side yard (interior lot)	6 feet	6 feet	8 feet
Rear yard	6 feet	6 feet	8 feet

(2) *Height*. The top of a fence shall not exceed the height listed in Exhibit 2. Where a fence is located on a slope and is stepped, each section shall not be wider than 8 feet and the height shall be measured in the middle of the stepped section (Exhibit 3).

(3) *Orientation*. All non-decorative posts, horizontal supports, cross-members, and the like shall be oriented inward to the lot on which the fence is located.

Exhibit 3. Special standards for a stepped fence



(4) *Materials*. A fence shall be constructed of building materials commonly used for fence construction in the region, except for those specifically prohibited in this section. A fence located in a front yard or in a side yard that abuts a street right-of-way shall have a maximum opacity of 50 percent. All other fences may be solid from the ground to the maximum height. Snow fences constructed of wood and wire, and/or plastic shall be permitted only as temporary fences.

(5) *Vertical support specifications*. A vertical support, such as a post or column, shall not exceed 24 inches in width or extend more than 24 inches above the top of the highest point of the adjoining fence.

(6) *Trellises*. A trellis may extend above a pedestrian walkway provided it is not taller than 9 feet, wider than 5 feet, or deeper than 3 feet.

(7) *Arbors*. An arbor may be incorporated into the overall design of a fence provided no part is taller than 8 feet and does not extend for more than 10 percent of the length of the side on which it is located.

(d) *Location specifications*. A fence shall meet the following locational specifications (Exhibit 4):

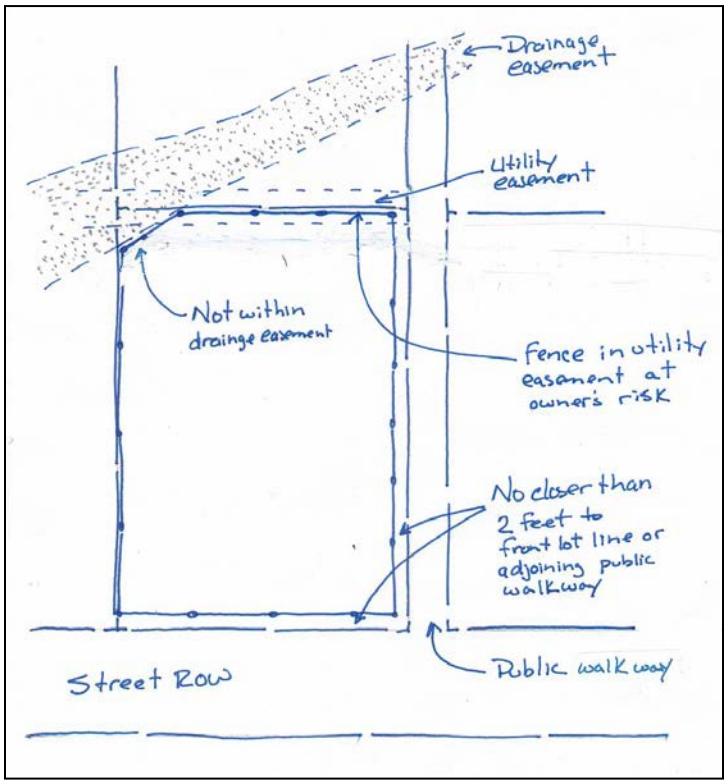
(1) A fence shall be located on the owner's side of a property line.

(2) A fence shall not be closer than 1 foot to the front lot line or other property boundary line when adjoining a pedestrian walkway or the like.

(3) A fence may be placed within a utility easement with the understanding that the utility authority may remove such fence at the property owner's expense and is not liable for any damage to the fence or the reconstruction of the fence.

(4) A fence shall not be located within a drainage easement. Upon written petition, the building inspector may allow a fence in a drainage easement when it can be shown that the fence will not restrict the flow of storm water.

Exhibit 4. Locational specifications



(e) *Special standards for fencing around a swimming pool.* A fence may be located around a swimming pool provided it meets the standards in the most current edition of ANSI/IAF-8 as promulgated by the American National Standards Institute and Association of Pool and Spa Professionals that relate to barriers and fencing.

(f) *Special standards for fencing around a tennis court and the like.* A fence may be located around a tennis court, basketball court, volleyball court, or other sports-related court, provided it meets the following standards:

(1) The fence shall not exceed 12 feet in height.

(2) The fence shall not be located within a setback line.

(3) Any portion of the fence above 6 feet in height shall be an open woven wire.

(g) *Special standards for temporary fencing.* A temporary fence may be used for the duration of a construction project with a valid building permit.

(h) *Solid masonry fencing.* A solid masonry fence shall not impede the natural flow of storm water.

(i) *Barbed wire fencing.* Barbed wire fencing is prohibited except as follows:

(1) Three courses of barbed wire may be installed above the top line of a 6-foot high chainlink fence when located in an industrial zoning district.

(2) Barbed wire may be used when in an agriculturally zoned district.

(j) *Electric fencing.* Electrically-charged fencing is prohibited except that the building inspector may allow it in an agricultural district when used to retain animals and it will not pose a safety hazard.

(k) *Maintenance.* A fence shall be maintained in a structurally sound manner.

[Ord. 2007-10]

Sec. 130-541. Chicken Keeping

Chicken keeping includes accommodating and raising chickens, defined as a domestic fowl of the subspecies Gallus gallus domesticus, in covered enclosures (coops) and fenced enclosures (runs). Chicken keeping is considered an accessory use. The following regulations are applicable to this use:

(1) Permitted by Right: Not Applicable

(2) Special use regulations in Residential Districts, R-1:

a. No more than six (6) chickens (female only) on a lot containing a single-family dwelling only.

b. Not allowed on residential lots containing two (2) or more dwelling units.

c. Keeping of roosters is prohibited.

d. Slaughter of chickens is prohibited on site.

e. The chickens shall be provided with and kept in a structurally sound covered enclosure (coop) and an attached fence enclosure (run). The enclosures must be maintained in good repair and kept free from rodents and other vermin. The fence of the run shall be of sufficient opacity or webbing to contain a chicken.

f. The coop and run shall be located in a rear yard only and shall be a minimum of ten (10) feet from any residential structure on any adjacent lot. The coop and run shall not be located in side, street side or front yards, or setback areas.

g. The total area of the coop and run shall not exceed one-hundred fifty (150) square feet in footprint area and ten (10) feet in height. The total area of the coop shall be a minimum of four (4) square feet per chicken. The total area of the run shall be a minimum of six (6) square feet per chicken. The coop and run are considered an accessory building as defined in Section 130-6.

h. Chickens shall not be allowed to be kept within a residential dwelling or garage.

i. Any electrical work on or in the coop and run requires an electrical permit from the building inspector.

j. Any chickens not contained within the coop or run shall be subject to the provisions of Sec. 14-3. Running at Large. The City reserves the right to apply other provisions in Section 14 as may be appropriate to regulate the keeping of chickens.

k. A Chicken Keeping Permit shall be approved and issued after:

(3) An application for a permit to construct, erect, alter, remodel or add a coop or run is submitted in writing to the City Inspector for approval before any work begins.

(4) No work or any part of the work shall be commenced until a written permit for such work is obtained.

(5) Before coop and run can be occupied by chickens, the City Inspector shall do a final on-site inspection.

(6) An application for a permit is renewed yearly.

(7) Initial and renewal permits shall pay a fee as determined from time to time by Common Council, but not less than Twenty (20) Dollars.

(8) Renewals of Chicken Keeping permits shall be denied if the applicant has been documented and notified of being in violation of Section 130-541 and/or Chapter 14 in the previous six (6) months.

[Ord. 2016-18]

Secs. 130-542--130-560. Reserved.

DIVISION 10. TEMPORARY LAND USES

Sec. 130-561. General temporary outdoor sales.

General temporary outdoor sales uses include the display of any items outside the confines of a building which is not otherwise permitted as a permitted or conditional use, or a special event otherwise regulated by this Code. Examples of this land use include but are not limited to seasonal garden shops, tent sales, and bratwurst stands. Garage sales are exempt from the provisions of this chapter, but shall comply with the requirements of this Code. This use is a permitted temporary use in B-1, B-2, B-3, B-4, and B-5 districts. Temporary use regulations are as follows:

(1) Display shall be limited to a maximum of 12 days in any calendar year.

(2) Display shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.

(3) Signage shall comply with the requirements for temporary signs.

(4) Adequate parking shall be provided.

(5) If the subject property is located adjacent to a residential area, sales and display activities shall be limited to daylight hours.

(Ord. No. 1997-18, § 13(17.70(9)(a)), 1-19-1998, Ord. 2005-44)

Sec. 130-562. Outdoor assembly.

Outdoor assembly uses include any organized outdoor assembly of more than 100 persons. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

(1) Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.

(2) Signage shall comply with the requirements for temporary signs.

(3) Adequate parking, drinking water, and toilet facilities shall be provided, and shall be described in the application.

(4) If the subject property is located adjacent to a residential area, activities shall be limited to daylight hours.

(5) Adequate provisions for crowd control shall be made, and shall be described within the application.

(Ord. No. 1997-18, § 13(17.70(9)(b)), 1-19-1998)

Sec. 130-563. Contractor's project office.

Contractor's project office uses include any structure containing an on-site construction management office for an active construction project. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

(1) The structure shall not exceed 2,000 square feet in gross floor area.

(2) The facility shall be removed within ten days of issuance of the occupancy permit.

(3) The facility shall not be used for sales activity. (See section 130-566.)

(4) Projects requiring such land use to be in place for more than 365 days shall require a conditional use permit.

(Ord. No. 1997-18, § 13(17.70(9)(c)), 1-19-1998)

Sec. 130-564. Contractor's on-site equipment storage facility.

Contractor's on-site equipment storage facilities include any structure or outdoor storage area designed for the on-site storage of construction equipment and/or materials for an active construction project. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

(1) The facility shall be removed within ten days of issuance of the occupancy permit.

(2) Projects requiring such land use to be in place for more than 365 days shall require a conditional use permit.

(3) Such use shall be limited to a maximum area not exceeding ten percent of the property's gross site area.

(Ord. No. 1997-18, § 13(17.70(9)(d)), 1-19-1998)

Sec. 130-565. Relocatable building.

Relocatable buildings include any manufactured building that serves as a temporary building for less than six months. Facilities serving for more than six months shall be considered conditional uses and subject to the general standards and procedures presented in article II, division 4 of this chapter. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

(1) Such uses shall conform to all setback regulations.

(2) Such uses shall conform to all building code regulations.

(Ord. No. 1997-18, § 13(17.70(9)(e)), 1-19-1998)

Sec. 130-566. On-site real estate sales office.

On-site real estate sales offices include any building that serves as an on-site sales office for a development project. This use is a permitted temporary use in all nonresidential districts. Temporary use regulations are as follows:

(1) The structure shall not exceed 5,000 square feet in gross floor area.

(2) The facility shall be removed or converted to a permitted land use within ten days of the completion of sales activity.

(3) Signage shall comply with the requirements for temporary signs.

(4) Projects requiring such land use to be in place for more than 365 days shall require a conditional use permit.

(Ord. No. 1997-18, § 13(17.70(9)(f)), 1-19-1998)

Sec. 130-567. Seasonal outdoor sales of farm products.

Seasonal outdoor sales of farm products include any outdoor display of farm products not otherwise regulated by this Code. This use is a permitted temporary use in B-1, B-2, B-3, B-4, B-5 and I-1 districts. Temporary use regulations are as follows:

(1) Display shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.

(2) Signage shall comply with the requirements for temporary signs.

(3) Adequate parking shall be provided.

(4) If the subject property is located adjacent to a residential area, sales and display activities shall be limited to daylight hours.

(Ord. No. 1997-18, § 13(17.70(9)(g)), 1-19-1998, Ord. 2005-44)

Sec. 130-568. Sidewalk cafés.

Sidewalk cafés include an area on a sidewalk or similar area within the public right-of-way where food is served and which is associated with a restaurant. The provisions of this section are intended to accomplish the following purposes: enhance the pedestrian ambiance of the city by promoting additional activity on city sidewalks and visual interest, enhance the appropriate use of existing public spaces; and increase economic activity in the area. This use is a permitted use in the B-2 district. Temporary use regulations are as follows:

(1) *Location.* A sidewalk café shall be located directly in front of the restaurant with which it is associated and it shall be operated solely in conjunction with such restaurant.

(2) *Obstructions.* A sidewalk café may not interfere with any public service facilities located within the street right-of-way, including public telephones, mailboxes, public signs, public benches, public art, public fountains, and bus stops. In addition, a sidewalk café may not interfere with fire escapes, drop ladders, building access points, and other points of normal or emergency access.

(3) *Pedestrian movement.* No portion of the sidewalk café may impede pedestrian movement. Generally, a 4-foot wide unobstructed walkway allows adequate pedestrian movement.

(4) *Planters.* Planters may be used as a visual amenity and to frame off the space allocated for the sidewalk café. The size of plant materials shall be compatible in scale with the immediate area. Hanging planters are not permitted.

(5) *Lighting.* Lighting shall be limited to tabletop lamps of low intensity. The city administrator may allow additional lighting to provide appropriate levels for safety.

(6) *Furnishings.* All furnishings shall fit the character of a public streetscape. Umbrellas over each table may be permitted if it does not create an obstruction.

(7) *Floor covering.* A floor covering may not be used in the sidewalk café.

(8) *Tables.* Round tables may not exceed 36 inches in diameter and square tables may not exceed 36 inches in width.

(9) *Food preparation.* All food shall be prepared within the restaurant.

(10) *Alcoholic beverages prohibited.* No alcoholic beverages may be served or consumed in the sidewalk café.

(11) *Off-street parking requirements:* One space per every three patron seats, calculated on the sum of the indoor and outdoor patron seats. This requirement may be waived by the plan commission, following a request from the applicant.

[Ord. 2005-21]

Secs. 130-569--130-610. Reserved.

ARTICLE VI. USE RESTRICTIONS

Sec. 130-611. Generally.

The use restrictions and regulations set forth in this article shall apply for purposes of this chapter.

(Code 1986, § 17.22)

Sec. 130-612. Permitted uses.

Only those principal uses specified, their essential services, and the uses enumerated in sections 130-613--130-616 shall be permitted in a district.

(Code 1986, § 17.22(1))

Sec. 130-613. Accessory uses.

Accessory uses and structures are permitted as provided in article V of this chapter, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry.

(Code 1986, § 17.22(2))

Sec. 130-614. Conditional uses.

Conditional uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the city plan commission and issuance of a conditional use permit in accordance with article II, division 4 of this chapter.

(Code 1986, § 17.22(3))

Sec. 130-615. Unclassified or unspecified uses.

Unclassified or unspecified uses may be permitted by the city plan commission provided such uses are similar in character to the principal uses permitted in the district.

(Code 1986, § 17.22(4))

Sec. 130-616. Temporary uses.

Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure are permitted in accordance with article V of this chapter.

(Code 1986, § 17.22(5))

Sec. 130-617. Compliance with performance standards.

Performance standards as listed in this chapter shall be complied with by all uses in all districts.

(Code 1986, § 17.22(6))

Sec. 130-618. Soil restrictions.

Certain soil types in the city, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service, have severe or very severe limitations for on-site soil absorption sewage disposal facilities because of one or more of the following reasons: high or fluctuating water table, flooding, groundwater contamination, silting, slow permeability, steep slopes, or proximity to bedrock. The county standard soils survey prepared by the U.S. Soil Conservation Serviceis adopted by reference as a determining factor in land use decisions. When a question arises as to the accuracy of a soil mapping unit, an intensive soil survey of the site in question shall be requested from the county sanitarian and/or a soil scientist from the Soil Conservation Service by either the city or the applicant.

(Code 1986, § 17.22(7))

Secs. 130-619--130-640. Reserved.

ARTICLE VII. NONCONFORMING USES, STRUCTURES AND LOTS

Sec. 130-641. Continuation of nonconforming use.

The lawful nonconforming use of a structure, land, or water existing at the time of adoption of the ordinance from which this chapter is derived or at the time of amendment of this chapter may be continued although the use does not conform with the provisions of this chapter; however:

(1) Only that portion of the land or water in actual use may be so continued, and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this chapter.

(2) Total lifetime structural repairs or alterations shall not exceed 50 percent of the assessed value of the structure unless it is permanently changed to conform to the use provisions of this chapter.

(3) Substitution of new equipment may be permitted by the board of appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

(Code 1986, § 17.23(1))

Sec. 130-642. Discontinuance of nonconforming use; replacement of damaged structure.

(a) *Discontinuance of a nonconforming use*. Except as provided in paragraph C of this section, if a nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this chapter.

(b) *Damage to a nonconforming structure*. When a nonconforming structure is damaged by violent wind, vandalism, fire, explosion, flood, ice, snow, mold, infestation, the public enemy or other calamity after March 2, 2006, it may be restored to its condition immediately prior to the damage except that the structure may be larger when necessary to comply with state or federal requirements. Upon petition of the property owner, the plan commission may authorize restoration that is different than its condition immediately prior to the date of the event, provided such deviation results in less of a nonconforming situation.

(c) *Damage to a structure housing a nonconforming use*. When a structure, whether conforming or nonconforming, that houses a nonconforming use is damaged by violent wind, vandalism, fire, explosion, flood, ice, snow, mold, infestation, the public enemy or other calamity after January 1, 2005, the nonconforming use may resume provided each of the following conditions are met:

(1) the restoration of the structure is complete within 18 months following the date of the event;

(2) the nonconforming use resumes immediately following the completion of the restoration; and
(3) the area of the structure devoted to the nonconforming use does not exceed the area it occupied prior to the date of the event.

Upon petition of the property owner, the plan commission may authorize a one-time extension of 18 months.

(Code 1986, § 17.23(2), Ord. 2005-43, Ord. 2006-6)

Sec. 130-643. Continuation of nonconforming structure.

A lawful nonconforming structure existing at the time of adoption of the ordinance from which this chapter is derived or at the time of amendment of this chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading and access provisions of this chapter; however, it shall not be extended, enlarged, reconstructed, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of thischapter.

(Code 1986, § 17.23(3))

Sec. 130-644. Change to conforming use or structure; substitution of more restrictive use.

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the plan commission has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the plan commission.

(Code 1986, § 17.23(4))

Sec. 130-645. Substandard lots.

Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record in the county register of deeds office before December 27, 1955, such lot may be occupied by one family so long as setback requirements for the district within which it is located can be met. Such lot shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter.

Sec. 130-646. Special provisions for preexisting and nonconforming outdoor furnaces.

Within 90 days of enactment of this section, preexisting and nonconforming outdoor furnaces shall meet the following as outlined in Section 130-539:

(1) types of material burned (1) a
(2) performance (1) b
(3) locking device (1) f
(4) venting stack (1) i
(5) manufacturer operating instructions (1) j

(6) location of burnable stockpiles (1) l
(7) storage of corn (1) m
(8) annual permit (5)

(Code 1986, § 17.23(5), Ord. 2006-36)

Secs. 130-647--130-670. Reserved.

ARTICLE VIII. DISTRICTS

DIVISION 1. GENERALLY

Sec. 130-671. Established.

For the purpose of this chapter, the city is divided into the following zoning districts:

Agricultural District One (A-1).

Agricultural District Two (A-2).

Agricultural District Three (A-3).

Local Business District (B-1).

Central Business District (B-2).

Community Business District (B-3).

Regional Business District (B-4).

Special Use Business District (B-5).

Lowland Conservancy District (C-1).

Highland Conservation District Two (C-2).

Rural Residential District (RR).

Residential District One (R-1).

Residential District Two (R-2).

Residential District Three (R-3).

Planned Unit Development District (PUD).

Mobile Home Parks District (MHP).

Historic Conservation Overlay District (HC).

Special Purpose District (SP).

Light Industrial District (I-1).

Heavy Industrial District (I-2).

Special Industrial District (I-3).

Large Lot Urban Residential District (LL-R12).

Large Lot Urban Residential District (LL-R15).

Planned Office District (O-1).

Groundwater Protection Overlay District (GP).

Traditional Neighborhood Development District (TND).

(Code 1986, § 17.25, Ord. 2005-44, Ord. 2005-53)

Sec. 130-672. Zoning map.

The location and boundaries of the zoning districts are established as shown on the map entitled "Official Zoning Map, City of Evansville, Wisconsin," dated May 9, 1978, as amended, which accompanies and is made part of this chapter. All notations and references shown on the zoning map are as much a part of this chapter as though specifically described in this chapter.
(Code 1986, § 17.26(1))

Sec. 130-673. District boundaries.

The following rules shall apply with respect to the boundaries of the zoning districts as shown on the zoning maps:

(1) Where zoning district boundary lines are indicated as following streets or alleys or extensions thereof, such boundary lines shall be construed to be the centerlines of such streets or alleys or extensions thereof, unless clearly shown to the contrary.

(2) Where a boundary line coincides approximately but not exactly with a lot line which existed on the effective date of incorporation of such boundary line into the zoning map, the boundary line shall be construed to be the lot line at that location.

(3) For unsubdivided property, the location of the district boundary lines shown on the district map shall be determined by the use of the scale shown on such map.

(4) Where any uncertainty exists as to the exact location of zoning district boundary lines, the zoning board of appeals, upon written application, shall determine the location of such boundary lines.

(Code 1986, § 17.27)

Sec. 130-674. Zoning of annexed land.

Annexation of property to the city and the zoning of such property shall proceed according to Chapter 16 of this Code.
(Code 1986, § 17.28, Ord. 2012-19)

Sec. 130-675. General regulations.

The following regulations set forth requirements that usually do not apply uniformly throughout the city, but rather cover things that are applicable to one or more districts:

(1) *Erection of more than one principal structure on lot.* In any district, no more than one principal structure housing a permitted or conditional use may be erected on a single lot, except for group development as otherwise permitted under this chapter.

(2) *Exceptions to height regulations.* The height limitations in the requirements for permitted and conditional uses do not apply to spires, belfries, cupolas, antennas, water tanks, fire towers, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(3) *Structures to have access.* Every residential building hereafter erected or moved shall be on a lot adjacent to a public street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

(4) *Parking and storage of motorized vehicles or trailers.* No occupied or unoccupied motorized vehicle or trailer shall be parked on the terrace (right-of-way) or ordinarily considered frontage, except on a designated paved or gravel surface, of a residential zoned property.

(5) *Setback exceptions.* A setback less than the setback required by this chapter may be permitted where there are at least five existing main buildings existing on June 1, 1978, within 500 feet of the proposed site that are built to less than the required setback. In such case, the setback shall be the average of the nearest main building on each side of the proposed site or, if there is no building on one side, the average of the setback for the main building on one side and the required setback. Such setback shall be granted bya permit from the city plan commission and shall not require a special exception or variance.

(6) *Loading and unloading space.* In commercial or industrial districts, sufficient space for loading or unloading of vehicles shall be provided off the highway in connection with any commercial or industrial use so the highway shall at all times be free and unobstructed to the passage of traffic.

(7) *Lots.* Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record as such on June 1, 1978, such lot may be occupied by one family.

(8) *Vacation of streets and alleys.* Vacation of public streets, alleys and rights-of-way shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

(9) *Underground utility lines.* Utility lines which will serve individual lots, to include electric lines under 12,000 volts, cable TV, telephone, natural gas, etc., shall be installed underground within the utility easements shown on the map required by the building permit.

(10) *Overhead utility lines.* No overhead power, telephone or telegraph lines shall be erected within one-half mile of any boundary of the site of any airport, landing field, or landing and takeoff strip.

(11) *Mobile homes.* Mobile homes (both singlewide and doublewide) are allowed only in mobile home parks, except when converted to a single-family dwelling according to section 78-1.

(12) *Soil designations.* Soil designations used in this chapter are from the Soil Survey for Rock County, Wisconsin, by the U.S. Department of Agriculture, Soil Conservation Service.

(Code 1986, § 17.24; Ord. No. 2000-9, § 1(17.24(4)), 9-12-2000)

Secs. 130-676--130-700. Reserved.

DIVISION 2. AGRICULTURAL DISTRICT (A)*

Sec. 130-701. Purpose and intent; soil types.

The purpose of the A district is to provide a transitional district within the City for large parcels of land that will eventually be subdivided and developed under residential, business, or industrial zoning. Land planned for long-term or permanent agricultural use should remain outside the City. This district exclusively provides for agricultural uses and uses compatible with agriculture. The intent of this district is to allow for the orderly transition of agricultural land that has been annexed to the City to its planned future land use under the City's Comprehensive Plan, while preventing uncontrolled, uneconomical spread of residential development which results in excessive public service costs to the community.

(Code 1986, § 17.29(1), Ord. 2012-18)

Sec. 130-702. Uses permitted by right.

The following uses are permitted in the A district:

(1) Cultivation (per section 130-341).
(2) On-site agricultural retail uses (per section 130-345).
(3) Selective cutting (per section 130-346).
(4) Passive outdoor public recreational uses (per section 130-371.

(Code 1986, § 17.29(2), Ord. 2012-18)

Sec. 130-703. Uses permitted as conditional use.

The following conditional uses shall be allowed in the A-1 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Husbandry (per section 130-342).
(2) Intensive agriculture (per section 130-343).
(3) Agricultural service uses (per section 130-344).
(4) Clear cutting (per section 130-347).
(5) Public service and utilities uses (per section 130-375).
(6) Commercial animal boarding (per section 130-410).
(7) Campground (per section 130-414).
(8) Composting (per section 130-456).
(9) Railroad line (per section 130-485).
(10) Communications tower (per section 130-503).
(11) Extraction uses (per section 130-504).

(Code 1986, § 17.29(3), Ord. 2005-44, Ord. 2012-18)

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* **Cross references:** Animals, ch 14.

Sec. 130-704. Uses permitted as accessory uses.

Land uses permitted as accessory uses in the A-1 district are as follows:

(1) *Land uses permitted by right:*

a. Outdoor furnace (per section 130-539).

b. Farm residence (per section 130-523).

c. Detached garage, carport, utility shed, play structure or lawn ornament (per section 130-524).

d. Home occupation (per section 130-531).

e. Family day care (four to eight children) (per section 130-532).

f. Exterior communication devices (130-536).

(2) *Land uses permitted as conditional use:*

a. Intermediate day care home (nine to fifteen children) (per section 130-533).

b. Migrant labor camp (per section 130-534).

[Ord. 2006-36, Ord. 2012-18]

Sec. 130-705. Requirements for all uses.

Within the A district, the following standards shall apply:

(1) Minimum lot size: 20 acres.

(2) Maximum building height: 35 feet for residential structures; on-site agricultural retail structures are limited to a height of 12 feet; no maximum for other structures.

(3) Minimum front yard setback: 50 feet.

(4) Minimum rear yard setback: 50 feet.

(5) Minimum side yard:

a. Principal buildings: 20 feet on each side.

b. Accessory buildings: Ten feet on each side.

(6) Minimum street side:

a. Principal buildings: 50 feet.

b. Accessory buildings: 20 feet.

(7) Minimum lot width at front setback line: 150 feet.

(Code 1986, § 17.29(4), Ord. 2006-36, Ord. 2012-18)

Secs. 130-706--130-720. Reserved.

DIVISION 5. LOCAL BUSINESS DISTRICT (B-1)*

Sec. 130-761. Intent and purpose.

(a) *Description.* The B-1 district is intended to permit small-scale neighborhood commercial development which is compatible with the desired overall neighborhood community character of the area in general, and with adjacent residential development in particular. The desired neighborhood community character of the development is attained through landscape surface area ratio requirements, and by restricting the maximum building size of all buildings within each instance of this district to 5,000 square feet per floor with no more than two stories. Significant areas of landscaping are required in this district to ensure that this effect is achieved.

(b) *Rationale.* This district is used to provide both convenience-oriented goods and services and for the permanent protection of adjacent residential areas by permitting only a limited range of commercial activities. Together, these requirements ensure that the desired character is maintained as long as the B-1 district designation is retained, regardless of how much development occurs within that area.

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(1)), 1-19-1998, Ord. 2006-11)

Sec. 130-762. Uses permitted by right.

Land uses permitted by right in the B-1 district are as follows:

(1) Single-family uses (per section 130-321).

(2) Cultivation (per section 130-341).

(3) Selective cutting (per section 130-346).

(4) Passive outdoor public recreation (per section 130-371).

(5) Active outdoor public recreation (per section 130-372).

(6) Indoor institutional uses (per section 130-373).

(7) Public services and utilities (per section 130-375).

(8) Office (per section 130-401).

(9) Personal or professional services (per section 130-402).

(10) Indoor sales or service (per section 130-403).

(11) Indoor maintenance service (per section 130-405).

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(2)(a)), 1-19-1998)

Sec. 130-763. Uses permitted as conditional use.

Land uses permitted as conditional uses in the B-1 district are as follows:

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* **Cross references:** Businesses, ch 22.

(1) Twin house/duplex (per section 130-321).

(2) Two-flat (per section 130-321).

(3) Townhouse (per section 130-321).

(4) Multiplex (per section 130-321).

(5) Apartment (per section 130-321).

(6) Institutional residential uses (per section 130-322).

(7) Clear cutting (per section 130-347).

(8) Outdoor institutional uses (per section 130-374).

(9) Community living arrangement (one to eight residents) (per section 130-377).

(10) Community living arrangement (nine to 15 residents) (per section 130-378).

(11) Community living arrangement (16 or more residents) (per section 130-379).

(12) Indoor commercial entertainment (per section 130-408).

(13) Bed and breakfast establishments (per section 130-412).

(14) Group day care center (nine or more children) (per section 130-413).

(15) Boardinghouse (per section 130-415).

(16) Group development (per section 130-418).

(17) Gas station/convenience store/food counter (per section 130-419).

(18) Railroad line (per section 130-485).

(19) Artisan studio (per section 130-423).

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(2)(b), 1-19-1998, Ord. 2005-44, Ord. 2007-4)

Sec. 130-764. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-1 district are as follows:

(1) *Land uses permitted by right.*

a. Farm residence (per section 130-523).

b. Private residential garage or shed (per section 130-524).

c. Home occupation (per section 130-531).

d. Exterior communication devices (per section 130-536).

(2) *Land uses permitted as conditional use.*

a. Commercial apartment (per section 130-522).

b. Drive-in financial institution (per section 130-537).

c. Outdoor commercial food and beverage service (per section 130-538).

d. Communication tower (per section 130-503).

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32((2)(c)), 1-19-1998, Ord. 2005-14, Ord. 2009-06)

Sec. 130-765. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-1 district are as follows:

(1) General temporary outdoor sales (per section 130-561).

(2) Outdoor assembly (per section 130-562).

(3) Contractor's project office (per section 130-563).

(4) Contractor's on-site equipment storage (per section 130-564).

(5) Relocatable building (per section 130-565).

(6) On-site real estate sales office (per section 130-566).

(7) Outdoor sales of farm products (per section 130-567).

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(2)(d)), 1-19-1998)

Sec. 130-766. Requirements for all uses.

Within the B-1 district, the following standards shall apply:

(1) Maximum zoning district: Two acres.

(2) Maximum building size: 5,000 square feet per floor, with no more than two stories.

(3) No parking is permitted in required setbacks for principal buildings.

(4) Residential architectural and landscaping requirements include foundation planting, pitched roof, 15 percent window covering, and natural materials (brick, wood, or stone).

(5) Minimum landscape surface ratio: 25 percent for one-story; 30 percent for two-story.

(6) Operating hours: No earlier than 6:00 a.m. and no later than 11:00 p.m.

(7) A neighborhood-oriented amenity shall be provided, per plan commission direction (i.e., outdoor neighborhood gathering area, public art, etc.).

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(1)), 1-19-1998)

Sec. 130-767. Requirements for residential uses.

The following regulations are applicable to residential uses in the B-1 district:

(1) Residential density and intensity requirements for institutional residential development:

a. Maximum gross density: Up to 50.00 per limits of the conditional use permit.

b. Minimum landscape surface ratio: 50 percent.

c. Maximum building coverage: 40 percent.

d. Maximum accessory building coverage: Ten percent.

e. Maximum building size: 5,000 square feet.

(2) Residential bulk requirements: For single-family and two-family dwellings, townhouses, multiplexes, and apartments, see the R-2 district regulations. For institutional residential development, see the community business district regulations.

(3) Residential landscaping requirements: Not applicable for single-family uses. See the nonresidential landscaping requirements for two-family and multifamily residential uses.

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(3)), 1-19-1998)

Sec. 130-768. Requirements for nonresidential uses.

The following regulations are applicable to nonresidential uses in the B-1 district:

(1) Nonresidential intensity requirements:

a. Maximum number of floors: Two.

b. Minimum landscape surface ratio: 30 percent.

c. Maximum floor area ratio: 0.275.

d. Minimum lot area: 7,500 square feet.

e. Maximum building size: 5,000 square feet.

(2) Nonresidential bulk and lot dimension requirements:

a. Minimum lot area: 7,500 square feet.

b. Minimum lot width: 75 feet.

c. Minimum street frontage: 50 feet.

(3) Minimum setbacks and building separation:

a. Building to front lot line: 5 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet. Building to street side lot line: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

b. Building to residential side lot line: Ten feet.

c. Building to residential rear lot line: 30 feet.

d. Building to nonresidential side lot line: Not applicable.

e. Building to nonresidential rear lot line: 12 feet.

f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.

g. Minimum building separation: 20 feet or zero feet on the zero lot line side where two nonresidential structures are adjacent.

h. Minimum accessory building setback: Five feet.

(4) Maximum building height: 35 feet.

(5) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article V of this chapter.

(6) Nonresidential landscaping requirements (nonresidential, two-family and multifamily uses):

a. Forty landscaping points per 100 linear feet of building foundation.

b. Fifteen landscaping points per 1,000 square feet of gross floor area.

c. Forty landscaping points per 100 linear feet of street frontage.

d. Eighty landscaping points per 10,000 square feet of paved area/20 stalls.

(Code 1986, § 17.32; Ord. No. 1997-18, § 4(17.32(4)), 1-19-1998, Ord. 2005-1)

Secs. 130-769--130-790. Reserved.

DIVISION 6. CENTRAL BUSINESS DISTRICT (B-2)*

Sec. 130-791. Intent and purpose.

(a) *Description.* The B-2 district is intended to permit both large- and small-scale downtown commercial development at an intensity which provides significant incentives for infill development, redevelopment, and the continued economic viability of existing development. A wide range of office, retail, and lodging land uses are permitted within this district. No requirements for on-site landscaping or parking are required in this district, except that land uses permitted as conditional uses shall require a parking waiver from the plan commission following a request from the applicant. This district is strictly limited to the central city locations.

(b) *Rationale.* This district is intended to provide an alternative primarily infill development designation for commercial activity to the community business (B-3) and regional business (B-4) districts and is designed to assist in maintaining the longterm viability of the central city.

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(1)), 1-19-1998, Ord. 2006-11)

Sec. 130-792. Uses permitted by right.

Land uses permitted by right in the B-2 district are as follows:

(1) Cultivation (per section 130-341).

(2) Selective cutting (per section 130-346).

(3) Passive outdoor public recreation (per section 130-371).

(4) Active outdoor public recreation (per section 130-372).

(5) Indoor institutional uses (per section 130-373).

(6) Public services and utilities (per section 130-375).

(7) Office (per section 130-401).

(8) Personal or professional services (per section 130-402).

(9) Indoor sales or service (per section 130-403).

(10) Indoor maintenance service (per section 130-405).

(11) Off-site parking lot (per section 130-481).

(12) Artisan Studio (per section 130-423).

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(2)(a)), 1-19-1998, Ord. 2007-4)

Sec. 130-793. Uses permitted as conditional use.

Land uses permitted as conditional uses in the B-2 district are as follows:

(1) Clear cutting (per section 130-347).

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* **Cross references:** Businesses, ch 22.

(2) Outdoor institutional uses (per section 130-374).

(3) Institutional residential uses (per section 130-376).

(4) Indoor commercial entertainment (per section 130-408).

(5) Commercial indoor lodging (per section 130-411).

(6) Bed and breakfast establishment (per section 130-412).

(7) Group day care center (nine or more children) (per section 130-413).

(8) Boardinghouse (per section 130-415).

(9) Group development (per section 130-418).

(10) Special central business district commercial/residential uses (per section 130-421).

(11) Community living arrangement (one to eight residents) (per section 130-377).

(12) Community living arrangement (nine to 15 residents) (per section 130-278).

(13) Community living arrangement (16 or more residents) (per section 130-379).

(14) Railroad line (per section 130-485).

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(2)(b)), 1-19-1998, Ord. 2005-28, Ord. 2005-44)

Sec. 130-794. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-2 district are as follows:

(1) *Land uses permitted by right.*

a. Commercial apartment (per section 130-522).

b. Farm residence (per section 130-523).

c. Private residential garage or shed (per section 130-524).

d. Company cafeteria (per section 130-525).

e. Home occupation (per section 130-531).

f. On-site parking lot (per section 130-535).

g. Exterior communication devices (per section 130-536).

(2) *Land uses permitted as conditional use.*

a. Company-provided on-site recreation (per section 130-526).

b. Light industrial use incidental to indoor sales (per section 130-530).

c. Drive-in financial institution (per section 130-537).

d. Outdoor commercial food and beverage service (per section 130-538).

e. Communication tower (per section 130-503).

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(2)(c)), 1-19-1998, Ord. 2005-14, Ord. 2009-06)

Sec. 130-795. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-2 district are as follows:

(1) General temporary outdoor sales (per section 130-561).

(2) Outdoor assembly (per section 130-562).

(3) Contractor's project office (per section 130-563).

(4) Contractor's on-site equipment storage (per section 130-564).

(5) Relocatable building (per section 130-565).

(6) On-site real estate sales office (per section 130-566).

(7) Outdoor sales of farm products (per section 130-567).

(8) Sidewalk café (per section 130-568).

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(2)(d)), 1-19-1998)d, Ord. 2005-21)

Sec. 130-796. Architectural requirements.

(a) *General requirements.* In the B-2 district, nonresidential construction, including new structures, building additions, building alterations, and restoration or rehabilitation shall correspond to the downtown design guidelines as determined by the plan commission and as evidenced by certain existing structures within the downtown area and by the requirements set forth in this section for building setback, height, building mass, horizontal rhythms (created by the placement and design of facade openings and related elements such aspiers and columns), vertical rhythms (created by the placement and design of facade details such as sills, transoms, cornices and sign bands), roof forms, exterior materials, exterior surface features and appurtenances, exterior colors, exterior signage, on-site landscaping, exterior lighting, parking and loading area design, and the use of screening.

(b) *Building setback.* Throughout the district, the setback of buildings from street yard and side yard property lines shall be compatible with existing buildings in the immediate area which conform to the general design theme of the downtown.

(c) *Building height.* Throughout the district, the height of buildings shall be compatible with existing buildings in the immediate area which conform to the general design theme of the downtown area. In no instance shall buildings be more than one story taller or shorter than the height of a building of similar use on one of the immediately adjoining properties.

(d) *Building mass.* Throughout the district, the mass of buildings shall be compatible with existing buildings in the immediate area which conform to the general design theme of the downtown area. The characteristic proportion (relationship between facade height and width) of the general design theme shall be maintained. Building mass for large structures (with a facade area exceeding 5,000 square feet) shall be disguised

through the use of facade articulations, or through the use of exterior treatments which give the impression of directly adjoining individual buildings.

(e) *Horizontal rhythms.* Throughout the district, the horizontal pattern of exterior building elements formed by patterns of building openings for windows and doors, and related elements such as piers and columns, shall be spaced at regular intervals across all visible facades of the building, and shall be compatible with those of existing buildings in the immediate area which conform to the general design theme of the downtown area.

(f) *Vertical rhythms.* Throughout the district, the floor heights on main facades shall appear visually in proportion to those of adjoining buildings. The rhythm of the ground floor shall harmonize with the rhythm of upper floors. The vertical pattern of exterior building elements formed by patterns of building openings for windows and doors, and related elements such as sills, headers, transoms, cornices and sign bands, shall be compatible in design and elevation with those of existing buildings in the immediate area which conform to the general design theme of the downtown area.

(g) *Roof forms.* Throughout the district, flat or gently sloping roofs which are not visible from the street shall be used. Mansards or other exotic roof shapes not characteristic of the general design theme of the downtown area, as determined by the plan commission, shall not be used. Throughout the district, roof shapes not characteristic of the general design theme of the downtown area shall not be used.

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(1)), 1-19-1998)

Sec. 130-797. Requirements for institutional residential uses.

Regulations applicable to institutional residential uses in the B-2 district are as follows:

(1) Residential density and intensity requirements, institutional residential development:

a. Maximum gross density: Up to 50.00, per limits of the conditional use permit.

b. Minimum landscape surface ratio: 50 percent.

c. Maximum building coverage: 40 percent.

d. Maximum accessory building coverage: Ten percent.

(2) Residential bulk requirements: For institutional residential development, see the requirements of the community business district.

(3) Residential landscaping requirements: Not applicable for single-family uses. See the nonresidential landscaping requirements for two-family and multifamily residential uses.

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(3)), 1-19-1998)

Sec. 130-798. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the B-2 district are as follows:

(1) Nonresidential intensity requirements:

a. Maximum number of floors: Four.

b. Minimum landscape surface ratio: Zero percent.

c. Maximum floor area ratio: 3.00.

d. Minimum lot area: 1,750 square feet.

e. Maximum building size: Not applicable.

(2) Nonresidential bulk and lot dimension requirements:

a. Minimum lot area: 1,750 square feet.

b. Minimum lot width: 20 feet.

c. Minimum street frontage: 20 feet.

(3) Minimum setbacks and building separation:

a. Building to front or street side lot line: Zero feet.*

b. Building to residential side lot line: Zero feet.*

c. Building to residential rear lot line: Ten feet.

d. Building to nonresidential side lot line: Zero feet.*

e. Building to nonresidential rear lot line: Ten feet.

f. Minimum paved surface setback: Zero feet.*

g. Minimum building separation: Zero feet.*

*Maximum permitted setback of zero feet, except where permitted by the plan commission as an essential component of site design.

(4) Maximum building height: 45 feet; minimum building height, 20 feet.

(5) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article V of this chapter.

(6) Nonresidential landscaping requirements (nonresidential, two-family and multifamily uses):

a. Zero landscaping points per 100 linear feet of building foundation.

b. Zero landscaping points per 1,000 square feet of gross floor area.

c. Zero landscaping points per 100 linear feet of street frontage.

d. Twenty landscaping points per 10,000 square feet of paved area/20 stalls.

(Code 1986, § 17.33; Ord. No. 1997-18, § 5(17.33(4)), 1-19-1998)

Secs. 130-799--130-820. Reserved.

DIVISION 7. COMMUNITY BUSINESS DISTRICT (B-3)*

Sec. 130-821. Intent and purpose.

(a) *Description.* The B-3 district is intended to permit both large- and small-scale pedestrian- and auto-oriented commercial development. This district has a floor area ratio that allows for a higher density than the Regional business district. A wide range of office, retail, and lodging land uses are permitted within this district. These permitted uses include small tenant group developments and in-vehicle sales and service uses.

(b) *Rationale.* This district is intended to provide the principal zoning district for commercial development. This district is also intended to provide for and encourage mixed use and infill development for commercial activity to the regional business district. The community business district is designed as a transitional district between the Central and Regional Business Districts to ensure the longterm economic health of commercial development areas existing as of the effective date of the ordinance from which this chapter is derived, and is designed to provide significant incentives for infill development in this area by limiting large scale regional business uses which can afford the relatively higher development costs and rents associated with development in the regional business district.

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(1)), 1-19-1998, Ord. 2006-11, Ord. 2017-01)

Sec. 130-822. Uses permitted by right.

Land uses permitted by right in the B-3 district are as follows:

(1) Cultivation (per section 130-341).

(2) Selective cutting (per section 130-346).

(3) Passive outdoor public recreation (per section 130-371).

(4) Active outdoor public recreation (per section 130-372).

(5) Indoor institutional uses (per section 130-373).

(6) Public services and utilities (per section 130-375).

(7) Office (per section 130-401).

(8) Personal or professional services (per section 130-402).

(9) Indoor sales or service (per section 130-403).

(10) Indoor maintenance service (per section 130-405).

(11) Off-site parking lot (per section 130-481).

(12) Artisan studio (per section 130-423).

(13) Group development (per section 130-418).

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(2)(a)), 1-19-1998, Ord. 2007-4, Ord. 2017-01)

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* **Cross references:** Businesses, ch 22.

Sec. 130-823. Uses permitted as conditional use.

Land uses permitted as conditional use in the B-3 district are as follows:

(1) Clear cutting (per section 130-347).

(2) Outdoor institutional uses (per section 130-374).

(3) Institutional residential uses (per section 130-376).

(4) Outdoor display (per section 130-404).

(5) In-vehicle sales or service (per section 130-407).

(6) Indoor commercial entertainment (per section 130-408).

(7) Outdoor commercial entertainment (per section 130-409).

(8) Commercial animal boarding (per section 130-410).

(9) Commercial indoor lodging (per section 130-411).

(10) Bed and breakfast establishment (per section 130-412).

(11) Group day care center (nine or more children) (per section 130-413).

(12) Boardinghouse (per section 130-415).

(13) Vehicle repair and maintenance (per section 130-417).

(14) Gas station/convenience store/food counter (per section 130-419).

(15) Carwash (per section 130-420).

(16) Personal storage facility (per section 130-453).

(17) Railroad line (per section 130-485).

(18) Motor vehicle storage yard (per section 130-457).

(19) Business district mixed commercial/residential uses. (per section 130-421)(20) Apartment (per section 130-321) in conjunction with non-residential land uses.

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(2)(b)), 1-19-1998, Ord. 2005-44, Ord. 2006-42, Ord. 2017-01)

Sec. 130-824. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-3 district are as follows:

(1) *Land uses permitted by right.*

a. Farm residence (per section 130-523).

b. Private residential garage or shed (per section 130-524).

c. Company cafeteria (per section 130-525).

d. Home occupation (per section 130-531).

e. On-site parking lot (per section 130-535).

f. Exterior communication devices (per section 130-536).

g. Commercial apartment (per section 130-522).

(2) *Land uses permitted as conditional use.*

a. Company-provided on-site recreation (per section 130-526).

b. Outdoor display, incidental (per section 130-527).

c. In-vehicle sales and service (per section 130-528).

d. Light industrial use incidental to indoor sales (per section 130-530).

e. Drive-in financial institution (per section 130-537).

f. Outdoor commercial food and beverage service (per section 130-538).

g. Communication tower (per section 130-503).

h. Two-flat (per section 130-321).

i. Townhouse (per section 130-321).

j. Multiplex (per section 130-321).

k. Institutional residential uses (per section 130-322).

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(2)(c)), 1-19-1998, Ord. 2005-14, Ord. 2009-06, Ord. 2017-01)

Sec. 130-825. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-3 district are as follows:

(1) General temporary outdoor sales (per section 130-561).

(2) Outdoor assembly (per section 130-562).

(3) Contractor's project office (per section 130-563).

(4) Contractor's on-site equipment storage (per section 130-564).

(5) Relocatable building (per section 130-565).

(6) On-site real estate sales office (per section 130-566).

(7) Outdoor sales of farm products (per section 130-567).

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(2)(d)), 1-19-1998)

Sec. 130-826. Requirements for institutional residential uses.

Regulations applicable to institutional residential uses in the B-3 district are as follows:

(1) Residential density and intensity requirements:

a. Maximum gross density: Per limits of the conditional use permit.

b. Minimum landscape surface ratio: 50 percent.

c. Maximum building coverage: 40 percent.

d. Maximum accessory building coverage: Ten percent.

(2) Residential bulk and lot dimension requirements:

a. Minimum lot area: 9,000 square feet.

b. Minimum lot width: 70 feet.

c. Minimum street frontage: 50 feet.

(3) Minimum setbacks and building separation:

a. Front or street side lot line to house: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

b. Front or street side lot line to garage: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

c. Side lot line to house or garage: Six feet.

d. Total of both sides, lot lines to house or garage: 12 feet.

e. Rear lot line to house or garage: 30 feet.

f. Side lot line to accessory structure: Three feet from property line, five feet from alley.

g. Rear lot line to accessory structure: Three feet from property line, five feet from alley.

h. Minimum paved surface setback: Five feet from side or rear, ten feet from street.

i. Minimum dwelling unit separation: 12 feet.

(4) Maximum height of dwelling unit: 35 feet, greater with conditional use permit.

(5) Maximum height of accessory structure: 15 feet.

(6) Minimum number of off-street parking spaces required on the lot: Three (includes garage, drives, and all designated parking surfaces).

(7) Minimum dwelling core dimensions: 24 feet by 40 feet.

(8) Minimum roof pitch: 3:12.

(9) Minimum eave width: 18 inches.

(10) Residential landscaping requirements: Not applicable for single-family uses. See nonresidential landscaping requirements for two-family and multifamily residential uses.

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(3)), 1-19-1998)

Sec. 130-827. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the B-3 district are as follows:

(1) Nonresidential intensity requirements:

a. Maximum number of floors: Four.

b. Minimum landscape surface ratio: 15 percent.

c. Maximum Building Coverage: 60 Percent

d. Maximum floor area ratio: 1.5

e. Minimum lot area: 9,000 square feet.

f. Maximum building size: 20,000 Square Feet per Floor

g. Maximum Parking Lot Street Frontage: 50 Percent

(2) Nonresidential bulk and lot dimension requirements:

a. Minimum lot area: 9,000 square feet.

b. Minimum lot width: 70 feet.

c. Minimum street frontage: 50 feet.

(3) Minimum setbacks and building separation:

a. Building to front or street side lot line: 10 feet, 35 feet maximum or for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

b. Building to residential side lot line: Ten feet.

c. Building to residential rear lot line: 25 feet.

d. Building to nonresidential side lot line: Ten feet or zero feet on zero lot line side.

e. Building to nonresidential rear lot line: 25 feet.

f. Minimum paved surface setback: Five feet from side or rear, ten feet from street.

g. Minimum building separation: 12 feet, or zero feet on zero lot line side.

(4) Maximum building height: 40 feet.

(5) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article XI of this chapter.

(6) Nonresidential landscaping requirements (nonresidential, two-family and multifamily): See landscaping requirements per article IV of this chapter.

(Code 1986, § 17.34; Ord. No. 1997-18, § 6(17.34(4)), 1-19-1998, Ord. 2017-01)

Secs. 130-828--130-850. Reserved.

DIVISION 8. REGIONAL BUSINESS DISTRICT (B-4)*

Sec. 130-851. Intent and purpose.

(a) *Description.* The B-4 district is intended to permit large scale, regional commercial development that mitigates the impact on the character of the area in general. Significant areas of landscaping are required in this district to ensure that this effect is achieved. A wide range of retail uses are permitted within this district. It is the intent of this district to encourage regional scale shopping uses. Smaller group developments are permitted in the community business district to encourage infill development in that area of the community.

(b) *Rationale.* This district is intended to provide an alternative to other commercial zones for limited applications of larger regional commercial development. The standards of this district are designed to provide a clear distinction from the community business and central business districts in terms of permitted intensity of development, treatment of outdoor sales, and required green space areas. The desired quality of the development is attained through the landscape surface area ratio requirements and permitted uses in this district. Together, these requirements ensure that the desired community character is maintained as long as the regional business district designation is retained, regardless of how much development occurs within that area.

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(1)), 1-19-1998; Ord. No. 2000-12, § 1(17.35(1)), 6-13-2000; Ord. No. 2002-11, § 4, 11-12-2002, Ord. 2006-11, Ord. 2017-02)

Sec. 130-852. Uses permitted by right.

Land uses permitted by right in the B-4 district are as follows:

(7) Cultivation (per section 130-341).

(8) Selective cutting (per section 130-346).

(9) Passive outdoor public recreation (per section 130-371).

(10) Active outdoor public recreation (per section 130-372).

(11) Indoor institutional uses (per section 130-373).

(12) Public services and utilities (per section 130-375).

(13) Indoor sales or service (per section 130-403).

(14) Indoor maintenance service (per section 130-405).

(15) In-vehicle sales or service (per section 130-407).

(16) In-vehicle sales and service incidental to on-site principal land use (per section 130-528).

(11) Artisan studio (per section 130-423).

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(2)(a)), 1-19-1998; Ord. No. 2002-11, § 5, 11-12-2002, Ord. 2007-4)

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* **Cross references:** Businesses, ch 22.

Sec. 130-853. Uses permitted as conditional use.

Land uses permitted as conditional uses in the B-4 district are as follows:

(7) Clear cutting (per section 130-347).

(8) Outdoor institutional uses (per section 130-374).

(9) Institutional residential uses (per section 130-376).

(10) Personal or professional services (per section 130-402).

(11) Outdoor display (per section 130-404).

(12) Drive-in financial institutions (per section 130-537).

(13) Indoor commercial entertainment (per section 130-408).

(14) Commercial animal boarding (per section 130-410(3)).

(15) Commercial indoor lodging (per section 130-411).

(16) Group day care center (nine or more children) (per section 130-413).

(17) Boardinghouse (per section 130-415).

(18) Vehicle repair and maintenance (per section 130-417).

(19) Group development (per section 130-418).

(20) Gas station/convenience store/food counter (per section 130-419).

(21) Carwash (per section 130-420).

(22) Large-format retail store (per section 130-422).

(23) Railroad line (per section 130-485).

(24) Business district mixed commercial/residential uses. (per section 130-421)

(25) Apartment (per section 130-321) in conjunction with non-residential land uses.

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(2)(b)), 1-19-1998; Ord. No. 2002-11, § 6, 11-12-2002, Ord. 2005-44, Ord. 2005-47, Ord. 2006-25, Ord 2009-02, Ord. 2017-02)

Sec. 130-854. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-4 district are as follows:

(1) *Land uses permitted by right.*

a. Farm residence (per section 130-523).

b. Private residential garage or shed (per section 130-524).

c. Company cafeteria (per section 130-525).

d. Home occupation (per section 130-531).

e. On-site parking lot (per section 130-535).

f. Exterior communication devices (per section 130-536).

g. In-vehicle sales and service incidental to on-site principal land use (per section 130-528).

h. Commercial apartment (per section 130-522).

(2) *Land uses permitted as conditional use.*

a. Company-provided on-site recreation (per section 130-526).

b. Outdoor display, incidental (per section 130-527).

c. Drive-in financial institutions (per section 130-537).

d. Light industrial use incidental to indoor sales (per section 130-530).

e. Outdoor commercial food and beverage service (per section 130-538).

f. Communication tower (per section 130-503).

g. Two-flat (per section 130-321).

h. Townhouse (per section 130-321).

i. Multiplex (per section 130-321).

j. Apartment (per section 130-321).

k. Institutional residential uses (per section 130-322).

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(2)(c)), 1-19-1998; Ord. No. 2002-11, § 7, 11-12-2002, Ord. 2005-14, Ord. 2009-06, Ord. 2017-02)

Sec. 130-855. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-4 district are as follows:

(1) General temporary outdoor sales (per section 130-561).

(2) Outdoor assembly (per section 130-562).

(3) Contractor's project office (per section 130-563).

(4) Contractor's on-site equipment storage (per section 130-564).

(5) Relocatable building (per section 130-565).

(6) On-site real estate sales office (per section 130-566).

(7) Outdoor sales of farm products (per section 130-567).

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(2)(d)), 1-19-1998)

Sec. 130-856. Requirements for institutional residential uses.

Regulations applicable to institutional residential uses in the B-4 district are as follows:

(1) Residential density and intensity requirements: See the requirements of the O-1 district.

(2) Residential bulk requirements: See the requirements of the O-1 district.

(3) Residential landscaping requirements: Not applicable for single-family uses. See nonresidential landscaping requirements for two-family and multifamily residential uses.

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(3)), 1-19-1998)

Sec. 130-857. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the B-4 district are as follows:

(1) Nonresidential intensity requirements:

a. Maximum number of floors: Two.

b. Minimum landscape surface ratio: 25 percent.

c. Maximum floor area ratio: 0.5

d. Minimum lot area: 40,000 square feet.

e. Maximum building size: Not applicable.

f. Minimum building size 10,000 square feet

g. Maximum Parking Lot Street Frontage: 50 percent.

(2) Nonresidential bulk and lot dimension requirements:

a. Minimum lot area: 40,000 square feet.

b. Minimum lot width: 100 feet.

c. Minimum street frontage: 50 feet.

(3) Minimum setbacks and building separation:

a. Building to front or street side lot line: 15 feet, 50 feet maximum or for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

b. Building to residential side lot line: Ten feet.

c. Building to residential rear lot line: 25 feet.

d. Building to nonresidential side lot line: 10 feet or zero feet on zero lot line side.

e. Building to nonresidential rear lot line: 25 feet.

f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.

g. Minimum building separation: 20 feet or zero feet on zero lot line side.

(4) Maximum building height: forty (40) feet.

(5) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article XI of this chapter.

(6) Nonresidential landscaping requirements (nonresidential, two-family and multifamily uses): See landscaping requirements per article IV of this chapter.

(Code 1986, § 17.35; Ord. No. 1997-18, § 7(17.35(4)), 1-19-1998; Ord. No. 2000-12, § 2(17.35(4)), 6-13-2000; Ord. No. 2002-11, § 8, 11-12-2002, Ord. 2017-02)

DIVISION 9. SPECIAL USE BUSINESS DISTRICT (B-5)*

Sec. 130-871. Intent and purpose.

(a) *Description.* The B-5 district is intended to accommodate a mix of complementary land uses which are suited to close proximity to an active railroad line. This district is not intended to be expanded in size beyond what was originally passed or applied to another location in the city. All new parcels created in the district must have legal access and be served by a street, whether public or private, that meets city standards.

(b) *Rationale.* This district is intended to allow development on platted lots that are relatively shallow. This district is intended to allow use of these parcels for commercial land uses, which are compatible with surrounding land uses and especially with the railroad corridor.

[Ord. 2005-44]

Sec. 130-872. Uses permitted by right.

Land uses permitted by right in the B-5 district are as follows:

(1) Cultivation (per section 130-341).
(2) Selective cutting (per section 130-346).
(3) Public services and utilities (per section 130-375).
(4) Office (per section 130-401).
(5) Personal or professional services (per section 130-402).
(6) Indoor sales or service (per section 130-403).
(7) Indoor maintenance service (per section 130-405).
(8) Indoor storage or wholesaling (per section 130-451).
(9) Artisan studio (per section 130-423).

[Ord. 2005-44, Ord. 2007-4]

Sec. 130-873. Uses permitted as conditional use.

Land uses permitted as conditional use in the B-5 district are as follows:

(1) Clear cutting (per section 130-347).
(2) Passive outdoor public recreation (per section 130-371).
(3) Active outdoor public recreation (per section 130-372).
(4) Indoor institutional uses (per section 130-373).
(5) Outdoor institutional uses (per section 130-374).
(6) Outdoor display (per section 130-404).
(7) Outdoor maintenance service (per section 130-406)
(8) In-vehicle sales or service (per section 130-407).
(9) Indoor commercial entertainment (per section 130-408).
(10) Outdoor commercial entertainment (per section 130-409).
(11) Commercial animal boarding (per section 130-410).
(12) Vehicle repair and maintenance (per section 130-417).
(13) Group development (per section 130-418).

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* **Cross references:** Businesses, ch 22.

(14) Gas station/convenience store/food counter (per section 130-419).
(15) Carwash (per section 130-420).
(16) Outdoor storage of wholesaling (per section 130-452).
(17) Personal storage facility (per section 130-453).
(18) Off-site parking lot (per section 130-481).
(19) Freight terminal (per section 130-483).
(20) Distribution center (per section 130-484).
(21) Railroad line (per section 130-485).
(22) Light industrial (per section 130-501).

[Ord. 2005-44]

Sec. 130-874. Uses permitted as accessory use.

Land uses permitted as accessory uses in the B-5 district are as follows:

(1) *Land uses permitted by right.*

a. Company cafeteria (per section 130-525).
b. In-vehicle sales and service (per section 130-528).
c. Indoor sales incidental to light industrial use (per section 130-529)
d. On-site parking lot (per section 130-535).
e. Exterior communication device (per section 130-536).

(2) *Land uses permitted as conditional use.*

a. Company-provided on-site recreation (per section 130-526).
b. Outdoor display, incidental (per section 130-527).
c. Light industrial use incidental to indoor sales (per section 130-530).
d. Drive-in financial institution (per section 130-537).
e. Communication tower (per section 130-503).

[Ord. 2005-44, Ord. 2009-06]

Sec. 130-875. Uses permitted as temporary use.

Land uses permitted as temporary uses in the B-5 district are as follows:

(1) General temporary outdoor sales (per section 130-561).
(2) Outdoor assembly (per section 130-562).
(3) Contractor's project office (per section 130-563).
(4) Contractor's on-site equipment storage (per section 130-564).
(5) Relocatable building (per section 130-565).
(6) On-site real estate sales office (per section 130-566).
(7) Outdoor sales of farm products (per section 130-567).

[Ord. 2005-44]

Sec. 130-876. Requirements for uses.

Regulations applicable to uses in the B-5 district are as follows:

(1) Intensity requirements:

a. Maximum number of floors: Two.

b. Minimum landscape surface ratio: 15 percent.
c. Maximum floor area ratio: 0.40.
e. Maximum building size: Not applicable.
(2) Nonresidential bulk and lot dimension requirements:
a. Minimum lot area of parcels created after January 1, 2006: 7,500 square feet.
b. Minimum lot width: 70 feet.
c. Minimum street frontage: 50 feet.
(3) Minimum setbacks and building separation:
a. Building to front or street side lot line: 10 feet, 35 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.
b. Building to side lot line: 8 feet or zero feet on zero lot line side.
e. Building to rear lot line: 8 feet.
f. Minimum paved surface setback: Five feet from side or rear lot line; ten feet from street.
g. Minimum building separation: 12 feet or zero feet on zero lot line side.
(4) Maximum building height: 35 feet.
(5) Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in article V of this chapter.
(6) Nonresidential landscaping requirements:
a. Twenty landscaping points per 100 linear feet of building foundation.
b. Five landscaping points per 1,000 square feet of gross floor area.
c. Twenty landscaping points per 100 linear feet of street frontage.
d. Forty landscaping points per 10,000 square feet of paved area/20 stalls.

[Ord. 2005-44]

Secs. 130-877--130-880. Reserved.

DIVISION 10. LOWLAND CONSERVANCY DISTRICT ONE (C-1)

Sec. 130-881. Purpose and intent; soil types.

The purpose of the C-1 district is to provide a means of obtaining the goals and objectives of the development guide. The C-1 district is designed to protect public health, safety and general welfare of the citizens of the community, to protect private and public property from the hazards of floodwater inundation or high groundwater, and to protect the community from costs which are incurred when development occurs in lowland areas. The intent of this district is to conserve areas which are subject to floodhazard for open land uses, agricultural uses, recreational uses and other uses which do not require construction of extensive buildings in lowland areas. This district is delineated by alluvial or wet soils defined as follows:

TABLE INSET:

Ad	EoA	Me
Aw	Ha	Mf
AzA	Ho	Na
BmA	KaA	Ot
Br	LkA	Pa
Co	Ma	Rs
Da	Mb	Se
E1A	Mc	Wb
EmA	Md	WcA

(Code 1986, § 17.36(1))

Sec. 130-882. Uses permitted by right.

The following uses of land are permitted in the C-1 district:

(1) Agricultural uses, to include crop and pasture land when conducted in accordance with Soil Conservation Service Standards, not including the erection of buildings or structures.

(2) Harvesting of wild crops, such as wild rice, marsh hay, ferns, moss, berries, tree fruits and tree seeds.

(3) Forestry and the management of forests.

(4) Wildlife preserves.

(5) The management of wildlife, including waterfowl, fish, and other similar lowland animals, and nonresidential buildings used solely in conjunction with such activities.

(6) Hunting, fishing, trapping, piers, docks, and boathouses.

(7) Public and private parks, picnic areas, and similar uses.

(8) Hiking trails and bridle paths.

(9) Preservation of areas of scenic, historic, or scientific value.

(10) Watershed conservation areas.

(11) Open storage uses such as parking areas.

(12) Uses similar and customarily incidental to any of the uses listed in subsections (1)--(11) of this section.

(Code 1986, § 17.36(2))

Sec. 130-883. Uses permitted as conditional use.

The following conditional uses shall be allowed in the C-1 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Dams, reservoirs, ponds, water storage and primary facilities.

(2) Commercial outdoor recreation, to include miniature golf, amusement parks, drive-in theaters and racetracks.

(3) Power plants deriving their power from the flow of water, and transmission lines and other facilities accessory thereto.

(4) Utilities such as, but not restricted to, telephone, telegraph, power, or other transmission lines.

(5) Relocation of any watercourse.

(6) Filling, drainage or dredging of wetlands pursuant to chapter 54.

(7) Removal of topsoil or peat.

(8) Camping grounds open to the public.

(9) Golf courses, both public and private.

(10) Hunting and fishing clubs for permitted and approved conditional uses, provided that the area will not be adversely affected.

(11) Sewage disposal plants.

(12) Railroad line (per section 130-485).

(Code 1986, § 17.36(3), Ord. 2005-44)

Sec. 130-884. Requirements for all uses.

Within the C-1 district, the following standards shall apply:

(1) Maximum building height: 35 feet.

(2) Minimum front yard setback: 50 feet.

(3) Minimum rear yard setback: 25 feet.

(4) Minimum lot frontage on public road: 50 feet.

(5) Minimum lot area: Two acres.

(6) Minimum lot width at building line: 100 feet.

(7) Minimum side yard setback: 15 feet.

(8) Off-street parking, public gathering: One space per five seats if applicable or one space per 200 square feet of building.

(Code 1986, § 17.36(4))

Secs. 130-885--130-900. Reserved.

DIVISION 11. HIGHLAND CONSERVATION DISTRICT TWO (C-2)

Sec. 130-901. Purpose and intent; soil types.

The purpose of the C-2 district is to provide a means of obtaining the natural resource and the recreation goals and objectives of the development guide. The C-2 district is to provide for the preservation, protection, enhancement, and restoration of significant woodlands, scenic areas, submarginal farmland and areas that have slopes in excess of 20 percent; to limit erosion and sedimentation; and to promote and maintain the natural beauty of the area while seeking to ensure the preservation and protectionof areas that have significant topography, natural watersheds, groundwater and surface water, potential recreation sites, wildlife habitat, and other natural resource characteristics that contribute to the environmental quality. This district exists as delineated on the zoning map and includes the following soil types:

TABLE INSET:

DuC2	GrA	OsA	WfB2	SaA
DuB2	F1B	OgB	WfC2	SaB
DuA	F1A	OgA	WnA	SaC2
KeA	PmB	KeC2	WnB2	SbA
KdC2	PmA	KeB2	WnC2	SbB
KdB	P1C2	TrA	WoA	SbC2
JuA	P1B	WaA	ZuA	SkA
JaB	P1A	WaB	ZuB	SkB
JaA	PeC2	WaC2	RnB2	SkC2
HeA	PeB2	WeA	RnC2	ZuC2
GrD2	PeA	WeB	RpB	PnA
GrC2	OsC2	WeC2	RpC2	PnB
GrB2	OsB	WfA	RpD2	PnB

(Code 1986, § 17.37(1))

Sec. 130-902. Uses permitted by right.

The following uses are permitted uses in the C-2 district:

(1) Forest and woodland crop management.

(2) Farming and related agricultural uses when conducted in accordance with Soil Conservation Service Standards.

(3) Installation of soil and water conservation structures.

(4) Parks and recreational areas, arboretums, and botanical gardens.

(5) Forest preservation, wildlife reservations, and conservation projects.

(6) Other recreation activities that do not require a structure or earth movement.

(Code 1986, § 17.37(2))

Sec. 130-903. Uses permitted as conditional use.

The following conditional uses shall be allowed in the C-2 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Hunting and fishing clubs, including trap and skeet shooting facilities, target ranges and gun clubs when such activities are located 100 feet from the boundaries of the property involved.

(2) Horse stables, riding clubs, and fairgrounds.

(3) Private and public golf courses and country clubs.

(4) Earth movements involving site disturbing in excess of one acre not related to farming activity.

(5) Stream course changing, waterway construction or enlargement, dams, and changing of natural drainageways.

(6) Single-family dwellings.

(7) Ski hills, ski trails, hunting and fishing clubs.

(8) Recreation camps.

(9) Public or private campgrounds.

(10) Animal hospitals, shelters and kennels.

(11) Telephone, telegraph and electric transmission lines, buildings or structures and similar public utility facilities.

(12) Radio, television, and communication transmitters or relay towers and facilities.

(13) Rifle ranges, skeet shooting clubs, and other activity features.

(14) Railroad line (per section 130-485).

(Code 1986, § 17.37(3), Ord. 2005-44)

Sec. 130-904. Requirements for all uses.

Within the C-2 district, the following standards shall apply:

(1) Maximum building height: 35 feet.

(2) Minimum front yard setback: 75 feet.

(3) Minimum rear yard setback: 25 feet.

(4) Minimum lot width at building line: 100 feet.

(5) Minimum lot frontage on public road: 50 feet.

(6) Minimum lot area: Ten acres.

(7) Minimum side yard setback: 15 feet.

(8) Off-street parking, public gathering: One space per five seats if applicable, one space per 200 square feet of building, or one space per five anticipated users at maximum usage of facility.

(Code 1986, § 17.37(4))

Secs. 130-905--130-920. Reserved.

DIVISION 12. RURAL RESIDENTIAL DISTRICT (RR)

Sec. 130-921. Purpose and intent; soil types unsuitable for development.

The purpose of the RR district is to provide a means of obtaining the residential goals and objectives of the development guide. The RR district is intended to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses. The intent of the RR district is to provide for rural residential development on soils that are compatible for on-site disposal of sewage effluent, will substantially support a residential structure, and will not infringe on primary agricultural soils. The following described soil types have been determined to have severe limitations due to high water table, slow permeability, lateral seepage, easy liquification, flotation of pipes, being subject to frost heave, bedrock, low bearing capacity, or frequent overflow, and therefore no residential development shall take place thereon:

ON-SITE LIMITATIONS TABLE INSET:

Ad	EdE	KaA	Ot	SoB
Aw	E1A	KdD	Pa	SoC2
AzA	EmA	KeD2	Ro	SoD
BmA	EoA	KeE	RpB	SoF
Br	EvD	LkA	RpC2	TrA
CaD2	EvE	LoD	RpD2	Wb
CaE	GoD	Ma	Rre	WcA
Co	GpB2	Mb	RfF	W1A
Da	GpC2	Mc	Rs	W1B2
DrD2	GrD2	Md	RtD	WiC2
EdB2	Ha	Me	RuE	W1D2
EdC2	Ho	Mf	RuF	WhB2
EdD2	JuA	Na	SaD	WhC2
		OoD2	SbC2	WoA

(Code 1986, § 17.38(1))

Sec. 130-922. Uses permitted by right.

The following uses are permitted uses in the RR district:

(1) Single family dwellings. One or more private garages for each residential lot. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 11 percent of the total area of the lot.

(2) Gardening, including truck gardens, nurseries and greenhouses, but not including the raising or keeping of poultry, livestock, bees or fur-bearing animals, including rabbits. No barbed wire fences are permitted.
(3) Governmental buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of roadbuilding or maintenance machinery.
(4) Public parks, playgrounds, and recreational and community center buildings and grounds.
(5) Grade schools, churches and their affiliated uses.
(6) Public buildings, except sewage plants, garbage incinerators, landfills, warehouses, garages, shops and storage areas.
(7) Water storage facilities and their accessory structures.
(8) Accessory buildings, including buildings clearly incidental to the residential use of the property; provided, however that no accessory building may be used as a separate dwelling unit and no accessory building may exceed 150 square feet. There shall be no more than two accessory buildings per lot.
(9) Uses customarily incidental to any of the uses listed in subsections (1)--(8) of this section; provided that no such uses generates traffic or noise that would create a public or private nuisance.
(10) Home occupation, when meeting all of the criteria in section 130-531.
(11) Community living arrangement (one to eight residents) (per section 130-377).
(12) Outdoor furnace (per section 130-539).

(Code 1986, § 17.38(2); Ord. No. 2002-4, § 8, 4-9-2002; Ord. No. 2003-7, § 3, 10-14-2003, Ord. 2005-28, Ord. 2006-36)

Sec. 130-923. Uses permitted as conditional use.

The following conditional uses shall be allowed in the RR district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Two-family dwelling units, and one or more private garages for each residential unit. The total area of any attached garages for each residential unit shall not exceed the area of the foundation of the residential unit. The total area of any detached garages for each residential unit shall not exceed the area of the foundation of the residential unit. In addition, the total area of the private garage(s) for each residential unit shall not exceed 11 percent of the total area of the lot.

(2) Home occupation, which does not meet all of the criteria of section 130-531.

(3) Public buildings such as colleges and universities, including private music, dancing, business, and vocational schools, but not to include sewage plants, garbage incinerators, warehouses, garages, or storage areas.

(4) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums; and libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.

(5) Telephone, telegraph and electric transmission lines, buildings or structures.

(6) Nursing homes and hospitals.

(7) Community living arrangement (nine to 15 residents) (per section 130-378).

(8) Railroad line (per section 130-485).

(9) Single-family dwelling units with an above-grade floor area of at least 900 and less than 1,200 square feet.

(Code 1986, § 17.38(3); Ord. No. 2002-4, § 9, 4-9-2002; Ord. No. 2003-7, § 4, 10-14-2003, Ord. 2005-28, Ord. 2005-44, Ord. 2007-21)

Sec. 130-924. Requirements for all uses.

Within the RR district, the following standards shall apply:

(1) Maximum building height: 35 feet.

(2) Minimum front yard setback: 50 feet.

(3) Minimum rear yard setback: 25 feet.

(4) Detached garage and accessory building side yard setback: Five feet.

(5) Minimum lot width at building line: 100 feet.

(6) Minimum lot frontage on public road: 70 feet.

(7) Minimum lot area: 40,000 square feet.

(8) Minimum lot area per two-family dwelling: 55,000 square feet.

(9) Minimum side yard setback: 15 feet.

(10) Minimum above-grade floor area per family: 1,200 square feet.

(11) Off-street parking requirements:

a. Residential: Three spaces for all single-family and two-family dwelling units.

b. Public gathering: One space per five seats, if applicable, or one space per 200 square feet of building. (See parking requirements per specific land use in article V of this chapter).

(12) Maximum lot coverage ratio of all buildings: Not to exceed 12.5 percent of total lot.

(13) Two-family dwelling ratio: Not more than one two-family dwelling per single-family dwelling, or not more than one two-family dwelling per four acres of land under a single ownership within the district.

(14) Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure.

(Code 1986, § 17.38(4); Ord. No. 2003-9, § 1, 9-9-2003; Ord. No. 2003-11, § 1, 10-14-2003, Ord. 2007-21)

Secs. 130-925--130-940. Reserved.

DIVISION 13. LARGE LOT URBAN RESIDENTIAL DISTRICT (LL-R12)

Sec. 130-941. Purpose and intent.

The purpose of the LL-R12 district is to provide a means of obtaining the residential goals and objectives of the master plan. The LL-R12 district is intended to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses. The intent of the LL-R12 district is to provide a large scale residential environment with low population densities in areas that have access to urban services and facilities, including but not limited to sewer and water facilities.

(Code 1986, § 17.381(1))

Sec. 130-942. Uses permitted by right.

The following uses are permitted uses in the LL-R12 district:

(1) One single-family dwelling unit with a minimum above-grade floor area of 1,200 square feet; one or more private garages. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 11 percent of the total area of the lot.

(2) Public and quasipublic owned parks and playgrounds and publicly-owned community buildings and grounds.

(3) Graded schools, churches and their affiliated uses.

(4) Accessory building clearly incidental to the residential use of the property; provided, however, no accessory building may exceed 150 square feet.

(5) Uses customarily incidental to any of the uses listed in subsections (1)--(4) of this section; provided that no such use generates traffic or noise that would create a public or private nuisance.

(6) Community living arrangement (one to eight residents) (per section 130-377).

(7) Home occupation when meeting all of the criteria in section 130-531.

(Code 1986, § 17.381(2); Ord. No. 2002-4, § 10, 4-9-2002; Ord. No. 2003-7, § 5, 10-14-2003; Ord. 2004-2, Ord. 2005-28, Ord. 2007-21)

Sec. 130-943. Uses permitted as conditional use.

The following conditional uses shall be allowed in the LL-R12 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Home occupation, which does not meet all of the criteria in section 130-531.

(2) Telephone, telegraph and electric transmission lines, buildings or structures.

(3) Community living arrangement (nine to 15 residents) (per section 130-378).

(4) One single-family dwelling unit with an above-grade floor area of at least 900 and less than 1,200 square feet.

(5) Railroad line (per section 130-485).

(Code 1986, § 17.381(3); Ord. 2004-2, Ord. 2005-28, Ord. 2005-44, Ord. 2007-21)

Sec. 130-944. Requirements for all uses.

Within the LL-R12 district, the following standards shall apply:

(1) Maximum building height of principal structure: 35 feet.

(2) Height of detached garages or accessory buildings: Shall not exceed the height of the principal structure.

(3) Minimum front yard setback: 25 feet.

(4) Minimum rear yard setback: 15 feet.

(5) Minimum side yard setback: Eight feet; total 20 feet on both sides.

(6) Minimum lot width at front setback line: 80 feet.

(7) Minimum lot frontage on public road: 50 feet.

(8) Minimum lot area: 12,000 square feet.

(9) Minimum lot area per two-family dwelling: 17,500 square feet.

(10) Detached garage and accessory building side yard and street side yard setback:

a. Five feet for side yards.

b. 20 feet for street side yards.

(11) Minimum above-grade floor area: 1,200 square feet.

(12) Minimum building width: 24 feet.

(13) Minimum street side yard setback: 20 feet.

(14) Maximum front yard and street side yard setback: 35 feet.

(Code 1986, § 17.381(4); Ord. No. 2003-9, § 2, 9-9-2003; Ord. No. 2003-11, § 2, 10-14-2003; Ord. 2004-2, Ord 2005-1, Ord. 2005-9, Ord. 2007-21, Ord. 2012-16)

Sec. 130-945. Prohibited uses.

(a) No structure or improvement may be built or land used in the LL-R12 district unless it is a permitted use or an approved conditional use.

(b) No sewage treatment plants, garbage incinerators, warehouses, equipment storage buildings, or storage areas are permitted.

(Code 1986, § 17.381(5))

DIVISION 14. LARGE LOT URBAN RESIDENTIAL DISTRICT (LL-R15)

Sec. 130-961. Purpose and intent.

The purpose of the LL-R15 district is to provide a means of obtaining the residential goals and objectives of the master plan. The LL-R15 district is intended to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses. The intent of the LL-R15 district is to provide a large scale residential environment with low population densities in areas that have access to urban services and facilities, including but not limited to sewer and water facilities.

(Code 1986, § 17.382(1))

Sec. 130-962. Uses permitted by right.

The following uses are permitted uses in the LL-R15 district:

(1) One single-family dwelling unit with a minimum above-grade floor area of 1,200 square feet. One or more private garages. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 11 percent of the total area of the lot.

(2) Public and quasipublic owned parks and playgrounds and publicly owned community buildings and grounds.

(3) Grade schools, churches and their affiliated uses,

(4) Accessory building clearly incidental to the residential use of the property; provided, however, no accessory building may exceed 150 square feet.

(5) Uses customarily incidental to any of the uses listed in subsections (1)--(4) of this section; provided that no such use generates traffic or noise that would create a public or private nuisance.

(6) Community living arrangement (one to eight residents) (per section 130-377).

(7) Home occupation when meeting all of the criteria in section 130-531.

(Code 1986, § 17.382(2); Ord. No. 2002-4, § 11, 4-9-2002; Ord. No. 2003-7, § 6, 10-14-2003, Ord. 2004-2, Ord. 2005-28, 2007-21)

Sec. 130-963. Uses permitted as conditional use.

The following conditional uses shall be allowed in the LL-R15 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Home occupation, which does not meet all the requirements of section 130-531.

(2) Telephone, telegraph and electric transmission lines, buildings or structures.

(3) Community living arrangement (nine to 15 residents) (per section 130-378).

(4) One single-family dwelling unit with an above-grade floor area of at least 900 and less than 1,200 square feet.

(5) Railroad line (per section 130-485).

(Code 1986, § 17.382(3), Ord. 2004-2, Ord. 2005-28, Ord. 2005-44, Ord. 2007-21)

Sec. 130-964. Requirements for all uses.

Within the LL-R15 district, the following standards shall apply:

(1) Maximum building height of principal structure: 35 feet.

(2) Height of detached garages or accessory buildings: Shall not exceed the height of the principal structure.

(3) Minimum front yard setback: 25 feet.

(4) Minimum rear yard setback: 15 feet.

(5) Minimum side yard setback: Eight feet; total of 20 feet on both sides.

(6) Minimum lot width at front setback line: 100 feet.

(7) Minimum lot frontage on public road: 60 feet.

(8) Minimum lot area: 15,000 square feet.

(9) Minimum lot area per two-family dwelling: 22,000 square feet.

(10) Detached garage and accessory building side and street side yard setback:

a. Five feet for side yards.

b. 20 feet for street side yards.

(11) Minimum above-grade floor area: 1,200 square feet.

(12) Minimum building width: 24 feet.

(13) Minimum street side yard setback: 20 feet.

(14) Maximum front yard and street side yard setback: 35 feet.

(Code 1986, § 17.382(4); Ord. No. 2003-9, § 3, 9-9-2003; Ord. No. 2003-11, § 3, 10-14-2003, Ord. 2004-2, Ord. 2005-1, Ord. 2005-9, Ord. 2007-21, Ord. 2012-16)

Sec. 130-965. Prohibited uses.

(a) No structure or improvement may be built or land used in the LL-R15 district unless it is a permitted use or an approved conditional use.

(b) No sewage treatment plants, garbage incinerators, warehouses, equipment storage buildings, or storage areas are permitted.

(Code 1986, § 17.382(5))

Secs. 130-976--130-980. RESERVED

DIVISION 15. RESIDENTIAL DISTRICT ONE (R-1)

Sec. 130-981. Purpose and intent.

The purpose of the R-1 district is to provide a means of obtaining the residential goals and objectives of the development guide. The R-1 district is intended to provide sufficient space in appropriate locations for residential development to meet the housing needs of the community's present and expected future population, with due allowance for the need for a choice of sites. The intent of this district is to provide a suitable open character for single- and two-family detached dwellings at low densities which are served by public sewer and other basic community services.

(Code 1986, § 17.39(1))

Sec. 130-982. Uses permitted by right.

The following uses are permitted in the R-1 district:

(1) One single-family dwelling unit. One or more private garages for each residential lot. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.

(2) Churches and all affiliated uses, all grade schools, libraries, water storage facilities and related structures.

(3) Municipal buildings, except sewage plants, garbage incinerators, warehouses, garages, shops, and storage yards.

(4) Public parks and playgrounds and recreational and community center buildings and grounds.

(5) Accessory buildings clearly incidental to the residential use of the property; provided, however, that no accessory building may exceed 150 square feet.

(6) Uses customarily incidental to any of the uses listed in subsections (1)--(5) of this section; provided that no such use generates traffic or noise that would create a public or private nuisance.

(7) Not over four boarders or lodgers not members of the family.

(8) Greenhouses.

(9) Home occupation, when meeting all of the criteria of section 130-531.

(10) Community living arrangement (one to eight residents) (per section 130-377).

(11) One two-family dwelling unit, subject to site plan approval, only on those lots denoted for such use on the face of a final subdivision plat or certified survey map which were approved by the common council after September 30, 2005.

One or more private garages may be provided for each residential unit as provided for in this subsection. The total area of any attached garages for each residential unit shall not exceed the area of the foundation of the residential unit. The total area of any detached garages for each residential unit shall not exceed the area of the foundation of the residential unit. In addition, the total area of the private garage(s) for each residential unit shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.

(Code 1986, § 17.39(2); Ord. No. 2002-4, § 12, 4-9-2002; Ord. No. 2003-7, § 7, 10-14-2003, Ord. 2005-28, Ord. 2005-38, Ord. 2016-18)

Sec. 130-983. Uses permitted as conditional use.

The following conditional uses shall be allowed in the R-1 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Two-family dwelling units, and one or more private garages for each residential unit. The total area of any attached garages for each residential unit shall not exceed the area of the foundation of the residential unit. The total area of any detached garages for each residential shall not exceed the area of the foundation of the residential unit. In addition, the total area of the private garage(s) for each residential unit shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.

(2) Home occupation, which does meet all of the criteria of section 130-531.

(3) Public buildings such as colleges and universities, including private music, dancing, business, and vocational schools, but not to include sewage plants, garbage incinerators, warehouses, garages, or storage areas.

(4) Institutions of a charitable or philanthropic nature; and libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.

(5) Telephone, telegraph and electric transmission lines, buildings or structures.

(6) Indoor institutional uses (per section 130-373) and indoor residential uses (per section 130-376).

(7) Day care centers and nursery schools (less than 9 children).

(8) Funeral homes, undertaking establishments and cemetery memorial retail businesses.

(9) Bed and breakfast establishments, subject to the following restrictions:

a. *Off-street parking.* At least one space shall be provided by the operator for every one to two rooms being rented and two spaces for every three and four rooms being rented.

b. *Signs.* A sign no larger than four square feet in size will be allowed on the property, with the location and design of the sign to be subject to the approval of the police chief and historic preservation commission, respectively.

(10) Community living arrangement (nine to 15 residents) (per section 130-378).

(11) Railroad line (per section 130-485).

(12) Single-family dwelling units with an above-grade floor area of at least 900 and less than 1,200 square feet.

(Code 1986, § 17.39(3); Ord. No. 2002-4, § 13, 4-9-2002; Ord. No. 2003-7, § 8, 10-14-2003, Ord. 2005-23, Ord. 2005-28, Ord. 2005-44, Ord. 2007-21)

Sec. 130-984. Requirements for all uses.

Within the R-1 district, the following standards shall apply:

(1) Maximum building height: 35 feet.

(2) Minimum front yard setback: 25 feet.

(3) Minimum rear yard setback: 15 feet.

(4) Minimum side yard setback: Eight feet, total of 20 feet on both sides.

(5) Maximum front yard and street side yard setback: 35 feet.

(6) Detached garage and accessory building side yard and street side yard setback:

a. Three feet for side yards.

b. 20 feet for street side yards.

(7) Minimum lot width at front setback line: 70 feet for lots platted after December 31, 2000; 60 feet for lots platted before January 1, 2001.

(8) Minimum lot frontage on public road: 50 feet.

(9) Minimum lot area for single-family dwelling: 8,000 square feet for lots platted after December 31, 2000; 6,000 square feet for lots platted before January 1, 2001.

(10) Minimum lot area for two-family dwelling: 10,000 square feet for lots platted after December 31, 2000; 8,000 square feet for lots platted before January 1, 2001.

(11) Minimum above-grade floor area for single-family dwelling: 1,200 square feet.

(12) Minimum floor area for two-family dwelling: 700 square feet per unit.

(13) Minimum street side yard setback: 20 feet.

(14) Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure.

(Code 1986, § 17.39(4); Ord. No. 2003-9, § 4, 9-9-2003; Ord. No. 2003-11, § 4, 10-14-2003, Ord. 2004-2, Ord. 2005-1, Ord. 2005-9, Ord. 2005-50, Ord. 2007-21, Ord. 2012-16)

Sec. 130-985. Uses permitted that meet special regulations.

The following special uses shall be allowed in the R-1 district subject to special regulations:

(1) Chicken Keeping, which meets the special use regulations outlined in Section 130-541.

Secs. 130-985--130-1000. RESERVED

DIVISION 16. RESIDENTIAL DISTRICT TWO (R-2)

Sec. 130-1001. Purpose and intent.

The purpose of the R-2 district is to provide a means of obtaining the residential goals and objectives of the development guide. The R-2 district is intended to provide areas which are to be occupied substantially by single-family and two-family dwellings and attached dwellings.

(Code 1986, § 17.40(1), Ord. 2005-50)

Sec. 130-1002. Uses permitted by right.

The following uses are permitted in the R-2 district:

(1) Single-family dwellings.

(2) Two-family dwellings (per section 130-324).

(3) Two-family twin dwellings (per section 130-323).

(4) Churches and all affiliated uses, all grade schools, libraries and hospitals, water storage facilities and related structures.

(5) Municipal buildings, except sewage plants, garbage incinerators, warehouses, garages, shops, and storage yards.

(6) Public parks, playgrounds, and recreational and community center buildings and grounds.

(7) One or more private garages and one accessory building clearly incidental to the residential use of the property; provided, however, that no accessory building may exceed 150 square feet. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.

(8) Uses customarily incidental to any of the uses listed in subsections (1)--(5) of this section; provided that no such use generates traffic or noise that would create a public or private nuisance.

(9) Not over four boarders or lodgers not members of the family.

(10) Home occupation, when meeting all of the criteria of section 130-531.

(11) Community living arrangement (one to eight residents) (per section 130-377).

(12) Community living arrangement (nine to 15 residents) (per section 130-378).

(Code 1986, § 17.40(2); Ord. No. 2002-4, § 14, 4-9-2002; Ord. No. 2003-7, § 9, 10-14-2003, Ord. 2005-28, Ord. 2012-02)

Sec. 130-1003. Uses permitted as conditional use.

The following conditional uses shall be allowed in the R-2 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Home occupation, which does not meet all of the criteria of section 130-531.

(2) Public buildings such as colleges and universities, including private music, dancing, business, and vocational schools, but not to include sewage plants, garbage incinerators, warehouses, garages or storage areas.

(3) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums; and libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.

(4) Telephone, telegraph and electric transmission lines, buildings or structures.

(5) Indoor institutional uses (per section 130-373) and indoor residential uses (per section 130-376).

(6) Funeral homes, undertaking establishments and cemetery memorial retail businesses.

(7) Three-family and four-family dwelling units.

(8) Day care centers and nursery schools (less than nine children).

(9) Railroad line (per section 130-485).

(10) Single-family dwelling units with an above-grade floor area of at least 900 and less than 1,200 square feet.

(Code 1986, § 17.40(3), Ord. 2005-23, Ord. 2005-44, 2007-21)

Sec. 130-1004. Requirements for all uses.

Within the R-2 district, the following standards shall apply:

(1) Maximum building height: 35 feet.

(2) Minimum front setback: 25 feet.

(3) Minimum rear yard setback: 15 feet.

(4) Detached garage and accessory building side yard and street side yard setback:

a. Three feet for side yards.

b. 20 feet for street side yards.

(5) Minimum lot width at front setback line: 70 feet for lots platted after December 31, 2000; 60 feet for lots platted before January 1, 2001. Two-family twin lots shall have a minimum of 35 feet per lot.

(6) Minimum lot frontage on public road: 50 feet, except that two-family twin lots shall have a minimum of 25 feet per lot.

(7) Minimum lot area:

a. Single-family: 8,000 square feet for lots platted after December 31, 2000; 6,000 square feet for lots platted before January 1, 2001.

b. Two-family: 10,000 square feet for lots platted after December 31, 2000; 8,000 square feet for lots platted before January 1, 2001.

c. Two-family twin: 5,000 square feet per lot.

d. Three-family: 12,000 square feet.

e. Four-family: 14,000 square feet.

(8) Minimum side yard setback:

a. Single-family, two-family, three-family, and four-family: Eight feet; total 20 feet on both sides.

b. Two-family twin: Zero feet on the interior (common wall) lot line. Ten feet on exterior side lot lines.

(9) Minimum street side yard setback: 20 feet.

(10) Maximum front yard and street side yard setback: 35 feet.

(11) Usable open space: Usable open space shall be provided on each lot used for multifamily dwellings of three or more units. Usable open space shall compose at least 25 percent of the gross land area of the lot area and shall be used for recreational, park or environmental amenity for collective enjoyment by occupants of the development, but shall not include public or private streets, drives or drainageways.

(12) Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure.

(13) Minimum above-grade floor area for single-family dwelling: 1,200 square feet.

(Code 1986, § 17.40(4); Ord. No. 2003-9, § 5, 9-9-2003; Ord. No. 2003-11, § 5, 10-14-2003, Ord. 2005-1, Ord. 2005-9, Ord. 2005-50, Ord. 2007-21, Ord. 2012-02, Ord. 2012-16)

Secs. 130-1005--130-1020. Reserved.

DIVISION 17. RESIDENTIAL DISTRICT THREE (R-3)

Sec. 130-1021. Purpose and intent.

The purpose of the R-3 district is to provide a means of obtaining the residential goals and objectives of the development guide. The R-3 district is intended to protect and enhance the character and value of residential areas primarily occupied by varied dwelling types of moderate density and to accommodate areas planned for new residential development of moderate density.

(Code 1986, § 17.41(1))

Sec. 130-1022. Uses permitted by right.

The following uses are permitted in the R-3 district:

(1) Single-family and two-family dwellings.

(2) Churches and all affiliated uses, all grade schools, libraries and hospitals, water storage facilities and related structures.

(3) Municipal buildings, except sewage plants, garbage incinerators, warehouses, garages, shops and storage yards.

(4) Public parks, playgrounds, and recreational and community center buildings and grounds.

(5) One or more private garages and one accessory building clearly incidental to the residential use of the property; provided, however, that no accessory building may exceed 150 square feet. The total area of any attached garages shall not exceed the area of the foundation of the dwelling. The total area of any detached garages shall not exceed the area of the foundation of the dwelling. In addition, the total area of the private garage(s) shall not exceed 13 percent of the total area of the lot, if the area of the lot is less than 10,000 square feet, and shall not exceed 11 percent of the total area of the lot, if the area of the lot is 10,000 square feet or more.

(6) Uses customarily incidental to any of the uses listed in subsections (1)--(5) of this section, provided that no such use generates traffic or noise that would create a public or private nuisance.

(7) Not over four boarders or lodgers not members of the family.

(8) Multiple-family dwellings up to eight units.

(9) Roominghouses, boardinghouses or lodginghouses for not more than 15 roomers or boarders.

(10) Home occupation, when meeting all of the criteria of section 130-531.

(11) Community living arrangement (one to eight residents) (per section 130-377).

(12) Community living arrangement (nine to 15 residents) (per section 130-378).

(Code 1986, § 17.41(2); Ord. No. 2002-4, § 15, 4-9-2002; Ord. No. 2003-7, § 10, 10-14-2003, Ord. 2005-28)

Sec. 130-1023. Uses permitted as conditional use.

The following conditional uses shall be allowed in the R-3 district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Home occupation, which does not meet all of the criteria of section 130-531.

(2) Public buildings, such as colleges and universities, including private music, dancing, business, and vocational schools, but not to include sewage plants, garbage incinerators, warehouses, garages or storage areas.

(3) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums; and libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.

(4) Telephone, telegraph and electric transmission lines, buildings or structures.

(5) Indoor institutional uses (per section 130-373) and indoor recreational uses (per section 130-376).

(6) Day care centers and nursery schools (less than 9 children).

(7) Funeral homes, undertaking establishments and cemetery memorial retail businesses.

(8) Multiple-family dwellings greater than eight units and multiple-family dwellings where there are more than one principal-land-use structures on the same lot.

(9) Community living arrangement (16 or more residents) (per section 130-379).

(10) Railroad line (per section 130-485).

(11) Single-family dwelling units with an above-grade floor area of at least 900 and less than 1,200 square feet.

(Code 1986, § 17.41(3), Ord. 2005-1, Ord. 2005-23, Ord. 2005-28, Ord. 2005-44, Ord. 2007-21)

Sec. 130-1024. Requirements for all uses.

Within the R-3 district, the following standards shall apply:

(1) Maximum building height: 35 feet.

(2) Minimum front setback: 25 feet.

(3) Minimum rear yard setback: 25 feet.

(4) Minimum side yard setback: Ten feet; 25 feet for both yards.

(5) Detached garage and accessory building side yard and street side yard setback:

a. Three feet for side yards.

b. 20 feet for street side yards.

(6) Minimum lot width at setback line: 70 feet.

(7) Minimum lot frontage on public road: 50 feet.

(8) Minimum lot area:

a. Single-family: 8,000 square feet.

b. Two-family: 10,000 square feet.

c. Multifamily dwelling units larger than two units, but eight units or less: 10,000 square feet plus 1,500 square feet for each additional unit over two.

d. Units containing more than eight dwelling units: 2,500 square feet per unit.

(9) Minimum street side yard setback: 20 feet.

(10) Usable open space: Usable open space shall be provided on each lot used for multifamily dwellings of three or more units. Usable open space shall compose at least 25 percent of the gross land area of the lot area and shall be used for recreational, park or environmental amenity for collective enjoyment by occupants of the development, but shall not include public or private streets, drives or drainageways.

(11) Maximum front yard and street side yard setback: 35 feet.

(12) Height of detached garages and accessory buildings: Shall not exceed the height of the principal structure.

(13) Minimum above-grade floor area for single-family dwelling: 1,200 square feet.

(Code 1986, § 17.41(4); Ord. No. 2003-9, § 6, 9-9-2003; Ord. No. 2003-11, § 6, 10-14-2003, Ord. 2007-21, Ord. 2012-16)

Secs. 130-1025--130-1040. Reserved.

DIVISION 18. PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

Sec. 130-1041. Purpose.

(a) The purpose of this division is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed planned unit developments, and to provide for the possible relaxation of certain development standards pertaining to the underlying standard zoning district.

(b) Planned unit developments are intended to provide more incentives for infill development and redevelopment in areas of the community that are experiencing a lack of significant reinvestment. Furthermore, planned unit developments are designed to forward both the aesthetic and economic development objectives of the city by controlling the site design and the appearance, density or intensity of development in terms of more flexible requirements for land uses, density, intensity, bulk, landscaping, and parkingrequirements. In exchange for such flexibility, the planned unit development shall provide a much higher level of site design, architectural control and other aspects of aesthetic and functional excellence than normally required for other developments.

(c) Planned unit developments have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of this chapter. In addition to such potential, planned unit developments also have the potential to create undesirable impacts on nearby properties which potentially cannot be determined except with a binding site plan, landscape plan and architectural plan, and on a case-by-case basis. In order to prevent this from occurring, all planned unit developments are required to meet certain procedural requirements applicable only to planned unit developments, in addition to the general requirements of this chapter. A public hearing process is required to review a request for a planned unit development. This process shall essentially combine the process for a zoning map amendment with that required for a conditional use, with several additional requirements.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(1)), 1-19-1998)

Sec. 130-1042. Flexibility of development standards.

(a) *Permitted locations for planned unit developments.* Planned unit developments shall be permitted with the approval of a planned unit development overlay zoning district per the procedures of sections 130-1047 and 130-1048.

(b) *Exemptions from general development standards.* The following exemptions to the development standards of the underlying zoning district may be provided with the approval of a planned unit development:

(1) *Land use requirements.* All land uses listed as "residential," "institutional," or "commercial" may be permitted within a planned unit development.

(2) *Density and intensity requirements.* All requirements for residential density and nonresidential intensity may be waived within a planned unit development.

(3) *Bulk requirements.* All bulk requirements (setbacks and height) may be waived within a planned unit development.

(4) *Landscaping requirements.* All landscaping requirements may be waived within a planned unit development.

(5) *Parking and loading requirements.* All parking and loading requirements may be waived within a planned unit development.

(c) *All aspects of development to be depicted on site plan.* Only development which is explicitly depicted on the required site plan approved by the city council as part of the approved planned unit development shall be permitted, even if such development (including all aspects of land use, density and intensity, bulk, landscaping, and parking and loading) is otherwise listed as permitted. Requested exemptions from these standards shall be made explicit by the applicant in the application, and shall be recommended by the plan commission and approved explicitly by the city council. If not so requested and approved, such exemptions shall not be permitted.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(2)), 1-19-1998)

Sec. 130-1043. Initiation of request for approval.

Proceedings for approval of a planned unit development shall be initiated by:

(1) An application of the owner of the subject property;

(2) A recommendation of the plan commission; or

(3) Action of the city council.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(3)), 1-19-1998)

Sec. 130-1044. Application for approval.

All applications for proposed planned unit developments, regardless of the party of their initiation per section 130-1043, shall be approved as complete by the zoning administrator a minimum of two weeks prior to the initiation of the procedure described in this division. The zoning administrator shall forward copies of the complete application to the office of the city clerk-treasurer. The application shall apply to each of the process steps in sections 130-1045--130-1048. With the plan commission's approval, and generally for simple planned unit developments, the applicant may combine planned unit development process steps 1 and 2, or steps 1, 2, and 3.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(4)), 1-19-1998)

Sec. 130-1045. Step 1, preapplication conference.

(a) The applicant for approval of a planned unit development shall contact the zoning administrator to place an informal discussion item for the planned unit development on the plan commission agenda.

(b) No details beyond the name of the applicant and the identification of the discussion item as a planned unit development is required to be given in the agenda.

(c) At the plan commission meeting, the applicant shall engage in an informal discussion with the plan commission regarding the potential planned unit development. Appropriate topics for discussion may include the location of the planned unit development, general project themes and images, the general mix of dwelling unit types and/or land uses being considered, approximate residential densities and nonresidential intensities, the general treatment of natural features, the general relationship to nearby properties and public streets, and relationship to the master plan.

(d) Points of discussion and conclusions reached in this stage of the process shall be in no way be binding upon the applicant or the city, but should be considered as the informal, nonbinding basis for proceeding to the next step.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(5)), 1-19-1998)

Sec. 130-1046. Step 2, concept plan.

(a) The applicant for approval of a planned unit development shall provide the zoning administrator with a draft planned unit development concept plan submittal packet for a determination of completeness prior to placing the proposed planned unit development on the plan commission agenda for concept plan review. This submittal packet shall contain all of the following items prior to its acceptance by the zoning administrator and placement of the item on a plan commission agenda for concept plan review:

(1) A location map of the subject property and its vicinity at 11 inches by 17 inches, as depicted on a copy of the city land use plan map.

(2) A general written description of the proposed planned unit development including:

a. General project themes and images;

b. The general mix of dwelling unit types and/or land uses;

c. Approximate residential densities and nonresidential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;

d. The general treatment of natural features;

e. The general relationship to nearby properties and public streets;

f. The general relationship of the project to the master plan;

g. An initial draft list of zoning standards which will not be met by the proposed planned unit development and the locations in which they apply, and a complete list of zoning standards which will be more than met by the proposed planned unit development and the locations in which they apply. Essentially, the purpose of this listing shall be to provide the plan commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility; and

(3) A written description of potentially requested exemption from the requirements of the underlying zoning district, in the following order:

a. Land use exemptions.

b. Density and intensity exemptions.

c. Bulk exemptions.

d. Landscaping exceptions.

e. Parking and loading requirements exceptions.

(4) A conceptual plan drawing (at 11 inches by 17 inches) of the general land use layout and the general location of major public streets and/or private drives. The applicant may submit copies of a larger version of the conceptual plan in addition to the 11-inch by 17-inch reduction.

(b) Within ten working days of receiving the draft planned unit development concept plan submittal packet, the zoning administrator shall determine whether the submittal is complete. Once the zoning administrator has received a complete packet, the proposed planned unit development concept plan shall be placed on the plan commission agenda.

(c) At the plan commission meeting, the applicant shall engage in an informal discussion with the plan commission regarding the conceptual planned unit development. Appropriate topics for discussion may include any of the information provided in the planned unit development concept plan submittal packet, or other items as determined by the plan commission.

(d) Points of discussion and conclusions reached in this stage of the process shall be in no way be binding upon the applicant or the city, but should be considered as the informal, nonbinding basis for proceeding to the next step. The preferred procedure is for one or more iterations of plan commission review of the concept plan to occur prior to introduction of the formal petition for rezoning which accompanies the general development plan application.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(6)), 1-19-1998)

Sec. 130-1047. Step 3, general development plan.

(a) The applicant for approval of a planned unit development shall provide the zoning administrator with a draft general development plan (GDP) submittal packet for a determination of completeness prior to placing the proposed general development plan on the plan commission agenda for general development plan review. This submittal packet shall contain all of the following items prior to its acceptance by the zoning administrator and placement of the item on a plan commission agenda for general development planreview:

(1) A location map of the subject property and its vicinity at 11 inches by 17 inches, as depicted on a copy of the city's land use plan map.

(2) A map of the subject property showing all lands for which the planned unit development is proposed, and all other lands within 250 feet of the

boundaries of the subject property, together with the names and addresses of the owners of all lands on such map as the names and addresses appear on the current records of the register of deeds of the county. The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction that maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

(3) A general written description of proposed planned unit development including:

a. General project themes and images.

b. The general mix of dwelling unit types and/or land uses.

c. Approximate residential densities and nonresidential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio.

d. The general treatment of natural features.

e. The general relationship to nearby properties and public streets.

f. The general relationship of the project to the master plan.

g. A statement of rationale as to why planned unit development zoning is proposed. This shall identify barriers that the applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the applicant suggests are available through the proposed planned unit development zoning.

h. A complete list of zoning standards which will not be met by the proposed planned unit development and the locations in which they apply, and a complete list of zoning standards which will be more than met by the proposed planned unit development and the locations in which they apply. Essentially, the purpose of this listing shall be to provide the plan commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility.

i. A written description of potentially requested exemption from the requirements of the underlying zoning district, in the following order:

1. Land use exemptions.

2. Density and intensity exemptions.

3. Bulk exemptions.

4. Landscaping exceptions.

5. Parking and loading requirements exceptions.

(4) A general development plan drawing at a minimum scale of one inch equals 100 feet (an 11-inch by 17-inch reduction shall also be provided by the

applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:

a. A conceptual plan drawing (at 11 inches by 17 inches) of the general land use layout and the general location of major public streets and/or private drives. The applicant may submit copies of a larger version of the conceptual plan in addition to the 11-inch by 17-inch reduction;

b. Location of recreational and open space areas and facilities, specifically describing those that are to be reserved or dedicated for public acquisition and use;

c. Statistical data on minimum lot sizes in the development, the approximate areas of large development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the plan commission or city council; and

d. Notations relating the written information provided under subsections (a)(3)a--f of this section to specific areas on the general development plan drawing.

(5) A general conceptual landscaping plan for subject property, noting approximate locations of foundations, streets, yards and paving, and landscaping, and the compliance of development with all landscaping requirements of this chapter (except as noted in the listing of exceptions), and the use of extra landscaping and bufferyards.

(6) A general signage plan for the project, including all project identification signs and concepts for public fixtures and signs (such as streetlight fixtures and/or poles or street sign faces and/or poles) which are proposed to vary from city standards or common practices.

(7) A traffic impact report as described in Section 130-203.

(b) The processing fees for review and approval of the general development plan shall be as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consultant costs, and, if land is to be divided, costs for preliminary and final plats of subdivision per this Code. The approval of a general development plan shall establish a PUD/GDP overlay that is depicted as such on the official zoning map. The underlying use zoning, however, shall control development within the area of the general development plan until all or portions of the general development plan are approved as a precise implementation plan (PIP).

(c) Prior to plan commission recommendation to the city council for approval, approval with modification, or denial, a public hearing shall be held to consider the proposed general development plan. All property owners within 250 feet of the subject property shall be notified by first class mail no later than ten days prior to the public hearing.

(d) All portions of an approved PUD/GDP not fully developed within three years of final city council approval shall expire, and no additional PUD-based

development shall be permitted. The city council may extend this three-year period by up to five additional years via a majority vote following a public hearing.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(7)), 1-19-1998,Ord. 2006-30)

Sec. 130-1048. Step 4, precise implementation plan.

(a) After the effective date of rezoning to PUD/GDP, the applicant may file an application for a proposed precise implementation plan (PIP) with the plan commission. This submittal packet shall contain all of the following items prior to its acceptance by the zoning administrator and placement of the item on a plan commission agenda for planned unit development review:

(1) A location map of the subject property and its vicinity at 11 inches by 17 inches, as depicted on a copy of the city's land use plan map.

(2) A map of the subject property showing all lands for which the planned unit development is proposed, and all other lands within 250 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on such map as the names and addresses appear on the current records of the register of deeds of the county. The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction that maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 600 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

(3) A general written description of proposed precise implementation plan including:

a. Specific project themes and images.

b. The specific mix of dwelling unit types and/or land uses.

c. Specific residential densities and nonresidential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio.

d. The specific treatment of natural features.

e. The specific relationship to nearby properties and public streets.

f. A statement of rationale as to why planned unit development zoning is proposed. This shall identify barriers that the applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the applicant suggests are available through the proposed planned unit development zoning.

g. A complete list of zoning standards which will not be met by the proposed precise implementation plan and the locations in which they apply, and a complete list of zoning standards which will be more than met by the proposed precise implementation plan and the locations in which they apply. The purpose of this listing shall be to provide the plan commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in

regard to the mitigation of potential adverse impacts created by design flexibility. List items shall be provided in the following order:

1. Land use exemptions.
2. Density and intensity exemptions.
3. Bulk exemptions.
4. Landscaping exceptions.
5. Parking and loading requirements exceptions.

(4) A precise implementation plan drawing at a minimum scale of one inch equals 100 feet (an 11-inch by 17-inch reduction shall also be provided by the applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:

a. A PIP site plan conforming to any and all the requirements of this chapter. If the proposed planned unit development is a group development, a proposed preliminary plat or conceptual plat shall be provided in addition to the required site plan;

b. Location of recreational and open space areas and facilities, specifically describing those that are to be reserved or dedicated for public acquisition and use;

c. Statistical data on minimum lot sizes in the development, the precise areas of all development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the plan commission or city council; and

d. Notations relating the written information provided under subsections (a)(3)a--f of this section to specific areas on the general development plan drawing.

(5) A landscaping plan for the subject property, specifying the location, species, and installed size of all trees and shrubs. This plan shall also include a chart that provides a cumulative total for each species, type and required location (foundation, yard, street, paved area or bufferyard) of all trees and shrubs.

(6) A series of building elevations for the entire exterior of all buildings in the planned unit development, including detailed notes as to the materials and colors proposed.

(7) A general signage plan for the project, including all project identification signs, concepts for public fixtures and signs (such as streetlight fixtures and/or poles or street sign faces and/or poles), and group development signage themes which are proposed to vary from city standards or common practices.

(8) A general outline of the intended organizational structure for a property owners' association, if any, deed restrictions, and provisions for private provision of common services, if any.

(9) A written description which demonstrates the full consistency of the proposed precise implementation plan with the approved general development plan.

(10) Any and all variations between the requirements of the applicable PUD/GDP zoning district and the proposed PIP development.

The applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development. The area included in a precise implementation plan may be only a portion of the area included in a previously approved general implementation plan. The precise implementation plan submission may include site plan and design information, allowing the plan commission to combine design review and review of the PIP. Design review may, at the choice of the applicant, be deferred until a later time when specific site and building developments will be brought forth. The plan commission or city council may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the PIP as such may be relevant to review.

(b) The processing fees for review and approval of the precise implementation plan shall be as established by the council from time to time by resolution and as set forth in appendix A, plus reimbursement of municipal consultant costs, and, if land is to be divided, costs for preliminary and final plats of subdivision per this Code. The approval of a PUD/PIP shall formally establish the PUD/PIP overlay zoning district and any such land uses and site plans included in the approved precise implementation plans.

(c) All portions of an approved PUD/PIP not fully developed within three years of final city council approval shall expire, and no additional PUD-based development shall be permitted. The city council may extend this three-year period by up to five additional years via a majority vote following a public hearing.

(d) Approved planned unit developments that have not been completed within the time limits established by section (c) of this section shall revert to the preexisting zoning designation.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(8)), 1-19-1998)

Sec. 130-1049. Implementation of project.

Upon approval of a precise implementation plan by the city council, the applicant may apply for building permits, zoning permits and use permits from the zoning administrator. Upon granting of the necessary permits, the applicant may commence construction.

(Code 1986, § 17.42; Ord. No. 1997-18, § 8(17.42(9)), 1-19-1998)

Secs. 130-1050--130-1070. Reserved.

DIVISION 19. MOBILE HOME PARKS DISTRICT (MHP)*

Sec. 130-1071. Mobile homes and mobile home parks.

(a) *Purpose and intent.* The purpose of the mobile homes park district (MHP) is to provide a means of obtaining the residential goals and objectives of the development plan of the city. The intent of the mobile homes park district (MHP) is to provide for the location of mobile home parks and travel trailer camps, and to establish regulations governing their construction and use for the health and well-being of the residents of the city.

(b) *State statutes adopted by reference.* The provisions of Wis. Stats. § 66.0435, and the definitions therein are hereby adopted by reference.

(c) *Additional definitions.* In addition to the definitions contained in Wis. Stats. § 66.0435, the following words or phrases shall have the following meanings:

Complete bathroom facilities means a minimum requirement of a flush toilet, lavatory, bath and kitchen sink.

Lot means that part of an individual mobile home space reserved and improved for the placement of one mobile home unit.

Mobile home stand means that part of an individual mobile home space reserved and improved for the placement of one mobile home unit.

Occupied area means that portion of an individual mobile home space covered by a mobile home and its accessory structures.

Park management means that person who owns or has charge, care or control of the mobile home park.

Sec. 130-1072. Conditional uses.

The following conditional uses shall be allowed only after issuance of a conditional use permit as prescribed in section 130-101.

(1) Mobile home parks.

(2) Travel trailer camps.

Sec. 130-1073. Procedures and applications.

(a) *Mobile home park license; approvals required.* No person shall establish, maintain or operate upon property owned or controlled by him within the city a mobile home park or travel trailer camp without first obtaining from the city a license issued by the zoning administrator after approval of the common council.

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* **Cross references:** Manufactured homes and trailers, Sec. 130-1241.

(b) *Application.* An application for a mobile home park license shall be made on the form required by the city to the zoning administrator.

(c) *Fee.* A fee as established by the council from time to time by resolution and as set forth in appendix A, per 50 spaces or fractions thereof, in a proposed mobile home park shall be paid to the city clerk-treasurer no later than the day the application is filed. A renewal fee is due January 1 of each calendar year.

(d) *License term.* A mobile home park license shall expire each year on December 31, and application for renewal and renewal fee is due no later than January 1 of each year. There shall be no apportionment of fees for use of less than one year.

(e) *Inspections.* The zoning administrator and fire chief shall inspect mobile home parks not less than once in every 12-month period to determine the health, safety and welfare of the occupants of the park and inhabitants of the city as affected thereby and the compliance of structures and activities therein with this division and all other applicable state laws and city ordinances. For the purpose of making inspections, such officials or authorized agents shall enter on any premises at reasonable times upon reasonable advance notice on which a mobile home is located.

(f) *Standard of review.* The common council shall grant a mobile home park license only if all of the following standards are met at the time of initial application or renewal, which standards are intended to be minimum standards to create a safe, sanitary, healthful environment. However, this express enumeration shall not limit or preclude the common council from imposing additional requirements or making reasonable modifications of these requirements. Any additional requirement specifically added or modified shall be made in writing by the common council and endorsed on the mobile home park license:

(1) The park management obtains and maintains a valid certificate from the state department of health and social services that the park complies with the provisions of Wis. Admin. Code chs. H62 and H77, applicable thereto.

(2) The mobile home park shall be used only for the parking and occupancy of single family nondependent mobile homes and accessory structures and appurtenances and uses authorized and approved as part of the conditional use permit.

(3) Evidence as required by the city is submitted by the park management that all equipment, roads, sanitary facilities, and other structures have been constructed, or installed in the park as required and continue in operating condition.

(4) Evidence as required by the city is submitted by the park management that the mobile home park complies with all city, county, or state zoning requirements.

(5) Each mobile home shall have a minimum living space of 450 square feet.

(6) Park or camp size shall meet the following requirements:

Type	Minimum acreage	Maximum density
Mobile home park	8	5.0 units per gross land acre
Travel trailer camp	6	7.0 units per gross land acre

(7) Minimum lot width and setback standards shall be as follows:

	Mobile home lot	Accessory structures*	Travel trailers
Front setback	25 feet	25 feet	25 feet
Side setback	10 feet	10 feet	10 feet
Rear setback	10 feet	10 feet	10 feet
Corner street, side yard	10 feet	10 feet	10 feet
Yard abutting open areas	10 feet	10 feet	
From any public street	50 feet	50 feet	
From any park, drive or common area	25 feet	25 feet	

*Accessory structures, such as awnings, cabanas, storage cabinets, carports, windbreaks or attached porches shall be considered part of the unit for purposes of determining compliance with this subsection.

Minimum lot width, except irregular shaped lots may be approved with lesser frontage			40 feet
	Single wide	50 feet	
	Double wide	60 feet	
Minimum lot area			4,000 sq. feet
	Single wide	6,000 sq. feet	
	Double wide	7,200 sq. ft. feet	

(8) Utilities shall be installed underground and shall meet all codes.

(g) *Electric service.* Each mobile home and travel trailer lot shall be connected to the park or camp electrical wiring system by underground cable and by approved receptacle, disconnecting means, and over current protective equipment. The minimum service per each mobile home lot shall be 120-240 volts AC, 100 amperes. Adequate lights shall be provided in the mobile home park and travel trailer camp to illuminate streets, driveways, and walkways, for the safe movement of vehicles and pedestrians at night. A minimum of 0.1 footcandle power shall be provided for safe pedestrian and vehicle movement.

(h) *Sewer service.* The mobile home park shall be served by the city sewer service. Each mobile home lot shall be equipped with at least a four-inch sewer connection so located as to provide a suitable connection from the mobile home with a continuous grade, not subject to surface drainage. Sewer service connections are not allowed below any mobile home stand or unit. The travel trailer camp shall provide facilities for the

disposal of sanitary wastes as set forth in Wisconsin Administrative Code standards. Any unit that is not connected to the city sanitary sewer system shall be unlawful and connections shall be sealed.

(i) *Water.* The mobile home park shall be served by the city water system. Each mobile home lot shall have or continues to have individual valved water service so constructed and installed so that they will not be damaged by frost or parking of the unit. Water systems shall be adequate to provide a pure, potable water supply of six gallons per minute at a minimum pressure of 20 psi and capable of furnishing a minimum of 150 gallons per unit per day. The travel trailer camp shall provide a common water system, with provision to supply water within 50 feet of each travel trailer lot. Water service connections are not allowed below any mobile home stand or unit. Any unit that is not connected to the city water supply system shall be unlawful and connections shall be sealed.

(j) *Water meter.* Water meters for each mobile home unit or a master water meter, approved by the city water utility, is required for the mobile home park.

(k) *Fire hydrant.* The mobile home park will have or continues to have fire hydrants installed within 500 feet of each mobile home stand and park or service building.

(l) *Sewer connection.* The mobile home park will have or continues to have for each space a four-inch watertight sewer connection protected from damage by heaving and thawing or parking of the unit, located within a rear one-third of the stand, with a continuous grade, which is not subject to surface drainage, so constructed that it can be closed when not in use and trapped in such a manner that it can be kept odor free.

(m) *Stand; anchor; tiedowns.* For each space there will be or continues to be a stand consisting of a concrete slab of at least six-inch concrete (3,500 psi) and concrete piers extending below frost and having tiedown and leveling devices, with six-inch gravel, 12 feet wide and 50 feet long for each mobile home. At least six anchors and tiedowns shall be provided at regular intervals on each slab. The mobile home shall be attached to the anchoring devices. Only one mobile home or travel trailer shall be placed on a lot except that an unoccupied travel trailer may be parked behind the setback line of the owner's yard to the rear of the principal building, unless otherwise approved in the final plans.

(n) *Off-street parking spaces.* The mobile home park will have or continues to have for each space a minimum of two off-street parking spaces surfaced with bituminous concrete or similar material capable of carrying a wheel load of 4,000 pounds. At least one off-street parking space shall be provided on or for each travel trailer lot. The size of each parking space shall be at least nine feet by 20 feet. Street parking on both sides of the street shall be permitted if the roadway width is at least 30 feet wide. Street parking shall be permitted on one designated side only if the roadway with is at least 24 feet wide. There shall be no parking allowed if the roadway width is less than 30 feet wide. Under special circumstance the plan commission may permit a one-way street with a width of 18 feet.

(o) *Abutment; streets.* Each space in the mobile home park will or continues to abut a street. All streets shall be constructed of a hard smooth and dense surface which shall be well drained under normal use and weather conditions. Pavement edges shall be curbed or protected to prevent raveling. Grades of streets shall be sufficient to ensure adequate surface drainage, but not more than eight percent, provided a maximum grade

of 12 percent may be used if approved by the city. Streets shall be at approximate right angles within 100 feet of an intersection. There shall be no intersections of more than two streets. A district of at least 150 feet shall be maintained between centerlines of offset intersecting streets.

(p) *Soil conditions; water level; drainage.* The condition of soil, groundwater level, drainage and topography shall not create hazards to the property, health, or safety of occupants of mobile home spaces or living units. Thee site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to the unpredictable and/or flooding, or erosion shall be used for any purpose which would expose persons or property within or without the park to hazards.

(q) *Ground surface.* The ground surface in all parts of the mobile home park will be or continues to be graded and equipped to drain all surface water in a safe, sanitary and efficient manner.

(r) *Soil erosion; prevention.* The exposed ground surface in all parts of the mobile home park will be or continues to be paved or covered with stone screening or other solid material or protected with a vegetative growth that is capable of preventing soil erosion and eliminating objectionable dust.

(s) *Vehicular access.* The mobile home park will provide or continues to provide safe and convenient foot and vehicular access from abutting public streets or roads, with entrances designed to minimize congestion and traffic hazards.

(t) *Park usage.* No part of a part or camp shall be used for nonresidential purposes, except for parks, playgrounds, open space, off-street parking lots, laundromats, clubhouse facilities, swimming pools, one park office and service buildings for the exclusive use of park residents.

(u) *Signs.* No signs shall be permitted except the following:

(1) One nonflashing identification ground mounted sign or a wall sign stating only the name of the park, but not located in any setback.

(2) One ground wall sign or on-premises wall sign per street frontage only in travel trailer camps.

(3) Any necessary regulatory signs such as street name signs, and entrance and exit signs.

(v) *Screening buffer strip.* There shall be provided a screening buffer strip along the boundary of the mobilehome park or travel trailer camp where it abuts a residential district. Such screening shall be at least five feet in width and five feet in height. Such strip shall be densely planted hedge or shrubbery so as to effectively cause a visual barrier and still allow a breeze to pass.

(w) *Outdoor living and service area.* Each mobile home lot shall be provided with an outdoor living and service area. The area should be improved as necessary to ensure reasonable privacy and comfort. The minimum area should be not less than 300 square feet with a least dimension of 15 feet.

(x) *Recreational facilities.* Recreational facilities such as playgrounds, swimming pools, or tot lots shall be provided to meet the needs of the residents the park is designed to serve. Not less than ten percent of the total gross park area shall be

devoted to recreational facilities and open space. Recreational facilities shall be convenient to the park center.

(y) *Storage buildings.* One storage building accessory to the mobile home unit will be permitted on a mobile home lot provided that the storage building does not exceed 400 cubic feet and does not exceed eight feet in height. The storage building shall be fully enclosed and located on the mobile home lot. All storage buildings in the mobile home park shall be uniform in size.

(z) *Fuel distribution system.* All fuel shall be distributed to an individual lot by an underground distribution system for a common underground fuel storage facility installed in conformity with the rules and regulations of the state department of industry, labor and human relations.

(aa) *Roads.* All roads created by a mobile home park shall be hard surfaced according to city street standards. The minimum pavement width of roadways shall be 24 feet. The minimum pavement diameter of cul-de-sacs shall be 40 feet. The alignment and gradient shall be properly adapted to topography, to safe movement of types of traffic anticipated, and to satisfactory control of surface water and groundwater. The names of roadways within the park shall not duplicate names of street within the city.

(bb) *Marked.* The limits of each mobile home and travel trailer lot shall be clearly marked on the ground by permanent flush stakes, markers, or other suitable means. Each mobile home in a mobile home park and each travel trailer lot in a travel trailer camp shall be clearly marked in a uniform manner with a number or designation for fire and police services and such number shall be filed with the appropriate authorities by the licensee.

(cc) *Fences and hedges.* Fences and hedges may be permitted in a mobile home park or travel trailer camp provided they do not exceed a height of three feet in the front yard or corner side yard and six feet in height in all other yards.

(dd) *Refuse and recycling containers.* Refuse and recycling shall be stored in flytight, watertight, approved containers stored within a completely enclosed building or may be permitted outside the building provided that the storage area is effectively screened from view.

(ee) Service building. There shall be at least one service building in a travel trailer camp to provide sanitary and laundry facilities. Such service building shall be easily accessible to all travel lots and shall be made of permanent construction in accordance with all building codes. The service building shall maintain a minimum temperature of 60 degrees Fahrenheit whenever the camp is open for business.

(ff) Maintenance. Every mobile home park and travel trailer camp shall be so located and maintained as to appear attractive and to be kept in a clean and sanitary manner in all respects, and all equipment shall be kept in a state of good repair.

(gg) Adverse influences. Condition of soil, groundwater level, drainage and topography shall not create hazards to the property, health, or safety of occupants of the mobile home park. The site shall not be exposed to objectionable noise, odors, or other adverse influences, and no portion subject to flooding subsistence or erosion shall be used for any purpose which would expose persons or property within or without the park to hazards.

(hh) Compliance with code standards. No mobile home shall be admitted in any mobile home park unless it can demonstrate that it meets the requirements of all construction standards.

Sec. 130-1074. Transfer of license.

A transfer of license shall be applied for and may be approved by the common council in the same manner as an application for an annual license. The fee for a license transfer shall be as authorized in Wis. Stats. § 66.0435(7).

Sec. 130-1075. Parking permit.

(a) *Permit.* There shall be a parking permit required for each occupied nonexempt mobile home located in the city.

(a) *Fee.* The amount of the parking permit shall be as allowed by Wis. Stats. § 66.0435 as amended from time to time. The fee shall be paid to the city clerk-treasurer on or before the tenth day of the calendar month following the month for which fees are due.

(b) *Collection.* The park management shall be responsible for the collection of the parking fees for all occupied nonexempt mobile homes in its park. Failure to collect and remit to the city clerk-treasurer shall be treated as default in payment of personal property taxes and subject to all procedures and penalties pursuant to Wis. Stats. Chs. 70—74. Occupants of nonexempt mobile homes outside a mobile home park shall remit monthly parking permit fees directly to the city clerk-treasurer.

Sec. 130-1076. Conditional use permit.

No person shall establish, maintain or operate upon property owned or controlled by him within the city a mobile home park or a travel trailer camp without first obtaining from the plan commission a conditional use permit. All application requirements, fees, procedures for review and standards for review shall be as defined in division 4 of the zoning code.

Sec. 130-1077. Administration.

(a) *Zoning administrator responsibilities.* It shall be the responsibility of the zoning administrator to enforce the provisions of this division by authorizing and directing inspections to be made of all mobile home parks and travel trailer camps.

(b) *Violations.* Whenever the zoning administrator determines violations of pertinent regulations exist, he shall notify the licensee or permittee of such violations. The notice shall be in writing, include specific provisions violated, and allow a reasonable time for correction of the violation, but not to exceed 90 days.

(c) *Emergency order.* Whenever the zoning administrator finds that an emergency exists which requires immediate action to protect the public health, safety and/or welfare, he may without notice or hearing issue an order reciting the existence of the emergency and requiring that action be taken as he may deem necessary to meet the emergency, including the suspension of the license. The order shall be in writing, shall be effective notwithstanding any other provisions of this division, and shall be effective immediately. Any person to whom such order is directed shall comply immediately or be subject to the revocation of the mobile home park license.

Sec. 130-1078. Duty of license holder.

(a) Every person, firm or corporation operating a mobile home park or travel trailer camp shall have an office for the person in charge of the park and maintain a register available to the zoning administrator in which there shall be included the following information:

(1) For mobile home parks: Lot designation, occupant name, description of the mobile home and license number, dates of arrival and departure, and monthly parking fee.

(2) For travel trailer camps: Name and address of each party entering and using the camp, description and license number of the travel trailer and motor vehicle, and dates of arrival and departure.

(b) A copy of the park license shall be prominently posted in the park office.

(c) The licensee shall furnish to the city clerk-treasurer and city assessor within five days, information of a mobile home arrival on the form required by the city clerk-treasurer pursuant to Wis. Stats. § 66.0435.

(d) The licensee shall be responsible for the collection and forwarding to the city clerk-treasurer the monthly parking fee and any required deposits from each occupied mobile home or travel trailer.

Sec. 130-1079. Revocation of license.

Upon failure to comply with any violation notice or upon complaint by any citizen of the city, the license for a mobile home park or travel trailer camp is subject to revocation pursuant to Wis. Stats. § 66.0435.

Sec. 130-1080. General provisions; prohibitions.

Every mobile home park and every travel trailer camp built or added after July 1, 1978, shall conform to and be governed by the provisions of this division. No mobile home park and no travel trailer camp shall be allowed in any district except the mobile home district. Every mobile home park and travel trailer camp shall first have an approved conditional use permit prior to being licensed.

Sec. 130-1081. Additions and alterations.

(a) *Permit required.* A permit issued by the zoning administrator shall be required before any construction on a mobile home lot or any structural addition or alteration to the exterior of a mobile home. No permit is required for addition of steps, awnings, skirting, windows, doors, or tenant storage structures.

(b) *Size of expansion.* No addition to a mobile home shall be greater than the area in square feet of the existing mobile home. No addition or alteration to the mobile home shall exceed in height the height of the existing mobile home, and all alterations or additions shall be factory built.

(c) *Conform to setbacks.* Any addition to a mobile home shall be deemed part of the mobile home and shall have the same setbacks as the existing mobile home.

(d) *Skirting required.* Vented skirting of nonflammable material for mobile homes is required. Areas enclosed by the skirting shall be maintained so as to not

provide harborage for rodents or create a fire hazard. It is recommended that insulation be provided inside the skirting to prevent freezing pipes.

Sec. 130-1082. Responsibilities of mobile home park occupants.

(a) *Compliance with municipal ordinances.* Mobile home park occupants shall comply with all applicable requirements of this division and regulations issued hereunder and shall maintain their mobile home space, its facilities, and equipment in good repair and in a clean and sanitary condition. Wrecked, damaged or dilapidated mobile homes shall not be kept or stored in a mobile home park or upon any premises in the city. The zoning administrator shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. A mobile home in such condition is a public nuisance. Whenever the zoning administrator so determines, he shall, notify the park management, the license holder, the land owner, or the mobile home owner in writing that such public nuisance exists within the park or on the lands owned by him giving the findings upon which his determination is based and shall order the home removed from the park or site or repaired to a safe, sanitary, and wholesome condition of occupancy within a reasonable time, but not less than 30 days.

(b) *Mobile home placement.* Mobile home park occupants shall be responsible for proper placement of their mobile homes on a mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.

(c) *Payment of fees.* Mobile home park occupants of a nonexempt mobile home shall remit to the park management when due the cash deposit and monthly parking permit fees.

(d) *Access.* Mobile home park occupants of a mobile home shall give park management access to the mobile home at reasonable times and upon a reasonable notice for purposes of making repairs or alterations necessary to effect compliance with this division or any state or local law or regulation.

(e) *Mobile home use.* Mobile home park occupants shall not engage in any activity or business which is not permitted in a single-family residential zoning district.

Sec. 130-1083. Mobile homes outside parks.

(a) *Restrictions.* Except as otherwise provided in this division, no person shall park, locate, or place any mobile home outside of a licensed mobile home park in the city, except unoccupied mobile homes may be parked on the premises of a licensed mobile home dealer for purposes of sale display, on the premises of a vehicle service business for purposes of servicing or making necessary repairs, on the premises leased or owned by the owner of the mobile home for purposes of sales display for not more than 120 days, provided no business is carried on therein, or in an accessory private garage, building or rear yard of the owner of the mobile home. No person shall stop, stand or park a mobile home on any street, alley, or highway within the city, in violation of Wis. Stats. chs. 340--348, or any ordinance of the city.

(b) *Use permit.* A mobile home located on premises outside a license mobile home park prior to 1978 may continue to occupy the premises, provided the owner of the premises on which the mobile home is located shall have a use permit issued by the zoning administrator. The use shall be considered a nonconforming use and shall

terminate upon discontinuance, for any reason, for 12 months, or total structural repairs and alterations to the mobile home exceed 50 percent of the mobile home net value.

Secs. 130-1084--130-1120. Reserved.

DIVISION 20. HISTORIC CONSERVATION OVERLAY DISTRICT (HC)*

Sec. 130-1121. Purpose and intent.

Within districts now existing or hereafter created, it is intended to permit the creation of historic and cultural conservation overlay districts in general areas or for individual structures and premises officially designated as having historic or cultural significance. Regulations within such districts are in addition to the regulations of the underlying zoning district. These regulations are intended to protect against destruction of or encroachment upon such areas, structures or premises; to encourage uses which will lead to their continuance, conservation, and improvement in a manner appropriate to preservation of the cultural and historic heritage of the city, to prevent creation of environmental influences adverse to such purposes, and to ensure that new structures and uses within such districts will be in keeping with the character to be preserved and enhanced, thereby to protect and promote the general welfare by maintaining and increasing property values and making the district a more attractive anddesirable place in which to live.

(Code 1986, § 17.44(1))

Sec. 130-1122. Uses permitted by right.

Permitted uses in the HC district are as follows: continuation of existing uses when such use is in conformity with permitted uses of underlying zoning district.

(Code 1986, § 17.44(2))

Sec. 130-1123. Uses permitted as conditional use; standards for approval of conditional use.

(a) The following conditional uses shall be allowed in the HC district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Any use change from an existing use which would be permitted by the underlying district.

(2) Any expansion of an existing use which is permitted by the underlying district.

(3) Any new construction of a permitted or conditional use pursuant to the underlying zoning district.

(b) In general, the following items shall be considered in making decisions about conditional use requests within this district:

(1) *Height.* All new structures should be constructed to a height visually compatible with the buildings and environment with which they are visually related.

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* **Cross references:** Historic preservation, ch 62.

(2) *Scale.* The gross volume of any new structure should be visually compatible with the buildings and environment with which it is visually related.

(3) *Proportion of front facades.* In the street elevation of a building, the proportion between the width and height in the facade should be visually compatible with the buildings and environment with which it is visually related.

(4) *Proportion of openings.* The proportions and relationships between doors and windows in the street facades should be visually compatible with the buildings and environment with which they are visually related.

(5) *Rhythm of solids to voids.* 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.

(6) *Rhythm of spacing.* The existing rhythm created by existing building masses and spaces between them should be preserved.

(7) *Relationship of materials.* The materials used in the final facades should be visually compatible with the buildings and environment with which they are visually related.

(8) *Relationship of textures.* The texture inherent in the facade should be visually compatible with the buildings and environment with which it is visually related.

(9) *Relationship of roofs.* The design of the roof should be visually compatible with the buildings and environment with which it is visually related.

(10) *Landscaping.* 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.

(11) *Directional expression of front elevation.* All street facades 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.

(12) *Relationship of architectural details.* Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

(Code 1986, § 17.44(3))

Sec. 130-1124. Requirements for all uses.

Within the HC district, the following standards shall apply:

(1) Maximum building height: Within ten percent of average of adjacent building heights.

(2) Minimum front yard setback: As in the underlying district, or the average of adjacent yards.

(3) Minimum rear yard setback: As in the underlying district, or the average of adjacent yards.

(4) Minimum lot width: As in the underlying district. Lots or portions of lots existing in HC districts may be combined, but no existing lot or combination of lots, parcels, or portions thereof, in single ownership at the time of zoning to HC status, shall be reduced in width, depth, or area without the approval of the plan commission.

(5) Minimum lot frontage: As in the underlying district. Lots or portions of lots existing in HC districts may be combined, but no existing lot or combination of lots, parcels, or portions thereof, in single ownership at the time of zoning to HC status, shall be reduced in width, depth, or area without the approval of the plan commission.

(6) Minimum lot area: As in the underlying district. Lots or portions of lots existing in HC districts may be combined, but no existing lot or combination of lots, parcels, or portions thereof, in single ownership at the time of zoning to HC status, shall be reduced in width, depth, or area without the approval of the plan commission.

(7) Minimum side yard setback: As in the underlying district, or the average of adjacent yards.

(8) Minimum lot area per dwelling unit: As specified for the underlying zoning district; provided, however, that a single-family detached dwelling unit may be permitted on existing lots containing 6,000 square feet.

(9) Off-street parking and loading space: Off-street parking and loading space shall be as required for the underlying zoning district; provided, however, that the following regulations shall apply to the location of such parking facilities:

a. No required off-street parking or loading space shall be located in any front yard.

b. It is the intent of this division to permit off-site parking where required on-site parking is impractical or would have adverse effects on the appearance of the property or of the district. It is also intended to encourage provision of such off-site parking in grouped facilities in interior-block parking lots or courts or at other appropriate locations which will be convenient for users, reduce interference with pedestrian and vehicular traffic by minimizing curb cuts and sidewalk crossings, and make available for other purposes those areas of lots which would otherwise be required to provide driveways and parking space.

(Code 1986, § 17.44(4))

Sec. 130-1125. Review of plans by historic preservation commission.

The historic preservation commission shall be notified of all applications for conditional use permits within the HC district. The historic preservation commission shall review the plans, visit the site for which the conditional use permit is requested, and advise the plan commission as to whether or not the plans are compatible with the surrounding area.

(Code 1986, § 17.44(5))

Secs. 130-1126--130-1140. Reserved.

DIVISION 21. SPECIAL PURPOSE DISTRICT (S-P)

Sec. 130-1141. Purpose and intent.

The purpose of the S-P district is to provide a means of obtaining the goals and objectives of the development guide. The S-P district is intended to provide for those uses which create or could present special problems, hazards or other circumstances with regard to the use of land. This district is to include those uses of land which require large expanses of land, those which afford hazards to health, safety, or other aspects of the general welfare, and those for which it is desirable to have a limited number of a given land use within the community.

(Code 1986, § 17.45(1))

Sec. 130-1142. Uses permitted as conditional use.

The following conditional uses shall be allowed in the S-P district only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:

(1) Refuse disposal sites, dumping grounds, sanitary landfill operations, or similar uses, with the specific provision that setbacks, screening, protective fencing, or some combination of these be provided in a manner adequate to protect the general public from any and all nuisances, hazards or other harmful conditions.

(2) Facilities for the production, mining, processing or storage of concrete, blacktop, asphalt, or other pavings or road surfacing or building materials.

(3) Airports open to the public, hangars, or accessory structures.

(4) Cemeteries when they comply with the provisions of Wis. Stats. §§ 157.061--157.65.

(5) Racetracks.

(6) Sewage treatment facilities.

(7) Accessory structures required by the principal use.

(8) Junkyards and automobile salvage yards.

(Code 1986, § 17.45(2))

Sec. 130-1143. Requirements for all uses.

(a) Within the S-P district, the following standards shall apply:

(1) Minimum lot area: Five acres.

(2) Minimum front yard setback: 50 feet.

(3) Minimum side yard setback: 20 feet.

(4) Minimum rear yard setback: 25 feet.

(5) Maximum slope ratio: 3:1.

(6) Off-street parking: One space per five seats or one space per five anticipated uses at maximum uses of facility.

(b) Abandonment procedures for mining operations shall be as follows:

(1) Slope: 3:1.

(2) Cover: Five inches of topsoil, fast-growing grass or other suitable vegetation, and erosion control as needed.

(Code 1986, § 17.45(3))

Secs. 130-1144--130-1160. Reserved.

DIVISION 22. LIGHT INDUSTRIAL DISTRICT (I-1)*

Sec. 130-1161. Intent and purpose.

(1) *Description.* The I-1 district is intended to permit both large and small scale industrial and office development at an intensity which is consistent with the overall desired character of the community. Beyond a relatively high minimum green space ratio, the primary distinguishing feature of this district is that it is geared to indoor industrial activities which are not typically associated with high levels of noise, soot, odors and other potential nuisances for adjoining properties. In order to ensure a minimum of disruption to residential development, no development within this district shall take direct access to a local residential street or a residential collector street.

(2) *Rationale.* This district is intended to provide a location for light industrial land uses such as assembly operations, storage and warehousing facilities, offices, research and development facilities, and light manufacturing which are protected from potential nuisances associated with certain development permitted within the heavy industrial district and special industrial district. In addition, land uses shall comply with the minimum performance standards presented in this chapter.

(Ord. No. 1997-18, § 9(17.46(1)), 1-19-1998; Ord. No. 1998-12, § 1(17.46), 9-8-1998, Ord. 2011-17)

Sec. 130-1162. Uses permitted by right.

Land uses permitted by right in the I-1 district are as follows:

(1) Cultivation (per section 130-341).

(2) Selective cutting (per section 130-346).

(3) Passive outdoor public recreation (per section 130-371).

(4) Active outdoor public recreation (per section 130-372).

(5) Indoor institutional uses (per section 130-373).

(6) Public services and utilities (per section 130-375).

(7) Office (per section 130-401).

(8) Indoor maintenance service (per section 130-405).

(9) Indoor storage or wholesaling (per section 130-451).

(10) Light industrial uses (per section 130-501).

(11) Artisan studio (per section 130-423).

(Ord. No. 1997-18, § 9(17.46(2)(a)), 1-19-1998, Ord. 2007-4)

Sec. 130-1163. Uses permitted as conditional use.

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* **Cross references:** Businesses, ch 22

Land uses permitted as conditional uses in the I-1 district are as follows:

(1) Clear cutting (per section 130-347).

(2) Outdoor institutional uses (per section 130-374).

(3) Indoor sales or service (per section 130-403).

(4) Commercial animal boarding (per section 130-410).

(5) Group day care center (nine or more children) (per section 130-413).

(6) Vehicle repair and maintenance (per section 130-417).

(7) Group development (per section 130-418).

(8) Outdoor storage and wholesaling (per section 130-452).

(9) Personal storage facility (per section 130-453).

(10) Airport/heliport (per section 130-482).

(11) Distribution center (per section 130-484).

(12) Railroad line (per section 130-485).

(13) Motor vehicle storage yard (per section 130-457).

(14) Communication towers (per section 130-503).

(Ord. No. 1997-18, § 9(17.46(2)(b)), 1-19-1998; Ord. No. 1998-12, § 1(17.46(2)(b)), 9-8-1998, Ord. 2005-44, Ord. 2006-42, Ord. 2008-08, Ord. 2011-17, Ord. 2014-07)

Sec. 130-1164. Uses permitted as accessory use.

Land uses permitted as accessory uses in the I-1 district are as follows:

(1) *Land uses permitted by right.*

a. Farm residence (per section 130-523).

b. Private residential garage or shed (per section 130-524).

c. Company cafeteria (per section 130-525).

d. Indoor sales incidental to light industrial use (per section 130-529).

e. On-site parking lot (per section 130-535).

f. Exterior communication devices (per section 130-536).

g. Outdoor furnace (per section 130-539).

(2) *Land uses permitted as conditional use.*

a. Company-provided on-site recreation (per section 130-526).

b. In-vehicle sales and service (per section 130-528).

c. Light industrial uses incidental to indoor sales (per section 130-530).

(Ord. No. 1997-18, § 9(17.46((2)(c)), 1-19-1998, Ord. 2006-36)

Sec. 130-1165. Uses permitted as temporary use.

Land uses permitted as temporary uses in the I-1 district are as follows:

(1) Outdoor assembly (per section 130-562).

(2) Contractor's project office (per section 130-563).

(3) Contractor's on-site equipment storage (per section 130-564).

(4) Relocatable building (per section 130-565).

(5) On-site real estate sales office (per section 130-566).

(6) Outdoor sales of farm products (per section 130-567).

(Ord. No. 1997-18, § 9(17.46(2)(d)), 1-19-1998)

Sec. 130-1166. Requirements for residential uses.

Regulations applicable to residential uses are not applicable in the I-1 district.

(Ord. No. 1997-18, § 9(17.46(3)), 1-19-1998)

Sec. 130-1167. Requirements for nonresidential uses.

The following regulations are applicable to nonresidential uses in the I-1 district:

(1) Intensity requirements:

a. Maximum number of floors: Four.

b. Minimum landscape surface ratio: 25 percent.

c. Maximum floor area ratio: 0.60.

d. Minimum zoning district area: 40,000 square feet.

e. Maximum building size: Not applicable.

(2) Bulk and lot dimension requirements:

a. Minimum lot area: 40,000 square feet (20,000 square feet permitted as a conditional use).

b. Minimum lot width: 200 feet (100 feet permitted as a conditional use).

c. Minimum street frontage: 50 feet.

(3) Minimum setbacks and building separation:

a. Building to front or street side lot line: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

b. Building to residential side lot line: 30 feet.

c. Building to residential rear lot line: 30 feet.

d. Building to nonresidential side lot line: 15 feet.

e. Building to nonresidential rear lot line: 30 feet.

f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.

g. Minimum building separation: 30 feet.

(4) Maximum building height: 35 feet.

(5) Minimum number of off-street parking spaces required on lot: As required in article XI of this chapter.

(6) Landscaping requirements (nonresidential, two-family and multifamily uses): As required in article IV of this chapter.

(Ord. No. 1997-18, § 9(17.46(4)), 1-19-1998, Ord. 2011-17)

Secs. 130-1168--130-1180. Reserved.

DIVISION 23. HEAVY INDUSTRIAL DISTRICT (I-2)*

Sec. 130-1181. Intent and purpose.

(a) *Description.* The I-2 district is intended to permit both large and small scale industrial and office development at an intensity which provides ample incentive for infill development and redevelopment of industrial areas existing as of the effective date of the ordinance from which this chapter is derived. This district is designed to permit a very wide variety of industrial uses, which may occur both indoors and outdoors. In order to ensure a minimum of disruption to residential development, no development within thisdistrict shall take direct access to a local residential street or a residential collector street.

(b) *Rationale.* This district is intended to provide a location for urban intensity heavy industrial land uses which may include outdoor storage and display uses. In addition, uses shall comply with the minimum performance standards presented in this chapter.

(Ord. No. 1997-18, § 10(17.47(1)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(1)), 9-8-1998)

Sec. 130-1182. Uses permitted by right.

Land uses permitted by right in the I-2 district are as follows:

(1) Cultivation (per section 130-341).

(2) Selective cutting (per section 130-346).

(3) Passive outdoor public recreation (per section 130-371).

(4) Public services and utilities (per section 130-375).

(5) Office (per section 130-401).

(6) Indoor maintenance service (per section 130-405).

(7) Indoor storage or wholesaling (per section 130-451).

(8) Off-site parking lot (per section 130-481).

(9) Distribution center (per section 130-484).

(10) Light industrial uses (per section 130-501).

(Ord. No. 1997-18, § 10(17.47(2)(a)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(2)(a)), 9-8-1998)

Sec. 130-1183. Uses permitted as conditional use.

Land uses permitted as conditional uses in the I-2 district are as follows:

(1) Agricultural service use (per sction 130-344).

(2) Clear cutting (per section 130-347).

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* **Cross references:** Businesses, ch 22

(3) Outdoor display (per section 130-404).

(4) Outdoor maintenance service (per section 130-406).

(5) Group day care center (nine or more children) (per section 130-413).

(6) Vehicle repair and maintenance (per section 130-417).

(7) Group development (per section 130-418).

(8) Outdoor storage or wholesaling (per section 130-452).

(9) Personal storage facility (per section 130-453).

(10) Airport/heliport (per section 130-482).

(11) Heavy industrial uses (per section 130-502).

(12) Communication towers (per section 130-503).

(13) Railroad line (per section 130-485).

(14) Motor vehicle storage yard (per section 130-457).

(15) Artisan studio (per section 130-423)

(Ord. No. 1997-18, § 10(17.47(2)(b)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(2)(b)), 9-8-1998, Ord. 2005-44, Ord. 2006-42, Ord. 2007-4, Ord. 2008-08, Ord. 2013-02)

Sec. 130-1184. Uses permitted as accessory use.

Land uses permitted as accessory uses in the I-2 district are as follows:

(1) *Land uses permitted by right.*

a. Farm residence (per section 130-523).

b. Private residential garage or shed (per section 130-524).

c. Company cafeteria (per section 130-525).

d. Indoor sales incidental to light industrial use (per section 130-529).

e. On-site parking lot (per section 130-535).

f. Exterior communication devices (per section 130-536).

g. Outdoor furnace (per section 130-539).

(2) *Land uses permitted as conditional use.*

a. Company-provided on-site recreation (per section 130-526).

b. Outdoor display, incidental (per section 130-527).

(Ord. No. 1997-18, § 10(17.47(2)(c)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(2)(c)), 9-8-1998, Ord. 2006-36)

Sec. 130-1185. Uses permitted as temporary use.

Land uses permitted as temporary uses in the I-2 district are as follows:

(1) Outdoor assembly (per section 130-562).

(2) Contractor's project office (per section 130-563).

(3) Contractor's on-site equipment storage (per section 130-564).

(4) Relocatable building (per section 130-565).

(5) On-site real estate sales office (per section 130-566).

(Ord. No. 1997-18, § 10(17.47(2)(d)), 1-19-1998)

Sec. 130-1186. Requirements for residential uses.

Regulations applicable to residential uses are not applicable in the I-2 district.

(Ord. No. 1997-18, § 10(17.47(3)), 1-19-1998)

Sec. 130-1187. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the I-2 district are as follows:

(1) Intensity requirements:

a. Maximum number of floors: Four.

b. Minimum landscape surface ratio: 15 percent.

c. Maximum floor area ratio: 1.00.

d. Minimum lot area: 9,000 square feet.

e. Maximum building size: Not applicable.

(2) Bulk and lot dimension requirements:

a. Minimum lot area: 9,000 square feet.

b. Minimum lot width: 75 feet.

c. Minimum street frontage: 50 feet.

(3) Minimum setbacks and building separation, except for Agricultural Service Uses (sec 130-344):

a. Building to front or street side lot line: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

b. Building to residential side lot line: 50 feet.

c. Building to residential rear lot line: 30 feet.

d. Building to nonresidential side lot line: 20 feet.

e. Building to nonresidential rear lot line: 30 feet.

f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.

g. Minimum building separation: 40 feet.

(4) Minimum setbacks and building separation, for Agricultural Service Uses (sec 130-344):

a. All buildings, structures, outdoor storage areas, and outdoor animal containments shall be located a minimum of 100 feet from all lot lines.

b. Minimum paved surface setback: 5 feet from side or rear lot line; ten feet from street lot line.

c. Minimum building separation: 40 feet.

(5) Maximum building height: 35 feet, except for Agricultural Service Uses (sec. 130-344) with an approved conditional use permit allowing height up to 210 feet.

(6) Minimum number of off-street parking spaces required on lot: As required by Chapter 130, Article XI, of the Municipal Code.

(7) Landscaping requirements (nonresidential, two-family and multifamily uses): As required by Chapter 130, Article IV, of the Municipal Code.

(Ord. No. 1997-18, § 10(17.47(4)), 1-19-1998; Ord. No. 1998-12, § 2(17.47(4)), 9-8-1998, Ord. 2013-02)

Secs. 130-1188--130-1195. Reserved.

DIVISION 24. SPECIAL INDUSTRIAL DISTRICT (I-3)*

Sec. 130-1196. Purpose and intent.

(a) *Description.* This district is intended to permit both large and small scale industrial and office development at an intensity which provides ample incentive for infill development and redevelopment of industrial areas existing as of the effective date of the ordinance from which this section is derived. This district is designed to permit a very wide variety of industrial uses which may occur both indoors and outdoors, including certain land uses which are permitted in no other zoning district because of their potential to create nuisances for adjoining properties. In order to ensure a minimum of disruption to residential development, no development within this district shall take direct access to a local residential street or a residential collector street.

(b) *Rationale.* This district is intended to provide a location for urban intensity heavy industrial land uses which may include outdoor storage and display uses. It must be emphasized that this is not a district where virtually any land use is permitted, as at all uses shall comply with the minimum performance standards presented in this ordinance. In addition, certain land uses such as extraction uses, waste disposal facilities, compositing operations, junkyards, salvage operations, and freight terminals are permitted within this district only upon the granting of a conditional use permit.

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Sec. 130-1197. Uses permitted by right.

Land uses permitted by right in the I-3 district are as follows:

(1) Cultivation (per section 130-341).

(2) Selective cutting (per section 130-346).

(3) Passive outdoor public recreation (per section 130-371).

(4) Public services and utilities (per section 130-375).

(5) Office (per section 130-401).

(6) Indoor maintenance service (per section 130-405).

(7) Indoor storage or wholesaling (per section 130-451).

(8) Off-site parking lot (per section 130-481).

(9) Distribution center (per section 130-484).

(10) Light industrial (per section 130-501).

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Sec. 130-1198. Permitted as conditional use.

Land uses permitted as conditional uses in the I-3 district are as follows:

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* **Cross references:** Businesses ch 22

(1) Agricultural services (per section 130-344).

(2) Clear cutting (per section 130-347).

(3) Outdoor maintenance service (per section 130-406).

(4) Outdoor commercial entertainment (per section 130-409).

(5) Sexually oriented land use (per section 130-416).

(6) Junkyard or salvage yard (per section 130-454).

(7) Waste disposal facility (per section 130-455).

(8) Composting operation (per section 130-456).

(9) Airport/heliport (per section 130-482).

(10) Freight terminal (per section 130-483).

(11) Heavy industrial (per section 130-502).

(12) Communication tower (per section 130-503).

(13) Extraction use (per section 130-504).

(14) Railroad line (per section 130-485).

(15) Motor vehicle storage yard (per section 130-457).

(Ord. No. 1998-12, § 3(17.48), 9-8-1998, Ord. 2005-44, Ord. 2006-42)

Sec. 130-1199. Uses permitted as accessory uses.

Land uses permitted as accessory uses in the I-3 district are as follows:

(1) Land uses permitted by right:

a. Farm residence (per section 130-523).

b. Private residential garage or shed (per section 130-524).

c. Company cafeteria (per section 130-525).

d. Indoor sales incidental to light industrial use (per section 130-529).

e. Outdoor furnace (per section 130-539).

(2) Land uses permitted as conditional use:

a. Company provided on-site recreation (per section 130-526).

b. On-site parking lot (per section 130-535).

c. Exterior communication devices (per section 130-536).

(Ord. No. 1998-12, § 3(17.48), 9-8-1998, Ord. 2006-36)

Sec. 130-1200. Uses permitted as temporary uses.

Land uses permitted as temporary uses in the I-3 district are as follows:

(1) Outdoor assembly (per section 130-562).

(2) Contractor's project office (per section 130-563).

(3) Contractor's on-site equipment storage (per section 130-564).

(4) Relocatable building (per section 130-565).

(5) On-site real estate sales office (per section 130-566).

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Sec. 130-1201. Requirements for residential uses.

Regulations applicable to residential uses in the I-3 district are not applicable.

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Sec. 130-1202. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the I-3 district are as follows:

(1) Nonresidential intensity requirements:

a. Maximum number of floors: Four.

b. Minimum landscape surface ratio: Ten percent.

c. Maximum floor area ratio: 1.00.

d. Minimum lot area: 4,800 square feet.

e. Maximum building size: Not applicable.

(2) Nonresidential bulk requirements:

a. Minimum lot area: 4,800 square feet.

b. Minimum lot width: 40 feet.

(3) Minimum setbacks:

a. Building to front or street side lot line: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

b. Building to residential side lot line: 50 feet.

c. Building to residential rear lot line: 30 feet.

d. Building to nonresidential side lot line: 20 feet.

e. Building to nonresidential rear lot line: 30 feet.

f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.

g. Minimum building separation: 40 feet.

h. Maximum building height: 40 feet.

i. Minimum number of off-street parking spaces required on the lot: See parking lot requirements per specific land use in section 13-302.

(4) Nonresidential landscaping requirements (nonresidential, two-family and multifamily):

a. Twenty landscaping points per 100 linear feet of building foundation.

b. Five landscaping points per 1,000 square feet of gross floor area.

c. Twenty landscaping points per 100 linear feet of street frontage.

d. Forty landscaping points per 10,000 square feet paved area/20 stalls.

(Ord. No. 1998-12, § 3(17.48), 9-8-1998)

Secs. 130-1203--130-1210. Reserved.

DIVISION 25. PLANNED OFFICE DISTRICT (O-1)*

Sec. 130-1211. Purpose and intent.

(a) *Description.* The O-1 district is intended to permit high-quality office and institutional land uses at an intensity compatible with the overall community character of the city. Significant areas of landscaping are required in this district to ensure that this effect is achieved.

(b) *Rationale.* This district is used to provide for the permanent protection of an area for those who desire a high-quality office environment which maintains the attractiveness of the site and retains enough open land in the development to ensure that the community character is maintained as long as the O-1 district designation is retained, regardless of how much development occurs within that area. Further, it is intended that a planned office district would be designed comprehensively and compatibly with its surrounding natural features, such as lakes and creeks, and manmade features, such as paths and trails.

(Ord. No. 1997-18, § 11(17.48(1)), 1-19-1998, Ord. 2004-12, Ord. 2006-11)

Sec. 130-1212. Uses permitted by right.

Land uses permitted by right in the O-1 district are as follows:

(1) Cultivation (per section 130-341).

(2) Selective cutting (per section 130-346).

(3) Passive outdoor public recreation (per section 130-371).

(4) Active outdoor public recreation (per section 130-372).

(5) Indoor institutional uses (per section 130-373).

(6) Public services and utilities (per section 130-375).

(7) Office (per section 130-401).

(8) Personal or professional services (per section 130-402).

(Ord. No. 1997-18, § 11(17.48(2)(a)), 1-19-1998)

Sec. 130-1213. Uses permitted as conditional use.

Land uses permitted as conditional uses in the O-1 district are as follows:

(1) Clear cutting (per section 130-347).

(2) Outdoor institutional uses (per section 130-374).

(3) Institutional residential uses (per section 130-376).

(4) Community living arrangement (one to eight residents) (per section 130-377).

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* **Cross references:** Businesses, ch 22

(5) Community living arrangement (nine to 15 residents) (per section 130-378).

(6) Community living arrangement (16 or more residents) (per section 130-379).

(7) Indoor sales or service (per section 130-403).

(8) Indoor commercial entertainment (per section 130-408).

(9) Group day care center (nine or more children) (per section 130-413).

(10) Group development (per section 130-418).

(11) Airport/heliport (per section 130-482).

(12) Railroad line (per section 130-485).

(Ord. No. 1997-18, § 11(17.48(2)(b)), 1-19-1998, Ord. 2005-28, Ord. 2005-44)

Sec. 130-1214. Uses permitted as accessory use.

Land uses permitted as accessory uses in the O-1 district are as follows:

(1) *Land uses permitted by right.*

a. Farm residence (per section 130-523).

b. Private residential garage or shed (per section 130-524).

c. Company cafeteria (per section 130-525).

d. Home occupation (per section 130-531).

e. On-site parking lot (per section 130-535).

f. Exterior communication devices (per section 130-536).

(2) *Land uses permitted as conditional use.*

a. Company-provided on-site recreation (per section 130-526).

b. Outdoor commercial food and beverage service (per section 130-538).

(Ord. No. 1997-18, § 11(17.48(2)(c)), 1-19-1998, Ord. 2005-14)

Sec. 130-1215. Uses permitted as temporary use.

Land uses permitted as temporary uses in the O-1 district are as follows:

(1) Outdoor assembly (per section 130-562).

(2) Contractor's project office (per section 130-563).

(3) Contractor's on-site equipment storage (per section 130-564).

(4) Relocatable building (per section 130-565).

(5) On-site real estate sales office (per section 130-566).

(Ord. No. 1997-18, § 11(17.48(2)(d)), 1-19-1998)

Sec. 130-1216. Requirements for institutional residential uses.

Regulations applicable to institutional residential uses in the O-1 district are as follows:

(1) Residential density and intensity requirements:

a. Minimum zoning district area: 40,000 square feet.

b. Maximum gross density: Up to 50.00 per limits of the conditional use permit.

c. Minimum landscape surface ratio: 50 percent.

d. Maximum building coverage: 40 percent.

e. Maximum accessory building coverage: Ten percent.

(2) Residential bulk and lot dimension requirements:

a. Minimum lot area: 20,000 square feet.

b. Minimum lot width: 100 feet.

c. Minimum street frontage: 50 feet.

(3) Minimum setbacks and building separation:

a. Front or street side lot line to house: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

b. Front or street side lot line to garage: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

c. Side lot line to house or garage: Ten feet.

d. Total of both sides, lot lines to house or garage: 20 feet.

e. Rear lot line to house or garage: 30 feet.

f. Side lot line to accessory structure: Three feet from property line, five feet from alley.

g. Rear lot line to accessory structure: Three feet from property line, five feet from alley.

h. Minimum paved surface setback: Five feet from side or rear; ten feet from street.

i. Minimum dwelling unit separation: 20 feet.

(4) Maximum height of dwelling unit: 35 feet, greater with conditional use permit.

(5) Maximum height of accessory structure: 15 feet.

(6) Minimum number of off-street parking spaces required on lot: Three (includes garage, drives, and all designated parking surfaces).

(7) Minimum dwelling core dimensions: 24 feet by 40 feet.

(8) Minimum roof pitch: 3:12.

(9) Minimum eave width: 18 inches.

(10) Landscaping requirements: See the nonresidential landscaping requirements for multifamily residential landscaping requirements.

(Ord. No. 1997-18, § 11(17.48(3)), 1-19-1998)

Sec. 130-1217. Requirements for nonresidential uses.

Regulations applicable to nonresidential uses in the O-1 district are as follows:

(1) Intensity requirements:

a. Maximum number of floors: Four, except that if the development takes direct access to a residential collector street, the maximum number of floors is two.

b. Minimum landscape surface ratio: 25 percent.

c. Maximum floor area ratio: 0.30.

d. Minimum lot area: 20,000 square feet.

e. Maximum building size: Not applicable, except that if the development takes direct access to a residential collector street, the maximum aboveground floor area of any building is 10,000 square feet.

(2) Bulk and lot dimension requirements:

a. Minimum lot area: 20,000 square feet.

b. Minimum lot width: 100 feet.

c. Minimum street frontage: 50 feet.

(3) Minimum setbacks and building separation:

a. Building to front or street side lot line: 25 feet, 40 feet for a lot adjacent to a street with an officially mapped right-of-way equal to or exceeding 100 feet.

b. Building to residential side lot line: Ten feet.

c. Building to residential rear lot line: 30 feet.

d. Building to nonresidential side lot line: Ten feet or zero feet on zero lot line side.

e. Building to nonresidential rear lot line: 30 feet.

f. Minimum paved surface setback: Five feet from side or rear; ten feet from street.

g. Minimum building separation: 20 feet or zero feet on zero lot line side.

(4) Maximum building height: 45 feet.

(5) Minimum number of off-street parking spaces required on lot: See parking lot requirements per specific land use in article V of this chapter.

(6) Landscaping requirements (nonresidential and multifamily uses):

a. Forty landscaping points per 100 linear feet of building foundation.

b. Fifteen landscaping points per 1,000 square feet of gross floor area.

c. Forty landscaping points per 100 linear feet of street frontage.

d. Eighty landscaping points per 10,000 square feet of paved area/20 stalls.

(Ord. No. 1997-18, § 11(17.48(4)), 1-19-1998, Ord. 2004-12)

Secs. 130-1218--130-1220. Reserved.

DIVISION 26. GROUNDWATER PROTECTION OVERLAY DISRICT (GP)

Sec. 130-1221. Purpose and authority.

(1) PURPOSE. The residents of the City of Evansville depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Wellhead Protection Ordinance is to institute land use regulations and restrictions protecting the municipal water supply of the City of Evansville and promote the public health, safety and general welfare of the residents.

(2) AUTHORITY. Statutory authority of the City to enact these regulations was established by the Wisconsin Legislature in ss. 62.23(7)(a) and (c), Wis. Stats. Under these statutes, the City has the authority to enact this ordinance, effective in the incorporated areas of the City, to encourage the protection of groundwater resources.

Sec. 130-1222. Application of regulations.

The regulations specified in this Wellhead Protection Ordinance shall apply to the incorporated areas of Evansville that lie within the recharge areas for municipal water supply wells as defined in section 130-1223(6), and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this ordinance and the zoning ordinance, the more restrictive provision shall apply.

Sec. 130-1223. Definitions.

(1) AQUIFER. A saturated, permeable geologic formation that contains and will yield significant quantities of water.

(2) CONE OF DEPRESSION. The area around a well, in which the water level has been lowered at least one-tenth of a foot by pumping of the well.

(3) FIVE-YEAR TIME OF TRAVEL. The recharge area upgradient of the cone of depression, the outer boundary of which it is determined or estimated that groundwater will take five years to reach a pumping well.

(4) MUNICIPAL WATER SUPPLY. The municipal water supply of the City of Evansville.

(5) PERSON. An individual, partnership, association, corporation, municipality or state agency, or other legal entity.

(6) RECHARGE AREA. The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.

(7) THIRTY-DAY TIME OF TRAVEL. The recharge area upgradient of a well, or its cone of depression, the outer boundary of which it is determined or estimated that groundwater will take thirty days to reach a pumping well.

(8) WELL FIELD. A piece of land used primarily for the purpose of locating wells to supply a municipal water system.

(9) ZONE OF SATURATION. The area of unconsolidated, fractured or porous material that is saturated with water and constitutes groundwater.

Sec. 130-1224. Groundwater technical review committee.

(1) The Evansville Groundwater Technical Review Committee shall consist of all of the following:
    a. The Zoning Administrator.
    b. The City Engineer.
    c. The Superintendent of Municipal Services.
    d. A local representative from the Department of Natural Resources with expertise in groundwater or groundwater contamination issues, appointed by their Department and approved by the City Council.
    e. One member, who has at least one of the following qualifications:
        i. Is a hydrogeologist, hydrologist or a professional engineer with a background in groundwater; or
        ii. Is a certified groundwater professional.

(2) The purpose of the Evansville Groundwater Technical Review Committee is to provide objective and scientific technical review of requests for conditional use permits and make recommendations to the Plan Commission to grant or deny conditional use permits based upon the facts discovered in that review, to make recommendations on any and all conditions placed on a conditional use permit, and to give advice on matters concerning groundwater.

(Ord. 2009-05, Ord. 2014-02)

Sec. 130-1225. Groundwater protection overlay district.

A Groundwater Protection Overlay District may be created to institute land use regulations and restrictions within a defined area which contributes water directly to a municipal water supply and thus promotes public health, safety, and welfare. The district is intended to protect the groundwater recharge area for the existing or future municipal water supply from contamination.

Sec. 130-1226. Supremacy of this district.

The regulations of an overlay district will apply in addition to all other regulations which occupy the same geographic area. The provisions of any zoning districts that underlay this overlay district will apply except when provisions of the Groundwater Protection Overlay District are more stringent.

Sec. 130-1227. Zones.

(1) ZONE 1 OF GROUNDWATER PROTECTION OVERLAY DISTRICT. Zone 1 is the area of land which contributes water to the well in question, out to a 30-day time of travel to the well. Time of travel delineations must be based on accepted hydrogeological research as outlined in the State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2 with Zone boundaries normalized to road centerlines, railways, surface water features, and the public land survey section lines, 1/2, 1/4, 1/8, or 1/16 section lines.

(2) ZONE 2 OF THE GROUNDWATER PROTECTION OVERLAY DISTRICT. Zone 2 encompasses the area of land which contributes water to the well starting at the line which delineates the 30-day time of travel and ends at the line delineating the 5-year time of travel to the well. Time of travel delineations must be based on accepted hydrogeological research as outlined in the State Wellhead Protection Program Plan for Public Water Utilities, Appendix 2 with Zone boundaries normalized to road centerlines, railways, surface water features, and the public land survey section lines, 1/2, 1/4, 1/8, or 1/16 section lines.

Sec. 130-1228. Groundwater protection overlay districts boundaries.

(1) The boundaries of the Groundwater Protection Overlay Districts shall be shown on the Evansville zoning map. The locations and boundaries of the zoning districts established by this ordinance are set forth on the City of Evansville Municipal Wellhead Protection Areas Map which is incorporated herein and hereby made a part of this ordinance. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this ordinance as though fully set forth and described herein.

(2) Zone 1 and Zone 2 for the Evansville well fields are delineated on the Wellhead Protection Area Map which is attached and made a part of this ordinance.

Sec. 130-1229. Permitted uses.

(1) The following permitted uses in Zone 1 are subject to the separation distance requirements, section 130-1230 and prohibited uses, section 130-1231:
    a. Public and private parks, playgrounds and beaches, provided there are no on-site wastewater disposal systems or holding tanks.
    b. Wildlife and natural and woodland areas.
    c. Biking, hiking, skiing, nature, equestrian and fitness trails.
    d. Residential which is municipally sewered.
    e. Routine tillage, planting, and field management operations in support of agricultural crop production, where nutrients from legume, manure, and commercial sources are accounted for and credited toward crop nutrient need. The combination of all nutrient sources applied or available on individual fields may not exceed University of Wisconsin soil test recommendations for that field.

(2) The following permitted uses in Zone 2 are subject to the separation distance requirements, section 130-1230 and prohibited uses, section 130-1231:

a. All of the uses permitted in Zone 1.
b. Single-family residences on a minimum lot of 20,000 square feet with a private on-site sewage treatment system receiving less than 8,000 gallons per day, which meets the County and State health standards for the effluent, and is in conformance with ch. Comm 83, Wis. Adm. Code.
c. Commercial establishments which are municipally sewered.
d. Industrial establishments which are municipally sewered.
e. Residential use of above ground LP gas tanks for heating, not to exceed 1,000 gallons.

Sec. 130-1230. Separation requirements.

The following separation distances as specified in s. NR 811.16(4)(d), Wis. Adm. Code, shall be maintained:

a. Fifty feet between a public water supply well and a stormwater sewer main or any sanitary sewer main constructed of water main materials and joints which is pressure tested in place to meet current AWWA 600 specifications. NOTE: Current AWWA 600 specifications are available for inspection at the office of the Wisconsin Department of Natural Resources, the Secretary of State's office and the office of the Revisor of Statutes.
b. Two hundred feet between a public water supply well and any sanitary sewer main not meeting the above specifications, any sanitary sewer lift station or single-family residential fuel oil tank.
c. Four hundred feet between a public water supply well and a septic system receiving less than 8,000 gallons per day, or a stormwater detention, retention, infiltration or drainage basin.
d. Six hundred feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under s. Comm 10.10, Wis. Adm. Code.
e. One thousand feet between a well and land application of municipal, commercial or industrial waste; industrial, commercial or municipal waste water lagoons or storage structures; manure stacks or storage structures; and septic tanks or soil adsorption units receiving 8,000 gallons per day or more.
f. Twelve hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; coal storage area; salt or deicing material storage area; gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under s. Comm 10.10, Wis. Adm. Code; bulk fuel storage facilities; and pesticide or fertilizer handling or storage facilities.

Sec. 130-1231. Prohibited uses.

(1) The following uses are prohibited in Zones 1 and 2:

a. Buried hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40CFR Part 370.)
b. Cemeteries.
c. Chemical manufacturers (Standard Industrial Classification Major Group 28).
d. Coal storage.
e. Dry cleaners.
f. Industrial lagoons and pits.
g. Landfills and any other solid waste facility, except post-consumer recycling.
h. Manure and animal waste storage except animal waste storage facilities regulated by the County.
i. Nonmetallic earthen materials extraction or sand and gravel pits.
j. Pesticide and fertilizer dealer, transfer or storage.
k. Railroad yards and maintenance stations.
l. Rendering plants and slaughterhouses.
m. Salt or deicing material storage.
n. Salvage or junkyards.
o. Septage or sludge spreading, storage or treatment.
p. Septage, wastewater, or sewage lagoons.
q. Private on-site wastewater treatment systems or holding tanks receiving 8,000 gallons per day or more.
r. Stockyards and feedlots.
s. Stormwater infiltration basins without pre treatment, including vegetative filtration and/or temporary detention.
t. Motor vehicular services, including filling and service stations, repair, renovation and body working.
u. Wood preserving operations.

(2) In Zone 1, the conditional uses of section 130-1232(2) are prohibited.

Sec. 130-1232. Conditional uses.

(1) Any person may request a conditional use permit for certain uses, activities and structures within Zone 2 of the Groundwater Protection Overlay District not prohibited in section 126-1231.

(2) The following conditional uses shall be allowed within Zone 2 only after issuance of a conditional use permit as prescribed by article II, division 4 of this chapter:
a. Jewelry plating and metal plating.
b. Machine or metal working shops.
c. Commercial establishments utilizing a private on-site wastewater treatment system receiving less than 8,000 gallons per day, which is in conformance with ch. Comm 83, Wis. Adm. Code.
d. Research labs, universities and hospitals.
e. Exposed hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA criteria under 40 CFR Part 370.) This shall not apply to residential LP gas tanks which are permitted under section 130-1229(2)(e).

f. Storage or processing of extremely hazardous substances, radioactive materials or substances listed in Table 1, ch. NR 140, Wis. Adm. Code (Extremely hazardous substances are identified by SARA/EPCRA criteria under 40 CFR Parts 302 and 355.)
g. Biochemical research or manufacturing facilities.

(3) All requests for a conditional use permit shall be submitted in writing to the City of Evansville, and shall include all of the following:
   a. A site plan map with all building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, and 2-foot ground elevation contours.
   b. A business plan and/or other documentation which describes in detail the use, activities, and structures proposed.
   c. An environmental assessment report prepared by a licensed environmental engineer which details the risk to, and potential impact of, the proposed use, activities, and structures on groundwater quality.
   d. An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring.
   e. A contingency plan which addresses in detail the actions that will be taken should a contamination event caused by the proposed use, activities, or structures occur.

(4) The person making the request shall reimburse the City for consultant fees and technical review committee expenses associated with this review at the invoiced amount, plus administrative costs.

(5) All conditional use permits granted shall be subject to conditions that will include environmental and safety monitoring determined necessary to afford adequate protection of the public water supply. These conditions shall include all of the following:
   a. Provide current copies of all federal, state and local facility operation approval or certificates and on-going environmental monitoring results to the City.
   b. Establish environmental or safety structures/monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management, and groundwater monitoring.
   c. Replace equipment or expand in a manner that improves the environmental and safety technologies being utilized.
   d. Prepare, file and maintain a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county and state officials. Provide a current copy to the City.

(6) The Evansville Plan Commission shall decide upon a request for a conditional use permit only after full consideration of the recommendations made by the Evansville Groundwater Technical Review Committee. Any conditions above and beyond those specified in Conditional Uses, subsection (5) herein, that are recommended by the Evansville

Groundwater Technical Review Committee may be applied to the granting of the conditional use permit.

Sec. 130-1233. Requirement for existing facilities which may cause or threaten to cause environmental pollution.

Existing facilities within the Groundwater Protection Overlay District at the time of enactment of such district which may cause or threaten to cause environmental pollution include, but are not limited to, those types listed in the Department of Natural Resources' form 3300-215, Public Water Supply Potential Contaminant Use Inventory Form and all other facilities which are considered a prohibited use in prohibited uses, section 130-1231, or a conditional use in conditional uses, section 130-1232, all of which are incorporated herein as if fully set forth.

a. Such facilities as above which exist within the district at the time of enactment of a district shall provide copies of all current, revised or new federal, state and local facility operation approvals, permits or certificates; operational safety plans; and on-going environmental monitoring results to the City.
b. Such facilities as above which exist within the district at the time of enactment of a district shall have the responsibility of devising, filing and maintaining, with the City, a current contingency plan which details how they intend to respond to any emergency which may cause or threaten to cause environmental pollution that occurs at their facility, including notifying municipal, county and state officials.
c. Such facilities as above cannot engage in or employ a use, activity, or structure listed in prohibited uses, section 130-1231, or in conditional uses, section 130-1232, which they did not engage in or employ at the time of enactment of a district, and can only expand, replace or rebuild those present uses, activities, equipment, or structures on the site or property of record associated with the facility at the time of enactment of a district, and in a manner that improves the environmental and safety technologies already being utilized. No existing use, activity, or structure listed as a prohibited use or conditional use shall be expanded, replaced, or rebuilt unless a conditional use permit is granted for such expansion, replacement, or rebuilding. This section does not apply to normal maintenance or minor repairs.

Sec. 130-1234. Changing technology.

(1) The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by a particular use considered to be of a high risk for pollution to the groundwater resource. As the technology of other uses change to low or non-risk materials or methods, upon petition from such use, after conferring with the Groundwater Technical Review Committee or other expert opinion, and after appropriate public notice and hearing, the City through appropriate procedures and actions to change these provisions of the Evansville Municipal Code may remove from the designated prohibited uses such uses as are demonstrated convincingly that they no longer pose a groundwater pollution hazard.

(2) In dealing with uses which attempt to become permissible, under the terms of this district, by continuing to utilize pollutant materials but altering their processing, storage and handling, it is not the intention to accept alternate or reduced hazards as the basis for making a use permissible.

It is the intention to continue a prohibition on such uses until the technology of the use removes reliance upon the pollutant materials or processes deemed to be a groundwater hazard.

Sec. 130-1235. Enforcement and penalty.

(1) PENALTY. Any person who violates, neglects or refuses to comply with any of the provisions of this ordinance shall be subject to a penalty as provided in section 1-11 of this Municipal Code.

(2) INJUNCTION. The City of Evansville may, in addition to any other remedy, seek injunction or restraining order against the party alleged to have violated the provisions herein, the cost of which shall be charged to the defendant in such action.

(3) CLEANUP COSTS. As a substitute for, and in addition to any other action, the City of Evansville may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the costs, together with the costs of prosecution. Any person who causes the release of any contaminants which may endanger or contaminate the municipal water supply system associated with a Ground Water Protection Overlay District shall immediately cease such discharge and immediately initiate clean up satisfactory to the City of Evansville and the other state and federal regulatory agencies. The person who releases such contaminants and the person who owns the facility whereon the contaminants have been released shall be jointly and severally responsible for the cost of cleanup, consultant, or other contractor fees, including all administrative costs for oversight, review and documentation, including the City employees, equipment, and mileage.

Sec. 130-1236. Conflict, interpretation, and severability.

(1) CONFLICT AND INTERPRETATION OF PROVISIONS. If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum and are not deemed a limitation or repeal of any other power granted by Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the most restrictive requirements or interpretations shall apply.

(2) SEVERABILITY OF CODE PROVISIONS. If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The City

Council hereby declares that they would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

[Ord. 2005-53]

DIVISION 27. TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND)

Sec. 130-1237a. Definitions

Accessory dwelling unit (ADU) means a second dwelling unit that is located on the same lot as a principal dwelling unit. Characteristically, an ADU is subordinate to the principal dwelling unit. An ADU may be attached to the principal dwelling unit, detached, or located in another building (e.g., above a garage).

Between-lot walkway means a walkway situated between two tracts of land. (Figure 1)

Figure 1. Between-Lot Walkway

Block means a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Building scale means the relationship between the mass of a building and its surroundings; including streets, open spaces, and surrounding buildings. Mass is the three-dimensional bulk of a structure: height, width, and depth.

Figure 2. Curb Extension at a Street Intersection

Build to line means the line to which construction of a building, excluding porches, bay windows, decks, is to occur. A build-to line runs parallel to the front property line and is established to create an even building facade line on a street.

Comprehensive plan means the plan for the physical development of the city, adopted by the city pursuant to Wisconsin Statutes, Sections 62.23 and 66.1001.

Curb extension means an extension of a sidewalk into a roadway. Curb extensions are typically used at mid-block crosswalks or at street intersections to shorten the length of the crosswalk and to provide increased safety and visibility for pedestrians and motorists. (Figure 2)

Figure 3. Roundabout Intersection

Curb radius means the radius of the circle formed by the curve of the curb at the corner.

Lot width means the horizontal distance between side lot lines as measured at the minimum front yard setback required in the zoning district in which the lot is located.

Mixed-use area means a portion of a traditional neighborhood development district where residential and nonresidential land uses, such as commercial, civic, institutional, and governmental are placed in close proximity to one another.

Mixed-use building means a multistory building with businesses on the first floor (at grade) and offices and dwelling units on the upper floors.

Neighborhood development plan means a city, developer, or property owner prepared plan for the future development of a part of the community, and including the proposed land use pattern, zoning, street alignments, lot patterns, locations of utilities and public buildings, parks, open spaces, environmental corridors, trails, and a development phasing timetable.

Roundabout intersection means a street intersection designed without traffic control lights where traffic continues around a raised circular area in a counter clockwise direction. It acts like a series of "T" intersections with right-in and right-out turning movements. In contrast to a traffic circle, a roundabout is intended to substitute for a stop sign or traffic lights. (In contrast see traffic circle.) (Figure 3)

Speed hump means a raised section of a roadway that is perpendicular to the flow of traffic and which is designed to decrease the speed of motor vehicles.

Street terrace means that area between the back of a curb (or the edge of pavement where there is no curb) and the property boundary line.

Traffic circle means a small-diameter feature placed in an uncontrolled intersection where drivers proceed around it in a counter clockwise direction. Traffic circles are primarily intended to slow down, not necessarily to regulate the flow of traffic at the intersection. (In contrast see roundabout.)

Work-live unit means a building or portion thereof that houses a commercial activity (e.g., office, retail, artisan shop), which occupies the majority of the space, and a living quarters for the business operator.

Exhibit 1. Examples of Housing Types

Single family detached

Accessory housing unit

Twin home / duplex

Townhouses

Multi-family

Sec. 130-1237b. General design principles

Development projects in the Traditional Neighborhood Development (TND) district shall observe the following general design principles:

(1) There is a mix of land uses, including residential, commercial, civic, and open space uses in close proximity to one another.
(2) There is a variety of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes.
(3) Buildings are designed for the human scale (sizes of buildings in proportion to sizes of people).
(4) Buildings are placed comparatively close to the street.
(5) Each neighborhood has a focal point which may consist of a significant civic space and /or commercial activity node.
(6) Streets are relatively narrow and shaded by rows of trees.
(7) Streets, sidewalks, and paths form an interconnected network of travel.
(8) Playgrounds and other types of parks are within walking distance of residential units.

Sec. 130-1237c. Minimum project size

All projects developed in this district shall consist of at least 10 acres if not adjoining another TND project or if not adjoining a part of the city where the development pattern generally meets the general intent of this division. The plan commission may allow the submission of an application upon written petition for projects greater than 5 acres but less than 10 acres. If a development project adjoins another project and represents an extension of that project, or if a development project adjoins a part of the city that meets the general intent of this division, there shall be no minimum project size.

Sec. 130-1237d. Character of land included in a traditional neighborhood development (TND) district

The land within a traditional neighborhood development district may include one parcel or multiple parcels. If the district contains multiple parcels, they may be owned, leased, or controlled either by a single person or by any number of persons.

Sec. 130-1237e. Land uses

Those land uses in Table 130-1237e that are listed as permitted may be permitted in the district subject to the general guidelines in this section and as specified in the master development plan. Those uses that are listed as a conditional use may be permitted subject to the conditional use process in Article II, Division 5 of the zoning code (chapter 130). The following standards shall apply:

(1) Commercial land uses shall be located at one or more nodes.
(2) Projects exceeding 10 acres but less than 20 acres shall include two or more of the residential uses permitted in the district.
(3) Projects that are 20 acres or larger shall include three or more of the residential uses permitted in the district.
(4) At least 15 percent of the gross land area shall be set aside as permanently protected common open space, such as public parks, environmental corridors, trails, protected natural areas, and private parks that are permanently restricted

from non-recreational development. Small neighborhood parks, playgrounds, and squares should be integrated into the development, while large outdoor recreation areas should generally be located at the periphery.

(5) A variety of lot sizes shall be provided to facilitate housing choice and meet the requirements of people with different housing needs.

(6) At least 90 percent of the residences shall be within ¼ mile from a permanently protected common open space area.

(7) At least 75 percent of the residences shall be within ¼ mile from a mixed-use area within or outside of the project. At least 75 percent of the developed portion of the project shall be allocated for residential purposes. The remaining portion may be used for commercial, institutional, and governmental land uses.

(8) Alley-loaded lots are the predominate type of residential lot. Front-loaded lots may be situated around the perimeter of the project and in those areas in the project where it is not possible to use alley-loaded lots.

Table 130-1237e. Land Uses.

Agricultural uses		
Cultivation	130-341	P
Husbandry	130-342	-
Intensive agriculture	130-343	-
Agricultural service	130-344	-
On-site agricultural retail	130-345	-
Selective cutting	130-346	P
Clear cutting	130-347	C
Residential uses		
Single-family, detached		P
Twin homes		P
Duplex units	130-322	P
Multi-family units (3 – 4 units)		P
Multi-family units (5 – 8 units)		P
Multi-family units (9 and more units)		P
Accessory dwelling unit		C
Institutional uses		
Passive outdoor public recreational uses	130-371	P

Table 130-1237e. Land Uses.

Active outdoor public recreational uses	130-372	P
Indoor institutional uses	130-373	P
Outdoor institutional uses	130-374	C
Public services and utilities	130-375	P
Institutional residential uses	130-376	C
Community living arrangement (1—8 residents)	130-377	P
Community living arrangement (9—15 residents)	130-378	P
Community living arrangement (16+ residents)	130-379	P
Commercial uses		
Office	130-401	P [1]
Personal or professional service	130-402	P [1]
Indoor sales or service	130-403	P [1]
Outdoor display	130-404	-
Indoor maintenance service	130-405	P [1]
Outdoor maintenance service	130-406	-
In-vehicle sales or service	130-407	-
Indoor commercial entertainment	130-408	P [1]
Outdoor commercial entertainment	130-409	-
Commercial animal boarding	130-410	-
Commercial indoor lodging	130-411	-
Group day care center (9+ children)	130-	C

Table 130-1237e. Land Uses.

	413	
Campground	130-414	-
Boardinghouse	130-415	-
Sexually oriented land use	130-416	-
Vehicle repair and maintenance	130-417	-
Group development	130-418	C
Gas station/convenience store/food counter	130-419	C
Carwash	130-420	-
Large format retail store	130-422	-
Mixed uses		
Mixed use building		P
Work-live unit		P
Storage or disposal uses		
Indoor storage or wholesaling	130-451	-
Outdoor storage or wholesaling	130-452	-
Personal storage facility	130-453	-
Junkyard or salvage yard	130-454	-
Waste disposal facility	130-455	-
Composting operation	130-456	-
Transportation uses		
Off-site parking lot	130-481	-
Airport/heliport	130-482	-
Freight terminal	130-	-

Table 130-1237e. Land Uses.

	483	
Distribution center	130-484	-
Railroad line	130-485	C
Industrial uses		
Light industrial uses	130-501	-
Heavy industrial uses	130-502	-
Communication tower	130-503	-
Extraction use	130-504	-
Accessory uses		
Bed and breakfast establishment	130-412	C
Farm residence	130-523	-
Private residential garage or shed	130-524	P
Company cafeteria	130-525	-
Company-provided on-site recreation	130-526	-
Outdoor display incidental to indoor sales and service	130-527	-
In-vehicle sales and service	130-528	-
Indoor sales incidental to light industrial use	130-529	-
Light industrial use incidental to indoor sales	130-530	-
Home occupation (conventional)	130-531	P
Home occupation (nonconventional)	130-531	C
Family day care home (4 - 8 children)	130-532	P
Intermediate day care home (9 – 15	130-	-

Table 130-1237e. Land Uses.

children)	533	
Migrant labor camp	130-534	-
On-site parking lot	130-535	P
Exterior communication device	130-536	P
Drive-in financial institution	130-537	-
Outdoor commercial food and beverage service	130-538	C
Outdoor furnace	130-539	-
Temporary uses		
General temporary outdoor sales	130-561	-
Outdoor assembly	130-562	-
Contractor's project office	130-563	P
Contractor's on-site equipment storage	130-564	P
Relocatable building	130-565	-
On-site real estate sales	130-566	P
Seasonal outdoor sales of farm products	130-567	-
Sidewalk café	130-568	C

Key: Uses allowed by right are indicated with a “P” and conditional uses are indicated with a “C”.

Notes: 1. The floor area of an individual business shall be less than 6,000 square feet.

Sec. 130-1238a. Dimensional requirements.

Lots shall generally conform to the standards in Table 130-1238a for lot area and build to line. Side yard and rear yard setbacks and lot width shall comply with the approved master plan and project narrative, which shall be construed to be a part of this division.

Table 130-1238a.
Dimensional standards

	Minimum and Maximum Lot Area	**Minimum and Maximum Build To Line**
Single-family, detached (front-loaded)	5,000 to 6,500 square feet	8’ to 14’
Single-family, detached (alley-loaded)	4,500 to 6,500 square feet	8’ to 14’
Duplex and twin house	3,000 to 5,000 square feet per dwelling unit	8’ to 14’
Townhouse	3,500 square feet per dwelling unit	12’ to 16’
Multi-family	700 square feet for each one-bedroom dwelling unit, plus 300 square feet of lot area for each additional bedroom	14’ to 18’

Sec. 130-1238b. Blocks

(a) *Design considerations*. Blocks shall be designed to:

(1) create street continuity and an interconnected street network,
(2) foster bicycle and pedestrian travel,
(3) assure traffic safety,
(4) accommodate the special needs of the use contemplated, and
(5) take advantage of the opportunities or constraints posed by topography or natural features.

(b) *Single- and double-tier blocks*. Blocks with one tier of lots may be located on the perimeter of the project or within the interior of the project when the lots front on a common green space or similar feature. Elsewhere, blocks shall consist of two tiers of lots.

(c) *Block dimensions.* A double-tier block shall not be longer than 800 feet or less than 400 feet, except where necessary due to topography or other natural feature. The length of a single-tier block on the perimeter of the subdivision shall conform to the

standards of a double-tier block, except when the street network from a previously developed area cannot be carried over into the proposed subdivision or when a street from the proposed subdivision can not be carried over into the abutting vacant land due to topography and other similar factors. When a single-tier block fronts on a linear green space that is narrower than 3 times the average width of the lots in the block, the block length shall not exceed 1,600 linear feet. There is no limitation on the length of a single-tier block fronting on a non-linear green space (e.g., park, open space).

(d) *Between-Lot Walkway*. The city may require a between-lot walkway within an easement or public right-of-way when needed to provide pedestrian access to public amenities, commercial or employment centers, or other pedestrian-oriented areas. Such walkways shall be well-lit to provide visibility.

Sec. 130-1238c. Circulation requirements.

(a) *Generally*. The circulation system shall be designed to:

(1) allow for different modes of transportation;
(2) provide functional and visual links among the residential areas, mixed-use area, and open space areas within the TND;
(3) connect to existing and proposed development outside the TND;
(4) provide adequate traffic capacity;
(5) provide connected pedestrian and bicycle routes including off-street paths or bicycle lanes on streets;
(6) control through traffic;
(7) limit direct lot access on streets with higher expected traffic volumes; and
(8) promote safe and efficient mobility.

(b) *Pedestrian circulation*. Convenient and continuous pedestrian circulation systems, including walkways and paths, that minimize pedestrian-motor vehicle conflicts shall be provided throughout the TND. Where feasible, any existing pedestrian routes through the site shall be preserved, enhanced, or relocated if necessary. Streets, except for alleys, shall be bordered by a sidewalk on both sides except that the plan commission may, in its discretion, permit a sidewalk to be constructed on only one side of a street if, and only if, the other side of the street is occupied by common open space. Clear and well-lighted walkways shall connect entrances for multi-family residential and non-residential buildings to the adjacent public sidewalk and to associated parking areas. Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be well lit and clearly marked with contrasting paving materials at the edges, raised pavement, or striping. Curb extensions, median refuges, and other related techniques shall also be incorporated along collector streets and at key intersections to shorten the pedestrian-crossing distance.

(c) *Motor vehicle circulation*. Motor vehicle circulation shall be designed to efficiently move motor vehicle traffic via multiple routes and to minimize conflicts with pedestrians and bicycles. Traffic calming features such as curb extensions, traffic circles, medians, speed humps, and on-street parking are encouraged to slow traffic speeds. Arterial streets should generally not bisect a TND. Collector streets within the TND are intended to carry traffic from minor streets to arterial streets, include the principal

entrance street to a residential development component, and may be subject to access controls. Minor streets are intended to be used primarily for access to abutting properties, and are usually not subject to access controls. Alleys are special public ways affording secondary access to the rear of abutting properties. Streets and alleys shall meet the standards enumerated in the master development plan.

(d) *Street layout*. The street layout in the TND district shall maintain the existing street grid, where present, and restore any disrupted street grid where feasible. The orientation of streets shall enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, minimize street gradients, and minimize the use of double frontage lots. Notwithstanding section 110-159, all streets shall extend through the development or terminate at other streets, except minor streets may temporarily "dead end" when such streets will connect to future phases or other sites outside the TND and may permanently terminate in a cul-de-sac only where there will be a through connection via a pedestrian way or bicycle path at the end.

Sec. 130-1238d. Parking Requirements.
All TNDs shall meet the parking and loading requirements found elsewhere in this chapter, except that the city may allow adjacent on-street parking within a TND to apply toward the minimum parking requirements. For multi-family buildings and in the required mixed-use area, shared use parking lots are encouraged, off-street parking lots may not be adjacent to or opposite from a street intersection, and parking lots shall be located to the rear or sides of buildings. The edges of parking lots, "islands," and all other areas not used for parking or vehicular circulation shall be landscaped and curbed, particularly where the parking lot is located to the side of a building.

Parking lots containing more than 30 spaces shall be broken up into smaller pods with not more than 30 spaces each, with the pods separated from one another by landscaped areas or buildings. Site plans shall provide a direct route to service or loading dock areas, while minimizing the movement of loading vehicles through parking areas. Reduction of impervious surfaces through the use of pervious pavement and interlocking pavers is encouraged, particularly for remote parking lots and parking areas for periodic uses.

Sec. 130-1238e. Other requirements.
(a) *Street lighting*. Street lighting shall be provided on both sides of all streets at intervals of no greater than 75 feet. More, smaller streetlights as opposed to fewer, higher intensity lights should be used.

(b) *Utilities*. All new public and private utility installations shall be placed underground, except that above-ground service pedestals may be used. Utilities shall be located in alleys as they may be incorporated into the project design.

(c) *Street trees*. On average, at least one tall deciduous tree or one climax tree shall be planted within the street terrace for each 50 feet of street frontage. Street trees shall be evenly spaced within the terrace, but may be clustered or adjusted to achieve a particular design objective or account for traffic visibility, curb openings, street lighting, and other

obstructions. Street trees shall generally be located between the sidewalk and the curb and within the landscaped area of a boulevard. If placement of street trees within the right-of-way will interfere with pre-existing utility lines, trees may be planted within the private street yard adjacent to the sidewalk. The developer shall purchase and plant such trees at its expense, although such trees should be planted after buildings have been constructed. The developer may enter into agreements with lot purchasers requiring lot purchasers to plant such trees, but if a lot purchaser fails to do so, it continues to be the developer's obligation to plant such trees.

(d) *Existing structures.* Existing structures, if determined to be historic, architecturally, or culturally significant, shall be protected from demolition or encroachment by incompatible structures or land development, to the extent reasonably practical. The U.S. Secretary of the Interior's "Standards for Rehabilitation of Historic Properties" shall be used as criteria for renovating significant structures. The Historic Preservation Commission shall review such proposals and provide its recommendation to the Plan Commission.

Sec. 130-1239a. Application review procedure
TND districts shall be established using the procedure for planned development districts in Section 130-1044 of the Municipal Code.

Sec. 130-1239b. Extension of review period
(a) *Generally*. Prior to the final decision of the common council, an applicant may request an extension to the review period if the applicant wishes to amend the application with new or different information.

(b) *Procedure*. If the common council approves the extension, the plan commission will rehear the amended application with appropriate notice.

(c) *Extension requirements*. Unless otherwise stated in writing, an extension request automatically extends the review period to 30 days beyond the date when the plan commission hears the amended application.

Sec. 130-1239c. Imposition of conditions
The plan commission may recommend and the common council may impose such conditions and restrictions as may be necessary to grant approval. Such conditions and restrictions may relate to any of the factors it considered in reaching its recommendation or decision. In addition, the plan commission may recommend and the common council may require the provision of off-site exactions that may be necessary to approve the application.

Sec. 130-1239d. Basis of decision
The plan commission in making its recommendation and the common council in making its decision shall, at a minimum, consider the following factors:

(1) consistency of the project with the city's comprehensive plan and neighborhood plan or other subarea plan, if any
(2) character and intensity of non-residential land uses in the project

(3) character and density of residential land uses in the project
(4) effects of the project on traffic safety and efficiency and pedestrian circulation, both on-site and off-site
(5) effects of the project on the natural environment
(6) effects of the project on surrounding properties, including operational considerations relating to hours or operation and creation of potential nuisances
(7) overall appearance of the project
(8) effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the district
(9) the extent to which the proposed design of the buildings and other structures are compatible with the desired character of the surrounding area
(10) appropriateness of the proposed development schedule, if any, given the scope of the project
(11) effects on necessary public services, including public schools
(12) adequacy of existing and planned public and private infrastructure that may be needed to support the project, including water and wastewater, stormwater management, and streets

Sec. 130-1239e. Application form and content

The application submittal shall include the following:

(1) an application form as may be used by the city;
(2) a master development plan of the project prepared at an appropriate scale and containing the information listed in Table 130-1239e;
(3) a project narrative that describes the project, development standards for each of the lots to include side yard and rear yard setbacks, building height, and allowable use based Table 1, and other special development requirements and restrictions;
(4) a preliminary draft of covenants if any are to be imposed; and
(5) if the project is to be constructed in phases, a development schedule which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

Table 130-1239e

General Information	TND District Development Master Plan
Project name (e.g., business name, subdivision name)	X
Applicant name	X
Preparation date	X
Name of preparer	X
Survey Information	
North arrow and graphic scale	X
Address of subject parcel or legal description	X
Property boundaries	X
Acreage of subject parcel	X
Project Development Information	
Land use summary table by density/intensity and	X

acreage	
Easements/rights-of-ways (location, width, purpose, ownership)	X
Common areas/conservancy areas (location, purpose, ownership)	X
Land to be dedicated to the public (boundaries, area, purpose)	X
Setting	
Property boundaries within ____ feet of the subject parcel	X (150’)
Land uses within ____ feet of the subject parcel	X (150’)
Zoning district boundaries within ____ feet of the subject parcel	X (150’)
Municipal boundaries within ____ feet of the subject parcel	X (150’)
Site Features (Existing and Proposed)	
Ground contours when any slope exceeds 10 percent	X
Wetlands	X
Woodlands	X
Wildlife habitat, including critical wildlife habitat	X
Environmentally sensitive features	X
Water resources (streams, drainage ditches, ponds, etc.)	X
Floodplain boundaries	X
Environmental and man-made hazards including brownfields, contaminated sites, unstable soils, high groundwater, bedrock, high-pressure natural gas lines, and others as appropriate	X
Fences, buffers, and berms	X
Pervious and impervious surfaces by type	X
Site amenities (benches, fountains, etc.)	X
Existing trees and other prominent vegetation	X
Trees / shrubs to be planted, including a plant list and specs.	X
Trees / shrubs to be retained	X
Outdoor Lighting (Existing and Proposed)	
Location	X
Fixture specifications	X
Utilities (Existing and Proposed)	
Location	X
Type (sewer, telephone, etc) (buried or overhead, if applicable)	X
Size/capacity, if applicable	X

Sec. 130-1239f. Staff report content
At a minimum, the staff report shall contain the following information:

(1) a summary of the comments received from the interdepartmental/agency review;
(2) findings for each of the decision criteria listed in this division;
(3) a preliminary list of conditions if approval is recommended; and
(4) a recommendation to approve the application, approve it with conditions, or deny the application.

Sec. 130-1239g. Effect of approval
If the common council approves the application, the approval shall run with the land and be binding on all subsequent property owners.

Sec. 130-1239h. Expiration of approval
If any area of a traditional neighborhood development district that can be developed consistent with an approved master plan remains substantially undeveloped 3 years after the creation of the district, the zoning for such area shall revert to the zoning designation which occurred at the time the district was created or to an equivalent zoning designation. The common council may extend this approval period up to 3 additional years upon petition and with good cause.

Sec. 130-1239i. Review of actual development within an approved traditional neighborhood development district

(a) *Land division.* After a traditional neighborhood development district is approved, the developer may initiate the process for the preliminary land division and final land division, consistent with Chapter 110 of the Municipal Code. Such approvals shall be substantially consistent with the TND district.

(b) Once a traditional neighborhood development district is approved, proposed commercial development shall be reviewed consistent with the requirements for a site plan.

Sec. 130-1239j. Amendment of an approved traditional neighborhood development district
If a property owner with land within an approved traditional neighborhood development district wishes to deviate from an approved master development plan and project narrative or amend a supporting development agreement, the review procedures described in this division shall be followed to the extent applicable.

Sec. 130-1239k. Appeal
The applicant and/or an aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

[Ord. 2007-9]

Sec. 130-1240 Reserved.

ARTICLE IX. MANUFACTURED HOMES AND TRAILERS*

Sec. 130-1241. Manufactured buildings.

(a) *Applicability of building costs.* Until replaces by rules adopted by the state department of commerce under Wis. Stats. § 101.73, the provisions of chapter 18 shall apply to all applications to erect or install manufactured buildings within the city.

(b) *Definitions.*

(1) For purposes of this section, the term "manufactured building" means any structure or component thereof which is intended for use as a dwelling and:

a. Is of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for installation, connection, or assembly and instatllation at the building site; or

b. Is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation on the building site and for which certification is sought by the manufacturer.

(2) the term "manufactured building" does not included a building of open construction which is not subject to subsection(b)(1)b of this section. In no case may a single or double width mobile home, as defined in Wis. Stats. § 218.10(2), be considered a manufactured building, nor may such a mobile home be subject to this subsection.

(c) *Recommendation of rules and standards.* the building inspector shall periodically recommend to the city adoption of preliminary rules and standards in the process of preparation and adoption by the state department of commerce under Wis. Stats.§ 101.73.

(Code 1986, § 14.26)

Secs. 130-1242—130-1269 Reserved.

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* **Cross references:** Buildings and building regulations, ch. 18; flood area zoning, ch. 54; health and sanitation, ch. 58; planning, ch. 94; solid waste, ch. 102; streets, sidewalks and other public places, ch. 106; subdivisions, ch. 110; utilities, ch. 126; zoning, ch. 130.

ARTICLE X. SIGN REGULATION

Sec. 130-1270. Purpose of article.

The purpose of this article is to establish minimum standards for a first class business, commercial and historic district; to allow business identification, advertising and communication while still protecting the health, safety and welfare of the public; to ensure that signs are compatible with their surroundings and promote an aesthetically pleasing environment; to preserve and enhance property values; to encourage high standards in sign design and display through the use of well-maintained and attractive signs that do not contribute to visual clutter; and to equitably distribute the privilege of using the public environs to communicate commercial and non-commercial information through the use of a permit process with a defined review authority.

(Ord. No. 2002-9, § 1, 3-11-2003)

Sec. 130-1271. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Area of sign means the area within the perimeter, calculated using a standard mathematical formula for easily recognizable geometric shapes. For irregular shapes, straight lines drawn closest to the extremities of the shape will be used. If the sign consists of more than one section or module, the perimeter of the outside area will be totaled. Supports or uprights shall not be used as part of the calculation unless they are a part of the sign. For the calculation of the allowable square footage only one side of a double-faced sign shall be considered.

Awning means a retractable or permanent shelter which projects from the wall of the building and composed of non-rigid materials except for the supporting network.

Banner means any sign of lightweight fabric or similar material that is mounted to a pole or a building without an enclosing frame, including feather/teardrop signs and excluding flags and pennants, as defined herein. A banner may not be used in place of a permanent sign.

Billboard. See off-premise sign.

Blanketing means to obstruct the view of a sign caused by placement of another sign.

Canopy/Marquee means a permanent, roof-like shelters extending from a building and constructed of a durable, rigid material such as metal, plastic or glass.

Community Event/Information sign means a sign that displays community event-related information.

Contractor sign means a sign that displays the name of individual contractors that are involved in smaller scale projects, such as single-family home construction or remodeling.

Construction sign means a sign that displays the names of contractors, engineers or architects that are involved in large-scale projects, such as public or multifamily buildings.

Directly illuminated/Backlit means a sign that is designed to give artificial light directly through a transparent or translucent material from a source of light originating within such sign (i.e. internally lit or neon sign).

Directory signs means a sign that indicates only the names and/or locations of occupants or the use of a building.

Electronic message display means a type of sign display where the message is created with a number of internal lights, such as light emitting diodes (LEDs), and which may be changed at interval by an electronic process.

Flag means any fabric, banner, or bunting containing distinctive colors, patterns, or graphics, used as a symbol of a government, political subdivision, or other public entity.

Flashing sign means a sign that is directly or indirectly illuminated on which artificial light is momentary, variable in color or intensity.

Freestanding/Ground sign means a sign where the entire bottom of the sign is generally in contact with or in close proximity to the ground.

Freestanding/Pole sign means a sign that is principally supported by a structure affixed to the ground, such as columns, poles or braces.

Identification sign means a sign that carries only the name of the business and/or principal products offered for sale on the premises.

Indirectly illuminated sign means a sign that is illuminated from a source outside of the sign.

Legal nonconforming sign means any sign located within the City of Evansville, which is lawful at the time of enactment of this ordinance, which does not conform to the regulations of this article or is annexed into the city after adoption of this article.

Off-premise sign/billboard means a sign that is permanently erected, maintained, or used in the outdoor environment for the display of any message not related to the parcel on which the sign is located.

Pennant means any lightweight plastic, fabric, or other material, not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed

to move in the wind; also including streamers, pinwheels, balloons and other similar small objects.

Political sign means a sign that displays election-related information.

Portable sign means a sign that is not permanently attached to the ground and is designed to be easily moved from one location to another. Examples are trailers or other vehicles used principally as a sign.

Projecting sign means a sign that extends from the face of the wall of a building.

Real estate sign means a sign that is used to offer for sale, lease or rent the property upon which the sign is placed.

Roof sign means a sign that is erected upon or over the roof or parapet of a building, including signs made out of shingles.

Sandwich Board sign means freestanding signboard, sidewalk signs, or A-frame signs not permanently attached to a structure or the ground, and consisting of not more than 2 faces.

Signs means an object, device, structure or display situated outdoors on which a message or symbols appear, advertising is displayed, or which promote a business, location, person, service, organization, event or product.

Wall sign means a sign that is attached to, erected on or painted on the wall of a building.

Window sign means a sign that is (1) painted on, applied to, or affixed to the glazing of a window or exterior door, or (2) located on the interior of the building within three feet of the glazing of a window. The term does not include merchandise displayed on the interior of the building within three feet of the glazing of a window.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2006-16, Ord. 2016-02)

Sec. 130-1272. Sign permit requirements.

(a) *Application.* Except those specified in the section listing signs not requiring a permit; no signs shall hereafter be located, erected or structurally altered without a sign permit and without being in conformity with the provisions of this ordinance. Alteration is considered to be any change to the exterior appearance of any part of the sign, its frame, supporting structure or lighting including changing the materials, height or location, except for normal maintenance and repair and for changes to the messaging area of the sign. The city clerk shall not issue a permit until the zoning administrator has reviewed and approved the signed application. The zoning administrator shall make every effort to act on an application within ten days after receiving a complete application. The sign shall also meet all structural requirements of other city codes and ordinances.

(b) *Required information.* Application for a sign permit shall be made in writing upon forms furnished by the city clerk's office. The application must specify the proposed sign's dimensions (including display surface), materials, form of illumination, wiring, height above grade, distance from lot lines, the party erecting or altering the sign, and in the case of wall sign(s), a sketch plan of the signs location and relationship to the building's face.

(c) *Permit fees.* A fee in the amount established by the council from time to time by resolution and as set forth in appendix A shall be paid before application is reviewed by Zoning Administrator. If submitted as part of the site plan review process or a mobile business permit per Chapter 22, Article IV, no separate fee will be charged.

(d) *Insurance.* Any person, firm or corporation engaged in the business of erecting, repairing, maintaining or relocating signs shall maintain in effect at all times a policy of liability insurance. The required limits shall be $100,000.00 for bodily injury and $200,000.00 aggregate and $100,000.00 property damage. Proof of insurance shall be presented to the city clerk at the time of application.

(e) *Inspection.* The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the zoning administrator who will certify in writing that the sign complies with the approved sign permit.

(f) *Appeals.* The zoning administrator may, at any time for a violation of this article, revoke a permit or require changes so the sign conforms to this article. Any such decision by the zoning administrator may be appealed by the aggrieved party to the board of zoning appeals.

(g) *Variances.* Variances to the sign regulations may be granted by the board of zoning appeals, or in the case of site plan review, the planning commission, following a recommendation by the zoning administrator, pursuant to the standards in section 130-131 of the city's zoning code.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2016-02)

Sec. 130-1273. Construction and maintenance regulations.

(a) *Construction standards.* All signs, except flat signs and those signs weighing less than ten pounds, shall be constructed to withstand a wind pressure of not less than 30 pounds per square foot and adequately support the dead load plus any anticipated live loads (i.e. ice, snow) of the sign.

(b) *Installation.* All signs, framework, anchors and supports shall be constructed of material and with workmanship to be safe and satisfactory to the zoning administrator. Electric service to ground signs shall be supplied by underground wiring. Electric service to wall signs shall be supplied by concealed wiring in a color that blends with surrounding materials.

(c) *Sign mounting.* It is always preferable for the back of any sign to be screened from public view. If this is unavoidable, then the backs of all signs or sign structures showing to public view shall be painted a neutral color that blends with the surrounding environment. Signs shall not be painted on or attached to any tree. Signs shall not be painted on or attached to any utility pole, except for official governmental signs or decorations.

(d) *Maintenance.* All signs, including supports and attachments, shall be properly maintained in good structural condition and have a neat and clean appearance. The immediate premises shall also be maintained in a clean and inoffensive condition and be kept free of all obnoxious substances, such as rubbish and weeds.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2016-02)

Sec. 130-1274. Signs not requiring a permit.

(a) *Business, Industrial, and Office Districts.* The following signs are permitted without a sign permit if they are located in a business, industrial or office district:

(1) House or Building numbers.

(2) Memorial signs or historic plaques when cut into any masonry surface or a metal sign affixed flat to the building.

(3) *Banners.* Banners displayed for a business or nonresidential use may be displayed for a limited period of time, not to exceed 15 days per 90 day period. No banners shall exceed a cumulative of 32 square feet per parcel, nor 15 feet in height above finished grade.

(4) Warning signs not to exceed four square feet located on the premises.

(5) Signs directing traffic toward entrances, exits, service areas, or parking areas are limited to six square feet.

(6) Rummage sale signs not to exceed four square feet in area nor displayed longer than 72 hours per sale.

(7) Municipal signs such as traffic control, parking restrictions, directions to points of interest under section 130-1281 or legal notices.

(8) Political signs up to 60 days before an election, removed within ten days after said election and a maximum area of 32 square feet.

(9) Real estate signs are limited to two signs per commercial property. The total real estate signage per property shall not exceed eight square feet in area, nor six feet in height, measured from the soil grade to the top of the signpost. Each sign shall be removed immediately upon the sale or rental of the property.

(10) Parking area signs are limited to one sign designating each entrance or exit, with a maximum area of two square feet each. Each parking area may have one sign designating its identity or the conditions of use not to exceed nine square feet in area nor seven feet above finished grade in height.

(11) Seasonal outdoor sales of farm produce signs for identification of the stand and advertising the agricultural products for sale therein. The sign(s) shall be limited to two and placed on the same lot as the stand. No sign shall exceed 12 square feet in area or 15 feet in height above finished grade.

(12) Contractor signs for work being done on a lot, one sign not more than four square feet in area, displayed only during the construction period.

(13) Holiday lights and decorations.

(14) Copy changes to existing signs involving no structural or dimensional change.

(15) Pennants. The display of strings of pennants, streamers, pinwheels, balloons and similar objects shall be prohibited, except said signs shall be permitted for carnivals and open-air festivals during the time of their run, and for the initial opening of a new business for a single period not exceeding 28 days after the new business's "grand opening."

(16) Flags. Any fabric, banner, or bunting containing distinctive colors, patterns, or graphics, used as a symbol of a government, political subdivision, or other public entity.

(17) Window signs. Window signs provided the sign area does not occupy more than 25 percent of the glazed area on which it is displayed and the sign is not an electronic message sign.

(18) Portable Signs, which shall not be displayed more than three times per calendar year at any one location, nor more than ten days each time. The maximum area signs shall be 12 square feet.

(19) Community Event/Information signs up to 45 days before an event, removed within 5 days after the end of the event, and a maximum area of 32 square feet. Any Community Event/Information signs attached to or displayed on public property will require written approval from the zoning administrator.

(b) *Agricultural, Conservancy and Residential Districts.* The following signs are permitted without a sign permit if they are located in an agricultural, conservancy or residential district:

(1) House numbers or signs identifying parks.

(2) Memorial signs or historic plaques when cut into any masonry surface or a metal sign affixed flat to the building.

(3) Contractor signs for work being done on a lot, one sign not more than four square feet in area, displayed only during the construction period.

(4) Political signs up to 60 days before an election, removed within ten days after said election and a maximum area of eight square feet.

(5) Rummage sale signs not to exceed four square feet in area nor displayed longer than 72 hours per sale.

(6) Residential buildings are limited to one nameplate, not exceeding three square feet in area for each dwelling unit, indicating the name or address of the occupant or a permitted home occupation.

(7) Nonresidential buildings may have a single identification sign, not exceeding nine square feet in area and indicating only the name and address of the building. On a corner lot, two signs (one facing each street) shall be permitted. Such sign(s) shall be affixed flat against the wall of the building and not be placed higher than 15 feet above finished grade. They may be illuminated, but only indirectly, and only during business hours.

(8) Real estate signs are limited to one sign per residential lot, except that on a corner lot two signs (one facing each street) shall be permitted. No sign shall exceed eight square feet in area nor six feet in height, measured from the soil grade to the top of the signpost. Each sign shall be removed immediately upon the sale or rental of the property.

(9) Parking area signs are limited to one sign designating each entrance or exit with a maximum area of two square feet each. Each parking area may also have one sign designating its identity or the conditions of use not to exceed nine square feet in area nor seven feet in height above finished grade level.

(10) Seasonal outdoor sales of farm produce signs for identification of the stand and advertising the agricultural products for sale therein. The sign(s) shall be limited to two and placed on the same lot as the stand. No sign shall exceed 12 square feet in area nor 15 feet in height above finished grade.

(11) Holiday lights and decorations.

(12) Copy changes to existing signs involving no structural or dimensional change.

(13) Municipal signs such as traffic control, parking restrictions, directions to points of interest under section 130-1281 or legal notices.

(14) Signs advertising products or services located in public parks that have been approved by the City Council, based on recommendation from the Park Board. Such signs may include, but are not limited to, signs on baseball outfield fences and signs for refreshments at the municipal swimming pool.

(15) Signs for permitted home occupations, which are regulated under section 130-531(1)e. Such signs shall not be illuminated and shall not exceed three (3) square feet.

(Ord. No. 2002-9, § 1, 3-11-2003; Ord. No. 2003-17, § 1, 2, 2-10-2004, Ord. 2005-19, Ord. 2006-16, Ord. 2010-02, Ord. 2011-03, Ord. 2016-02)

Sec. 130-1275. Signs permitted in the historic preservation district and central business district (B-2) with a sign permit.

Except for signs permitted without a sign permit under section 130-1274, all signs in a historic district established under section 62-2 or the central business district (B-2) are

prohibited except for a sign that complies with the following regulations and for which the applicant has obtained a sign permit:

(a) Freestanding/ground signs shall have no projections, shall not exceed 50 square feet in area nor 15 feet in height above the mean centerline street grade. Pole signs are not permitted in the downtown business district.

(b) Projecting signs may extend up to two-thirds the width of a public sidewalk, not to exceed a maximum of five feet, and must maintain a vertical clearance of ten feet.

(c) Shopping center/group development sign. One freestanding sign for each street upon which the development fronts, showing only the name of said center and each represented business. Sign shall not exceed 60 square feet in area, be placed within 20 feet of the property line or exceed 15 feet in height above finished grade.

(d) Wall signs shall not project more than 16 inches from such wall. One sign is permitted on the front wall of any principal building. The total sign area shall not exceed one-tenth of the building's front face (including doors and windows), with a maximum area of 200 square feet. If a single principal building is devoted to two or more businesses, the operator of each business may install a front wall sign. The maximum area of each sign shall be determined by using the proportional share of the front face (including doors and windows) occupied by each business and applying such proportion to the total sign area permitted for the front wall of the building. If a building is located on a corner lot, a sign may be placed on the wall facing the secondary street up to one-tenth of the wall's face in area, not to exceed 100 square feet In no case shall the total area of all wall signs exceed 200 square feet or be more than two wall signs per business.

(e) Awning signs and canopy/marquee signs are limited to a total of two such signs for each business, and the signage shall be restricted to the flap of the awning that hangs vertically or to the part of the canopy/marquee that is a vertical face. The portion of the awning or canopy/marquee displaying a message or symbol shall be included in the total signage area per parcel area calculation.

(f) Window signs in excess of 25 percent of the glazed area but less than 50 percent of the glazed area provided the sign is not an electronic message sign.

(g) Directly illuminated/backlit signs are not allowed in this district, except signs with the word “open” that are less than four square feet in area. Lighting shall not create glare nor be flashing.

(h) Total signage area per parcel. Cannot exceed 200 square feet.

(i) Sandwich board signs may only be displayed during business hours. They shall be securely fastened to prevent any hazardous condition. No sign shall exceed 12 square feet in area on each face, nor 4 feet in height above finished grade. The common council may, by resolution, designate one or more locations in a public right of way where one or more off-premises sandwich boards may be displayed during a street construction project to encourage patronage of businesses negatively impacted by the construction, provided a sandwich board shall not impede pedestrian movement. Generally, a 4-foot wide unobstructed walkway allows adequate pedestrian movement.

(j) Searchlights are not allowed in this district.

(k) Church bulletins may be indirectly illuminated, except neon, and are limited to one sign per lot, six feet in height above finished grade, 16 square feet in area and must be at least eight feet from any other lot.

(l) Construction signs for development on a lot, one sign not more than 32 square feet in area, indicating only the name of the contractors, engineers, or architects and displayed only during the time of construction.

(m) Banners displayed for a business or nonresidential use may be displayed for a limited period of time, not to exceed 30 days per 90 day period. Banners shall not exceed a cumulative of 32 square feet per parcel, nor 15 feet in height above finished grade. Any banner attached to or displayed on public property will require a no fee permit from the zoning administrator.

(Ord. 2002-9, § 1, 3-11-2003, Ord. 2005-19, Ord. 2005-20, Ord. 2005-34, Ord. 2005-35, Ord. 2006-16, Ord. 2016-02)

Sec. 130-1276. Signs permitted in the local business district (B-1), community business district (B-3), special use business district (B-5), and planned office district (O-1) with a sign permit.

Except for signs permitted without a sign permit under section 130-1274, all signs in the local business district (B-1), community business district (B-3), special use business district (B-5), or planned office district (O-1) and not in a historic preservation district are prohibited except for a sign that complies with the following regulations and for which the applicant has obtained a sign permit:

(a) Freestanding/ground/pole signs shall have no projections and are limited to one per parcel. They shall not exceed 50 square feet in area nor 15 feet in height measured from the mean centerline street grade to the top of the sign. Exception: height may be up to 20 feet if sign is set back at least ten feet from the property line.

(b) Shopping center/group development/office park signs. One freestanding sign, showing only the name of said center and each represented business. They shall not exceed 60 square feet in area, 15 feet in height above finished grade, nor be placed within 20 feet of the property line.

(c) Projecting signs shall not extend over a public sidewalk and must maintain a clear vertical clearance of ten feet.

(d) Wall signs shall not project more than 16 inches from such wall. One sign is permitted on the front wall of any principal building. The sign area shall not exceed one-tenth building's front face (including doors and windows), with a maximum area of 200 square feet. If a single principal building is devoted to two or more businesses, the operator of each business may install a front wall sign. The maximum area of each sign shall be determined by using the proportional share of the front face (including doors and windows) occupied by each business and applying such proportion to the total sign area permitted for the front wall of the building. If the building is located on a corner lot, a sign may also be placed on the side wall facing the secondary street up to one-tenth of the wall's face in area,

not to exceed 100 square feet. In no case shall the total area of all wall signs be in excess of 200 square feet or there be more than two wall signs per business.

(e) Awning signs and canopy/marquee signs are limited to a total of two such signs for each business, and the signage may be placed on the flap of the awning that hangs vertically and/or on the sloping portion of the awning, provided the signage does not occupy more than 50 percent of such area or to the part of the canopy/marquee that is a vertical face. The portion of the awning or canopy/marquee displaying a message or symbol shall be included in the total signage area per parcel area calculation.

(f) Window signs in excess of 25 percent of the glazed area but less than 50 percent of the glazed area provided the sign is not an electronic message sign.

(g) Lighting. Signs may be directly illuminated/backlit or indirectly illuminated by a hooded reflector, shall not create glare nor be flashing.

(h) Total signage area per parcel cannot exceed 250 square feet.

(i) Electronic message signs may only be used to advertise activities conducted on the premises or to present public information and cannot exceed 20 percent of the face of the sign. Electronic signs must also meet the following specific standards:

(1) The display area is a part of a freestanding ground sign.

(2) The display area does not exceed 25 square feet.

(3) The message shall be in one color and the background for the message shall be one color.

(4) The message shall remain static at least two minutes before the next message appears. No part of the message shall give the appearance of movement.

(5) There shall be no transition between messages (i.e., no traveling, scrolling, dissolving, or fading)

(6) There shall be no more than one electronic message display per parcel of land.

(j) Sandwich board signs may only be displayed during business hours. They shall be securely fastened to prevent any hazardous condition. No sign shall exceed 12 square feet in area on each face, nor 4 feet in height above finished grade.

(k) Church bulletins may be directly illuminated/backlit or indirectly illuminated, except neon, and are limited to one sign per lot, six feet in height above finished grade, 16 square feet in area and must be at least eight feet from any other zoning lot.

(l) Searchlights are not allowed in this district.

(m) Construction signs for development on a lot, one sign not more than 32 square feet in area, indicating only the name of the contractors, engineers or architects and displayed only during the time of construction.

(n) Banners. Banners displayed for a business or nonresidential use may be displayed for a limited period of time, not to exceed 30 days per 90 day period. Banners shall not exceed a cumulative of 32 square feet per parcel, nor 15 feet in height above finished grade. Any banner attached to or displayed on public property will require a no fee permit from the zoning administrator.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-19, Ord. 2005-44, Ord. 2006-8, Ord. 2006-16, Ord. 2010-02, Ord. 2016-02)

Sec. 130-1277. Signs permitted in the regional business district (B-4) and industrial districts with a sign permit.

Except for signs permitted without a sign permit under section 130-1274, all signs in the regional business district (B-4) or an industrial district and not in a historic preservation district are prohibited except for a sign that complies with the following regulations and for which the applicant has obtained a sign permit:

(a) Freestanding/ground/pole signs cannot have projections, are limited to one per parcel, and cannot exceed 50 square feet in area nor 15 feet in height measured from the mean centerline street grade to the top of the sign. Exception: height may be up to 20 feet if the sign is set back ten feet from the property line.

(b) Shopping center/group development/industrial park. One freestanding sign, showing only the name of said center/park and each represented business. Such signs shall not exceed 60 square feet in area, be placed within 20 feet of the property line, or exceed 15 feet in height. For those signs showing only the name of said center/park and each represented business to be located within 75 feet of a public street right-of-way where the posted speed limit is 45 miles per hour or higher, the plan commission may, upon a written request submitted by the property owner, allow a sign that exceeds the dimensional standards specified in this part. In determining whether to grant such special exception, the plan commission shall evaluate whether (1) the proposed signage is absolutely necessary to make known the businesses on the parcel on which the sign is located given the prevailing traffic flow on the roadway, and (2) the proposed sign location is as close to the street right of way as is practicably feasible. Special exceptions shall be reviewed on a case by case basis. Therefore, no prior decision shall be deemed to limit or otherwise control subsequent decisions.

(c) Shopping center/group development/industrial park – name only. Up to two ground signs showing only the name of said center/park and not exceeding a total of eight square feet are allowed, provided such sign is not located within 100 feet of another freestanding/ground/pole sign on the subject property or within 50 feet of the principal building. (Editor’s note: This provision allows one ground sign with eight square feet of signage, or two ground signs provided the total sign area of the two signs does not exceed eight square feet.)

(d) Wall signs shall not project more than 16 inches from said wall. One sign is permitted on the front wall of any principal building. The sign area shall not exceed one-tenth of the building's front face area (including doors and windows), with a maximum area of 200 square feet. A 12 square feet front wall sign is permitted for building faces of less than 120 square feet. A side wall sign area is limited to one-tenth of the area of the side wall, not to exceed 100 square feet. A rear wall sign area shall not exceed 50 percent of the maximum area permitted for a front wall sign of the same building. The maximum sign

area for all walls combined shall not exceed 200 square feet and a limit of two signs per building are allowed.

If a principal building is devoted to two or more businesses, the operator of each business may install a front wall sign. The maximum area of each sign shall be determined by using the proportionate share of the front face (including doors and windows) occupied by each business and applying such proportion to the total sign area permitted for the front wall of the building. The zoning administrator may, upon a written request submitted by the property owner, exceed the maximum signage area specified in this part and section 130-1277 (g), when it can be shown that such limitation(s) will not allow each tenant to have a wall sign. Such sign shall not exceed 10 percent of the wall façade on which the sign is to be located.

(e) Awning signs and canopy/marquee signs are limited to a total of two such signs for each business, and the signage may be placed on the flap of the awning that hangs vertically and/or on the sloping portion of the awning, provided the signage does not occupy more than 50 percent of such area or to the part of the canopy/marquee that is a vertical face. The portion of the awning or canopy/marquee displaying a message or symbol shall be included in the total signage area per parcel area calculation.

(f) Window signs in excess of 25 percent of the glazed area but less than 50 percent of the glazed area provided the sign is not an electronic message sign.

(g) Projecting signs shall not extend over a public sidewalk and shall maintain a clear vertical clearance of ten feet.

(h) Total signage area per parcel. Cannot exceed 350 square feet.

(i) Lighting. Signs may be directly illuminated/backlit or indirectly illuminated by a hooded reflector, shall not create glare nor be flashing.

(j) Electronic message displays are permitted provided they meet the following specific standards: The display area is a part of a freestanding ground sign.

(1) The display area does not exceed 25 square feet.

(2) The message shall be in one color and the background for the message shall be one color.

(3) The message shall remain static at least two minutes before the next message appears. No part of the message shall give the appearance of movement.

(4) There shall be no transition between messages (i.e., no traveling, scrolling, dissolving, or fading)

(5) There shall be no more than one electronic message display per parcel of land.

(k) Sandwich board signs may only be displayed during business hours. They shall be securely fastened to prevent any hazardous condition. No sign shall exceed 12 square feet in area on each face, nor 4 feet in height above finished grade.

(l) Searchlights are permitted for advertising purposes for a period of no more than five days in any six month period. However, the searchlight cannot be located outside a

property line, closer than ten feet to an adjacent property or cause a hazard to traffic or adjoining properties.

(m) Church bulletins may be directly illuminated/backlit or indirectly illuminated, except neon, and are limited to one sign per lot, six feet in height above finished grade, 16 square feet in area and must be at least eight feet from any other lot.

(n) Construction signs for development on a lot, one sign not more than 32 square feet in area, indicating only the name of the contractors, engineers or architects and displayed only during the construction period.

(o) Signage on a cupola, provided (1) the plan commission has determined through the site plan review process that the cupola is located on the ridge of a peaked roof and is otherwise integral to and consistent with the architectural design of the building on which it is located, (2) the sign area does not occupy more than 75 percent of the wall face on which it is located, (3) the top of the sign face is no more than eight feet from the roof ridge, (4) the side of the sign face is eight inches or more from the vertical edge of the wall face, (5) each sign face does not exceed 35 square feet, (6) the sign face does not directly face a residentially zoned district that is within 200 feet, and (7) the total signage placed on a cupola is subtracted from the allowable area for wall signage.

(p) *Banners.* Banners displayed for a business or nonresidential use may be displayed for a limited period of time, not to exceed 30 days per 90 day period. Banners shall not exceed a cumulative of 32 square feet per parcel, nor 15 feet in height above finished grade. Any banner attached to or displayed on public property will require a no fee permit from the zoning administrator.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-19, Ord. 2005-29, Ord. 2006-8, Ord. 2006-16, Ord. 2007-19, Ord. 2016-02)

Sec. 130-1278. Signs permitted in residential districts with a sign permit.

Except for signs permitted without a sign permit under section 130-1274, all signs in a residential district and not in a historic preservation district are prohibited except a sign that complies with the following regulations and for which the applicant has obtained a sign permit:

(a) Temporary subdivision signs are permitted for the identification of homes or non-residential uses for sale or rent in a subdivision under construction. They shall be limited to two per subdivision, 50 square feet each in area. They shall observe the front yard setback of the principal use, be located at least 50 feet from all other boundaries of the site and not exceed eight feet in height above finished grade. Owner shall remove the sign(s) within two years of the date of the sign permit.

(b) Subdivision identification signs shall only bear the subdivision name, with a maximum of one located at each entrance. No sign shall exceed 32 square feet in area nor 12 feet in height above finished grade. The location of said signs will be reviewed by the zoning administrator prior to approval.

(c) Nonresidential signs. Signs for nonresidential, permitted uses (i.e. church bulletins, schools, municipal buildings, public parks, nursing homes, etc.) may be directly

illuminated/backlit or indirectly illuminated, except neon, and are limited to one sign per lot, six feet in height above finished grade, 16 square feet in area and must be at least eight (8) feet from any other zoning lot. This excludes signs for permitted home occupations, which are regulated under section 130-531(1)e.

(d) Signs for legal nonconforming commercial uses. Signs for legal nonconforming commercial uses may not be directly illuminated/backlit, and are limited to one sign per lot, six feet in height above finished grade, 10 square feet in area and must be at least eight (8) feet from any other zoning lot. The plan commission shall review and approve other aspects of the sign (e.g., sign materials, color scheme, placement on the lot) to ensure it is compatible with the surrounding properties to the greatest extent practicable. This excludes signs for permitted home occupations, which are regulated under section 130-531(1)e.

(e) Construction signs for development on a lot, one sign not more than 32 square feet in area, indicating only the name of the contractors, engineers or architects and displayed only during the construction period.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-19, Ord. 2007-1, Ord. 2016-02)

Sec. 130-1279. Prohibited signs.

The following signs are prohibited:

(a) Traffic interference. Signs shall not resemble or obstruct railroad or traffic signs. No sign shall prevent free ingress/egress from any door, window or fire escape. No sign shall inhibit traffic visibility nor interfere with surrounding properties.

(b) Signs on public rights-of-way shall not be permitted, except for municipal signs such as traffic control, parking, directions to points of interest under section 130-1281 or legal notices and as otherwise specified in this article. Such signs must not be located within five feet of a property line.

(c) Flashing signs. Except electronic message signs.

(d) Blanketing is not allowed by this ordinance.

(e) Roof signs above the parapet line or incorporated into the roofing material.

(f) All signs for a terminated business, including any signs for a business that has ceased to operate at a particular location.

(g) Adjacent to residential district. Illuminated signs shall not be permitted if they cast bright light upon property located in any residential district. Bright light shall be defined as exceeding one half foot candles at the residential property line.

(h) Off premise/billboard signs, except for (1) sandwich boards to the limited extent provided in section 130-1275(i) and (2) any sign placed in a public right of way pursuant to a resolution adopted by the common council designating one or more locations in a public right of way where one or more off-premises signs may be displayed during a street construction project to encourage patronage of businesses negatively impacted by the construction, provided any such sign shall comply with any size restriction or appearance requirement in such resolution and shall not impede pedestrian movement. Generally, a 4-foot wide unobstructed walkway allows adequate pedestrian movement. (3) business

directory signs serving a group of businesses that are specifically approved by the Plan Commission. (4) off-premise signs in City parks that are specifically approved by the Common Council, based on recommendation from the Park Board.

(i) If a sign is not explicitly prohibited under the list above and not explicitly permitted under this article, the zoning administrator shall determine which kind of potentially permitted sign the sign in question is most similar to and apply to the sign in question the regulations applicable to the most similar kind of sign.

(Ord. No. 2002-9, § 1, 3-11-2003; Ord. No. 2003-17, § 3, 2-10-2004, Ord. 2005-19, 2005-20, Ord. 2005-34, Ord. 2005-35, Ord. 2010-02, Ord. 2011-03, Ord. 2016-02)

Sec. 130-1280. Legal nonconforming signs.

(a) *Loss of legal nonconforming status.* A sign loses its legal nonconforming status when any of the following occurs:

(1) If the sign is altered in any way, except for normal maintenance and repair and for changes to the messaging area of the sign. Alteration is considered to be any change to the exterior appearance of any part of the sign, its frame, supporting structure or lighting including changing the materials, height or location.

(2) The sign is damaged by fire, flood, explosion or act of God to an extent of 50 percent or more of its replacement value. If it is damaged to an extent of less than 50 percent of its replacement value, it may be reconstructed and used as before within three months after such calamity.

(3) The sign fails to conform to the article provisions regarding maintenance and repair, abandonment or public safety.

(4) Termination of a business, including a business that has ceased to operate a particular location.

(b) *Consequence of loss of legal nonconforming status.* On the date of the occurrence of any event listed in paragraph (a), the sign shall be immediately brought in compliance with the article with a new permit secured therefore or shall be prohibited.

(c) *Removal of prohibited sign.* The owner of a property on which is located a formerly legal nonconforming sign that has become prohibited under paragraph (b) shall immediately remove the prohibited sign, except as provided in section 130-1283.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-19)

Sec. 130-1281. Municipal directional signs.

(a) The City may place signs in public rights-of-way property or adjoining property to direct residents and visitors to points of interest, including (1) municipal buildings, (2) public parks, (3) golf courses owned and operated by the municipality or a not-for-profit corporation, (4) schools (5) collaborative efforts of multiple businesses, such as a parade of home, but not the location of an individual for-profit business, or (6) business directory signs. A sign under this section may be permanent or temporary.

(b) A local government, such as the Evansville School District, a not-for-profit organization, including a religious organization or a collaborative effort of multiple businesses, such as a parade of homes may request that the City place signs directing residents and visitors to their locations at street intersections selected by the local government, not-for-profit organization or collaborative effort of multiple businesses, and the City shall place such signs, provided the local government, not-for-profit organization or collaborative effort provides the signs at its own cost or agrees to pay the City the cost of the signs. The City shall attempt to locate each such directional sign as near as practical to the selected intersection.

(c) A permanent or temporary sign under this section shall be no larger than 30 inches by 36 inches.

(d) The Common Council may by resolution establish and from time to time amend uniform standards for the appearance of permanent signs under this section. In the absence of such a resolution, all such permanent signs shall be made of metal and have a blue face with white lettering and border.

(Ord. No. 2003-17, § 4, 2-10-2004, Ord. 2010-02)

Sec. 130-1282. Sign code violations.

(a) *Construction without permit.* Any person, firm or corporation who begins, erects or completes the erection, construction or alteration of any sign controlled by this Ordinance prior to obtaining a sign permit shall be subject to a fee as established by the council from time to time by resolution and as set forth in appendix A.

(b) *Illegal signs* Illegal signs shall be made to conform or be removed within 30 days of receipt of written notice from the zoning administrator, except those illegal signs which can be readily rectified (e.g., readily moveable signs such as sandwich board or banners) shall be removed or made to conform within two days of receipt of written notice from the zoning administrator. A sign placed on city property (e.g., street right-of-way, park) may be removed immediately by city personnel without advance notice to the person who authorized the installation of the sign. Such sign shall be disposed of within 72 hours of removal, unless claimed by the owner of the sign. A sign placed on private property without the authorization of the property owner may be removed by the property owner without advance notice to the person who authorized the installation of the sign. Such sign may be disposed of at the discretion of the property owner.

(c) *Dangerous signs.* A sign that poses a threat to public safety shall be made to conform or be removed within five days of receipt of written notice from the zoning administrator, unless a shorter compliance period as specified in the notice is required to protect public safety.

(d) *Penalties.*

(1) Violations. No person shall construct or use any structure in violation of any of the provisions of this chapter. In case of any violation, the city council, the zoning administrator, or the plan commission may institute an appropriate action or proceeding to enjoin a violation of this chapter or cause a structure to be removed.

(2) Penalties. Any person who fails to comply with or violates any of the provisions of this chapter shall be subject to the provisions of section 1-11. Each day a violation exists or continues shall constitute a separate offence.

(3) Civil remedies. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this chapter, prevent unlawful construction, recover damages, restrain, correct or abate a violation, and these remedies shall be in addition to the penalties described in subsection (2) of this section.

(4) Removal by city. If the owner of an illegal sign under paragraph (b) of this section or dangerous sign under paragraph (c) of this section fails to comply within the time period herein specified, the city may remove it and charge the property owner for all costs related to removal and disposal. If not paid, the clerk treasurer shall add such amount to the tax roll as a special tax against such lot or parcel of land.

(Ord. No. 2002-9, § 1, 3-11-2003, Ord. 2005-46)

Editor's note: Ord. No. 2002-9, § 1, adopted March 11, 2003, set out provisions intended for use as 130-1281. For purposes of classification and clarity, and at the editor's discretion, these provisions have been included as 130-1282.

Sec. 130-1283. Removal of signs for terminated businesses.

If a business terminates, including a business that ceases to operate at a particular location, the owner of the property where the business was located shall remove all signs for the business from public view within six months from the date of termination. If the sign is not removed during that time, the zoning administrator shall give the property owner an additional thirty (30) days to appeal for an extension under section 130-1272(f) or remove it. If the owner fails to comply, the owner shall be subject to penalties under section 130-1282(d). In addition, the zoning administrator may elect to cause the sign to be removed and the expense of so doing shall be charged to the owner of the property. If not paid, the city clerk-treasurer shall add such amount to the tax roll as a special tax against such lot or parcel of land.

(Ord. 2005-19)

Sec. 130-1284. Table Summary of Article X.

A summary of Signage regulations found in Article X are as follows:

TABLE I: SIGNS NOT REQUIRING A PERMIT. (All Zoning Districts)

	Zoning Districts	Sign Type	Maximum		
			Time	Quantity/ Area/ Percent	Height
Permit Not Required	Business, Industrial, and Office Districts	**Banners**	15 days/ 90 day period	32 ft^2	15 ft. above finished grade
		Warning Signs	N/A	4 ft^2	N/A
		Signs Directing Traffic	N/A	6 ft^2	N/A
		Rummage Sale Signs	72 hrs./ sale	4 ft^2	N/A
		Political Signs	60 days before election. Removed within 10 days of election.	32 ft^2	N/A
		Real Estate Signs	Removed upon sale/rental	(2)signs/cumulative 8 ft^2	6 ft. above soil grade
		Parking Area Signs	N/A	(1) 2 ft^2 sign/entrance or exit. **–and–** (1) 9 ft^2 identification/ conditions of use sign	7 ft. above finished grade
		Seasonal Outdoor Sales-Farm Produce	N/A	(2) 12 ft^2 signs	15 ft. above finished grade
		Contractor Signs	Construction Period	(1) 4 ft^2 sign	N/A
		Pennants	28 days after grand opening	N/A	N/A
		Window Signs	N/A	25 % of glazed area	W/I 3 feet of window
		Portable Signs	10 days/ 3 times/ year	12 ft^2	
		Community Event/Information Signs	45 days before an event. Removed within 5 days of event.	32 ft^2	N/A

Agricultural, Conservancy and Residential Districts	**Contractor Signs**	Construction Period	(1) 4 ft^2 sign	N/A
	Political Signs	60 days before election. Removed within 10 days of election.	8 ft^2	N/A
	Rummage Sale Signs	72 hrs./ sale	4 ft^2	N/A
	Residential Nameplates	N/A	(1) 3 ft^2	N/A
	Nonresidential Identification Signs	N/A	(1) 9 ft^2 / street face	15 ft. above finished grade
	Permitted Home Occupation signs per Sec 130-531	N/A	(1) 3 ft^2 / dwelling	N/A
	Real Estate Signs	Removed upon sale/rental	(1) 8 ft^2 / street face	6 ft. above soil grade
	Parking Area Signs	N/A	(1) 2 ft^2 sign/entrance or exit. **–and–** (1) 9 ft^2 identification/ conditions of use sign	7 ft. above finished grade
	Seasonal Outdoor Sales-Farm Produce	N/A	(2) 12 ft^2 signs	15 ft. above finished grade

TABLE II: SIGNS REQUIRING A PERMIT. (B-2 DISTRICT)

B – 2 District [1]				
Permit Required	**Sign Type**	**Maximum Per Parcel**		
		Time	**Quantity/ Area/ Percent**	**Height/Width/ Distance**
	Awning/Canopy/Marquee[2]	N/A	(2) per business	N/A
	Banners[2]	30 days/ 90 day period	Cumulative of 32 ft^2	15 ft. above finished grade
	Church Bulletins[1, 2]	N/A	(1) 16 ft^2	6 ft. above finished 8 ft. from adjacent lots
	Construction Signs	During Construction	(1) 32 ft^2	N/A
	Freestanding/Ground Sign[2]	N/A	50 ft^2	15 ft. above grade
	Projecting Signs[2]	N/A	N/A	Vertical clearance of 10 ft. Extend 2/3 width of public sidewalk up to 5 ft.
	Sandwich Board[2]	Business Hours	12 ft^2/ face	4 ft. above finished grade
	Shopping Center/Group Development[2]	N/A	(1) 60 ft^2 / street face	15 ft. above finished grade 20 ft. from property line
	Wall Signs[2, 3]	N/A	(2) for each business ≤ 10% building front face, maximum 200 ft^2	≤ 16 in. from wall
	Window Signs[2]	N/A	Between 25-50% of glazed area provided sign is not electronic message sign	W/I 3 Feet of Window

1. Lighting. Directly illuminated/backlit signs are not allowed in this district, except signs with the word "open" that are less than four square feet in area. Lighting shall not create glare nor be flashing. Church bulletins may be indirectly illuminated, except neon.
2. Total signage area per parcel. Cannot exceed 200 ft^2
3. On a corner lot, a sign may be placed on the wall facing the secondary street up to 10% of the wall's face in area, not to exceed 100 square feet. Total area of all wall signs cannot exceed 200 square feet, nor be more than two wall signs per building.

TABLE III: SIGNS REQUIRING A PERMIT. (B-1, B-3, B-5, O-1 DISTRICTS)

B – 1, B – 3, B – 5, O – 1 Districts [1]				
Permit Required	**Sign Type**	**Maximum Per Parcel**		
		Time	**Quantity/ Area/ Percent**	**Height/Width/ Distance**
	Awning/Canopy/Marquee[2]	N/A	(2) per business	N/A
	Banners[2]	30 days/ 90 day period	Cumulative of 32 ft^2	15 ft. above finished grade
	Church Bulletins[1,2]	N/A	(1) 16 ft^2	6 ft. above finished grade 8 ft. from adjacent lots
	Construction Signs	During Construction	(1) 32 ft^2	N/A
	Electronic Message Signs[2]	Information must remain static for at least 2 min before next message.	Information cannot exceed 20% face of sign (1) 25 ft^2	N/A
	Freestanding/Ground Sign[2]	N/A	50 ft^2	15 ft. above grade 20 ft. above grade when set back at least 10 ft. from property line.
	Projecting Signs[2]	N/A	N/A	Vertical clearance of 10 ft. Must not project over public sidewalk
	Sandwich Board[2]	Business Hours	12 ft^2/ face	4 ft. above finished grade
	Shopping Center/Group Development[2]	N/A	(1) 60 ft^2	15 ft. above finished grade 20 ft. from property line
	Wall Signs[2, 3]	N/A	(2) for each business ≤ 10% building front face. Maximum 200 ft^2	≤ 16 in. from wall
	Window Signs[2]	N/A	Between 25-50% of glazed area provided sign is not electronic message sign	W/I 3 Feet of Window

1. Lighting. Signs may be directly illuminated/backlit or indirectly illuminated by a hooded reflector, shall not create glare nor be flashing. Church bulletins may be directly or indirectly illuminated/ backlit, except neon.
2. Total signage area per parcel. Cannot exceed 250 ft^2
3. On a corner lot, a sign may be placed on the wall facing the secondary street up to 10% of the wall's face in area, not to exceed 100 square feet. Total area of all wall signs cannot exceed 200 square feet, nor be more than two wall signs per building.

TABLE IV: SIGNS REQUIRING A PERMIT. (B-4, I-1, I-2, I-3 DISTRICTS)

B – 4 District , I-1, I-2, I-3 Districts[1]				
Permit Required	**Sign Type**	**Maximum Per Parcel**		
		Time	**Quantity/ Area/ Percent**	**Height/Width/ Distance**
	Awning/Canopy/ Marquee[2]	N/A	(2) per business	N/A
	Banners[2]	30 days/ 90 day period	Cumulative of 32 ft^2	15 ft. above finished grade
	Church Bulletins[1, 2]	N/A	(1) 16 ft^2	6 ft. above finished grade 8 ft. from adjacent lots
	Construction Signs	During Construction	(1) 32 ft^2	N/A
	Electronic Message Signs[2]	Information must remain static for at least 2 min before next message.	Information cannot exceed 20% face of sign (1) 25 ft^2	N/A
	Freestanding/ Ground Sign[2]	N/A	50 ft^2	15 ft. above grade 20 ft. above grade when set back at least 10 ft. from property line.
	Projecting Signs[2]	N/A	N/A	Vertical clearance of 10 ft. Must not project over public sidewalk
	Sandwich Board[2]	Business Hours	12 ft^2/ face\	4 ft. above finished grade
	Shopping Center/ Group Development/ Industrial park[2, 4]	N/A	(1) 60 ft^2	15 ft. above finished grade 20 ft. from property line
	Wall Signs[2, 3]	N/A	(1) Front wall, (1) Side wall, or (1) rear wall for each business. (2) Sign and 200 ft^2 max. ≤ 10% building front face. Maximum 200 ft^2 ; ≤ 10% building side face. Maximum 100 ft^2; Rear wall sign shall not exceed 50% of the maximum area permitted for a front wall sign.	≤ 16 in. from wall
	Window Signs[2]	N/A	Between 25-50% of glazed area provided sign is not electronic message sign	W/I 3 Feet of Window

1. Lighting. Signs may be directly illuminated/backlit or indirectly illuminated by a hooded reflector, shall not create glare nor be flashing. Church bulletins may be directly or indirectly illuminated/ backlit, except neon.
2. Total signage area per parcel. Cannot exceed 350 ft^2
3. A 12 square feet front wall sign is permitted for building faces of less than 120 square feet.
4. Exception to the maximum dimension and quantity are available, as per Sec. 130-1277 (b) and Sec. 130-1277 (c)

TABLE V: SIGNS REQUIRING A PERMIT. (RESIDENTIAL DISTRICTS)

Residential Districts				
	Sign Type	**Maximum Per Parcel**		
		Time	**Quantity/ Area/ Percent**	**Height/Width/ Distance**
Permit Required	**Temporary Subdivision**	2 years of Sign Permit	(2) 50 ft^2 per subdivision	Front yard setback, > 50 ft. from all other boundaries. 8 ft. above finished grade.
	Subdivision Identification	N/A	(1) 32 ft^2 per entrance	12 ft. above finished grade
	Nonresidential Signs[1,2]	N/A	(1) 16 ft^2 per lot	8 ft. from adjacent lots
	Legal nonconforming commercial uses[3]	N/A	(1) 10 ft^2 per lot	8 ft. from adjacent lots
	Construction Signs	During Construction	(1) 32 ft^2 per lot	N/A

1. Lighting. Signs may be directly illuminated/backlit or indirectly illuminated, except neon.
2. Signs for nonresidential permitted uses (i.e. church bulletins, schools, municipal buildings, public parks, nursing homes, etc.)
3. Lighting. Signs may not be directly illuminated/backlit.

(Ord. No. 2016-02)

Secs. 130-1285 – 130-1299. Reserved.

ARTICLE XI
TRAFFIC VISIBILITY, LOADING, PARKING AND ACCESS

Sec. 130-1300. Traffic visibility.

(a) On a corner lot in all zoning districts, no fence, wall, parking, vegetation, hedge, planting, or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct vision between a height of 2 1/2 feet and 10 feet above the centerline grades of the intersecting streets in the area bounded by the edge of right-of-way street lines of such corner lots and a line joining the points along such street lines 15 feet from the point of intersection.

(b) If arterial streets intersect with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 30 feet.

(c) This section shall not apply to the trunks of trees and posts not over six inches square or in diameter.

[Ord. 2010-02]

Sec. 130-1301. Loading requirements.

(a) *Loading space required.* On every lot on which a business, commercial, or industrial use is established, space with access to a public street or alley shall be provided as indicated in the following table for the loading and unloading of vehicles off the public right-of-way:

USE	FLOOR AREA (SQ. FT.)	LOADING SPACE
Retail/wholesale warehouse, service manufacturing, and industrial establishments	2,000--10,000 10,000--20,000 20,000--40,000 40,000--60,000	1 2 3 4
	Each additional 50,000	1
Hotels, offices, hospitals, places of public assembly	5,000--10,000 10,000--50,000 50,000--100,000	1 2 3
	Each additional 25,000	1
Funeral homes	2,500--4,000 4,000--6,000	1 2
	Each additional	1

	10,000	

(c) *Multiple or mixed uses.* Where a building is devoted to more than one use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

(d) *Location.* Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within 30 feet of the nearest point of intersection of two streets or require any vehicle to back into a public street.

(e) *Surfacing.* All open off-street loading berths shall be improved with a compacted gravel base, not less than seven inches thick, surfaced with not less than two inches of asphalt or treated with some comparable all-weather dustless material.

(f) *Repair and service.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential district.

(g) *Utilization.* Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(h) *Central loading.* Central loading facilities may be substituted for loading berths on the individual zoning lots, provided the following conditions are filled:

(1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.

(2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing the number of loading berths.)

(3) No zoning lot served shall be more than 300 feet removed from the central loading area.

(4) The tunnel or ramp connecting the central loading area with the zoning lot served shall be not less than seven feet in width and shall have a clearance of not less than seven feet.

[Ord. 2010-02]

Sec. 130-1302 Parking requirements.

All new nonresidential parking lots in excess of four stalls and all alterations of existing lots shall be subject to the approval of the plan commission. Requests for such parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provision, and driveway locations. In all districts there shall be provided at the time any

use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

(a) *Access.* Adequate access to a public street shall be provided for each parking space.

(b) *Design standards.* The size of each parking space shall be not less than 162 square feet (9 feet by 18 feet) exclusive of the space required for ingress and egress. Handicapped parking stalls may be 8 feet wide with the required access aisle specified under (k) below. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: 11 feet for 30-degree parking; and 20 feet for 90-degree parking. Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet. No parking area of more than two spaces shall be designed as to require any vehicle to back into a public street. The plan commission may authorize stalls sized for smaller vehicles (eight feet by 16 feet) where the number of stalls being provided exceeds the minimum number required and where all of the minimum required stalls are full sized (nine feet by 18 feet).

(c) *Location.*

(1) Location shall be on the same lot as the principal use or not over 500 feet from the principal use.

(2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts, but shall not be closer than five feet to a nonresidential side lot line, right-of-way line, or rear lot line. No parking space or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line.

(3) Off-street parking in the single-family and two-family residence districts is permitted in the front yard only on the driveway. No parking is allowed on the front yard lawn areas.

(d) *Surfacing.* All off-street parking areas, except a single parking space accessory to a single-family dwelling, shall be surfaced with a dustless all-weather material capable of carrying a wheel load of 4,000 pounds (normally, a two-inch blacktop on a four-inch base or five inches of Portland cement will meet this requirement). Any parking area for more than five vehicles shall have the aisles and spaces clearly marked. Compacted stone or gravel may be used only with the approval of the plan commission. Completion of surfacing is required prior to the issuance of an occupancy permit. However, for required surfacing during the period between November 1 and June 1, the owner shall enter into an agreement with the City agreeing to complete all required surfacing by no later than the following June 1.

(e) *Repair and service.* No commercial motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in residence districts.

(f) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a

nuisance. However, in no case shall such lighting exceed three foot-candles measured at the lot line.

(g) *Curbs.* Curbs or barriers shall be installed a minimum of four feet from a property line so as to prevent the parked vehicles from extending over any lot lines.

(h) *Number of stalls.* The number of parking stalls required are shown in the following table:

LAND USE	PARKING REQUIREMENT
Residential - One and Two Family Dwelling	2 spaces per dwelling unit
Residential Multifamily Dwelling	2 spaces per dwelling unit
Residential - Senior	1 spaced per dwelling unit
Institutional Living	1 space per resident or patient capacity
Community Living	1 space per resident capacity
Hospital	1 space per patient bed
Institutional Uses	1 space per 4 persons maximum seating capacity
Churches	1 space per 4 persons maximum seating capacity
Community or Recreation Center	1 space per 4 persons maximum seating capacity
Funeral Home	1 space per 4 persons maximum seating capacity
Library or Museum	1 space per 300 square feet of gross floor area
Day Care	1 space per 5 students
School - Elem or Middle	1 space per staff, plus 2 spaces per classroom
School - High School	1 space per staff, plus 1 space per 5 students
College or Trade School	1 space per staff, plus 1 space per 2 students at peak attendance period.
Golf Course	36 spaces per 9 holes, plus 50 percent of spaces otherwise required for any accessory uses (e.g. bars, restaurant)
Swimming Pool	1 space per 75 square feet of gross water surface area
Tennis court	3 spaces per court
Retail Sales And Services	1 space per 300 square feet of gross floor area.
Business or Professional Offices	1 space per 300 square feet of gross floor area.
Drive-Up or In-Vehicle Sales and Service	2 spaces per drive-up lane
Indoor Eating and Drinking Establishments	1 space per 300 square feet of gross floor area
Outside Eating or Drinking Areas	1 space per 300 square feet of serving area.
Commercial Animal Boarding	1 space per 1,000 square feet of gross floor area.
Motels and Hotels	1 space per bedroom
Bed & Breakfast Establishment	1 space per bedroom
Campground	1.5 spaces per campsite
Mini-Warehouse Storage Facility	1 space per 1,000 square feet of gross floor area
Warehouse and Distribution Center	1 space per 1,000 square feet of gross floor area.

Industrial and Manufacturing	1 space per 1,000 square feet of gross floor area.
Utilities	1 space per 1,000 square feet of gross floor area.

(i) *Uses not listed.* For structures or uses not mentioned, the provision for a use that is similar shall apply or the plan commission may rely on standards and parking ratios that appear in the most recent edition of the Institute of Traffic Engineers Parking Generation Manual. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated in the table in subsection (8) of this section as a basis for determining the amount of off-street parking required.

(j) *Combined uses.* Combinations of any of the uses in the table in subsection (8) of this section shall provide the total of the number of stalls required for each individual use. Two or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided such uses are not operated during the same hours. The following conditions must be met for any joint use:

(1) The proposed joint parking space is within 500 feet of the use it will serve.

(2) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

(3) A properly drawn legal instrument approved by the Plan Commission, executed by the parties concerned and recorded with the County Register of Deeds against the property or properties in question, for joint use of off-street parking facilities. Such instrument shall be approved by the City attorney prior to Plan Commission review, and shall contain language that specifies that the instrument may not be altered without approval by the Plan Commission. The document shall be provided to the Zoning Administrator within 30 days of recordation.

(k) *Handicapped parking requirements.* The following chart shall be used to determine the number of required handicapped parking stalls.

Total Parking in Parking Facility	**Required Minimum Number of Accessible Spaces**
1 to 25*	1*
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100, or fraction thereof, over 1000
* Parking lots with fewer than five stalls do not have to have an accessible parking space reserved, but must maintain a space that meets the dimensional requirements for an accessible space.	

For every six or fraction of six accessible spaces required by the above chart at least one shall be a van accessible parking space and served by an access aisle at least 96 inches wide; other handicapped parking stalls must have an access aisle at least 60 inches wide. Required stalls shall be striped and signed according to relevant state and federal law, and shall be located on the shortest accessible route from the parking lot to an accessible entrance. In addition to any other requirements relating to parking spaces contained in this Code, accessible parking for proposed development shall comply with the ADA Standards for Accessible Design promulgated by the US Department of Justice. Proposed development shall also comply with provisions contained in Wisconsin Statutes and any Wisconsin Administrative Code pertaining to provision and design of handicapped parking, including, but not limited to, Wis. Stats. §101.13, §346.503 and §346.56.

(l) *Changes in buildings or use.* Whenever a building or use is changed, structurally altered, or enlarged to create a need for an increase of 25 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of 50 percent or more in the floor area, such building or use shall then comply with the parking requirements set forth in the district in which it is located.

(m) *Off-site parking.*

(1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-site, provided the parking spaces are located in the same district and not over 500 feet from the principal use. When off-street parking facilities are permitted on land other than the same lot as the principal use, such facilities shall be in the same possession as the lot occupied by the use to which the parking facilities are necessary or in the possession of the controller of the principal use to which the parking facilities are accessory. Such possession shall be by deed whereby the owner of the land on which the parking facilities are to be located shall be bound by a covenant filed and recorded in the office of the county register of deeds requiring such owner, the owner's heirs or assigns to maintain the required facilities for the duration of the use served.

(2) Off-site parking spaces for residential uses shall be within 250 feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within 400 feet of the entrance of the establishment.
(3) Accessory parking may be located in residential districts, provided that such lots or property are immediately adjacent to a commercial, business or industrial zoning district.
(4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

(n) *Signs.* Signs located in parking areas necessary for orderly operation of traffic movement shall be permitted in addition to others permitted in this chapter.

(o) *Reduction of parking areas.* Off-street parking spaces shall not be reduced in number unless such number exceeds the requirement set forth in this section.

(p) *Exceptions.*

(1) The plan commission may authorize exceptions to the parking standards or other requirements of section 106-923 where the applicant can demonstrate that the proposed use will generate less parking demand than the parking standard requirements, or where an exception from the requirements would result in a site plan and development that would benefit the City and be consistent with the intent of this chapter.. An applicant requesting an exception to the parking requirements shall be required to demonstrate and document the projected parking demand based on an analysis of similar or comparable uses.

(2) The plan commission may require additional parking stalls where it is determined that the proposed use is likely to generate a demand for more parking stalls than this chapter would require.

(3) In granting exceptions to the parking standards, the plan commission may grant conditional exceptions, subject to future review and reconsideration.

[Ord. 2010-02, Ord. 2012-14]

Sec. 130-1303. Highway access.

(a) *Private access.* No direct private access shall be permitted to the existing or proposed rights-of-way of expressways or to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes or to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes, such as exit and entrance ramps. No driveway openings shall be permitted within 100 feet of the intersection of an arterial street right-of-way line.

(b) *Barriers.* Access barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the streets or highways specified in subsection (a) of this section.

(c) *Temporary access permit.* Temporary access to the rights-of-way specified in subsection (a) of this section may be granted by the zoning administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed 12 months.

[Ord. 2010-02]

Sec. 130-1304. Storage and parking of recreational vehicles.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Boat.* Every description of watercraft used or capable of being used as a means of transportation on water.

(2) *Recreational vehicle.* Any of the following:

(3) *Travel trailer.* A vehicular, portable structure built on a chassis and on wheels that is between ten and 36 feet long, including the hitch, and eight feet or less in width, designated to be used as a temporary dwelling for travel, recreation, vacation, or other uses and towed by a car, station wagon, or truck. It includes so-called fifth-wheel units.

(4) *Pickup coach.* A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation, or other uses.

(5) *Motor home.* A portable, temporary dwelling to be used for travel, recreation, vacation, or other uses, constructed as an integral part of a self-propelled vehicle.

(6) *Camping trailer.* A canvas or folding structure mounted on wheels and designed for travel, recreation, vacation, or other uses.

(7) *Chassis mounts, motor homes and mini-motor homes.* Recreational structures constructed integrally with a truck or motor-van chassis and incapable of being separated.

(8) *Converted and chopped vans.* Recreational structures that are created by altering or changing an existing auto van to make it a recreational vehicle.

(9) *Boat or snowmobile trailer.* A vehicle on which a boat or snowmobile may be transported and is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this section, is termed an "unmounted boat or snowmobile."

(b) *Permitted parking or storage.* In all residential and commercial districts, it is permissible to park or store a recreational vehicle or boat and boat trailer on private property in the following manner:

(1) No part of the unit may extend over the public sidewalk or into public right-of-way.

(2) Parking is permitted only for purposes of storage or temporary dwelling. Except as provided in Section 130-1304(b)(4), recreational vehicles, trailers, or boats shall not be:

a. Used for dwelling purposes.

b. Permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.

c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.

(3) The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked for storage.

(4) Recreational vehicles may be used for purposes of temporary dwelling of no more than fifteen (15) consecutive days or thirty (30) days in any twelve (12) month period.

[Ord. 2010-02]

Sec. 130-1305. Storage of trucks, tractors and road machinery.

(a) *Truck parking in residential areas.* No motor vehicle with an empty weight in excess of 12,000 pounds, over 18 feet in length, or having a height of more than 8 feet from the roadway, bearing a commercial license, including school buses, and no commercially licensed trailer, including semitrailers, shall be parked or stored in a residential district, except when loading, unloading, or rendering a service.

(b) *Tractors and road machinery.* No person shall park, keep, or maintain on properties zoned as residential or multiple residential dwellings the following types of vehicles: tractors, tractor-trailers, semitrailers, dump trucks, auto wreckers, and road machinery. Such vehicles may not be kept or parked on the premises, whether or not they are in enclosed buildings, except for the purposes of unloading or servicing the premises.

[Ord. 2010-02]