

CHAPTER 17 ZONING CODE(Rep. & Recr. Ord. #07-06)
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GENERAL PROVISIONS

17.001 TITLE.

This chapter shall be known, cited and referred to as the "City of Waupaca Zoning Ordinance" except as referred to herein, where it shall be known as "this chapter".

17.002 AUTHORITY.

This chapter is enacted pursuant to the authority granted by the State of Wisconsin Statutes. Specific statutory references are provided within the body of this chapter solely as a means of assisting the reader. Such references are not to be considered as all inclusive and shall in no manner be construed so as to limit the application or interpretation of this chapter.

State Law Reference: Sections 62.23(7), 62.231, 87.30 and 144.26, Wisconsin Statutes.

17.003 PURPOSE.

The general purpose of this chapter is to promote health, safety, morals and the general welfare of the City of Waupaca. The provisions hereof shall be liberally construed in favor of the City and as minimum requirements for the purposes stated. Among other purposes, such provisions are intended, in accordance with a comprehensive plan, to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light, air and solar access; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of

transportation, water, sewerage, schools, parks and other public requirements. These regulations are made with reasonable consideration, among other things, of the character of the districts and their peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

17.004 SEPARABILITY AND NONLIABILITY.

It is hereby declared to be the intention of the Waupaca Common Council that the several provisions of this chapter are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, such judgment shall not affect any other provisions of this chapter not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall adjudge invalid the application of any portion of this chapter to a particular property, water, building, or structure, such judgment shall not affect the application of said provision to any other property, water, building, or structure not specifically included in said judgment.
- (3) If any requirement or limitation attached to an authorization given under this chapter is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid.
- (4) The City does not guarantee, warrant or represent that only those areas designated as flood lands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the City, its officers, employees, agents, or representatives for any flood damages, sanitation problems, or structural damages.

17.005 ABROGATION.

It is not intended that this chapter abrogate or interfere with any constitutionally protected vested right. It is also not intended that this chapter abrogate, repeal, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law.

17.006 RULES OF INTERPRETATION.

- (1) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare, and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Waupaca.
- (2) Where property is affected by the regulations imposed by any provision of this chapter and by other governmental regulations, the regulations which are more restrictive or which impose higher standards or requirements shall prevail. Regardless of any other provision of this chapter, no land shall be developed or used, and no structure erected or maintained in violation of any State or Federal regulations.
- (3) No structure, land, water or air shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit, except structures not requiring a building or zoning permit (swing set, clothesline, etc.), and without full compliance with the provisions of this chapter and all other applicable local, county and State regulations.
- (4) Nothing herein contained shall require any changes in plans, construction, size or designated use of any building or part thereof, for which a zoning or building permit has been issued before the effective date of this chapter and the construction of which shall have been started within 6 months from the date of such permit.

(5) Except as provided in this chapter, under provisions for Nonconforming Uses (sec. 17.120(1)), Substandard Lots (sec. 17.120(2)), and Nonconforming Structures (sec. 17.120(3)), no building, structure, development or premises shall be hereinafter used or occupied and no applicable permit granted, that does not conform to the requirements of this chapter.

17.007 JURISDICTION.

This chapter is applicable to all territory located within the corporate limits of the City of Waupaca.

17.008 REENACTMENT AND REPEAL.

(1) This chapter, in part, carries forward by reenactment some of the provisions of the regulations governing zoning and related matters, being previously known collectively as the "Zoning Code", Chapter 17 of the Code of Ordinances for the City of Waupaca, adopted prior to the effective date of this chapter. It is not the intention of this chapter to repeal, but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced, unless explicitly surrendered by specific provisions of this chapter or altered by the Official Zoning Map.

(2) All provisions of Chapter 17 of the City of Waupaca Code of Ordinances which are not reenacted herein are hereby repealed.

(3) The adoption of this chapter shall not adversely affect the City's right to prosecute any violation of the predecessor Zoning Ordinance provided the violation occurred while that chapter was in effect.

17.009 EFFECTIVE DATE.

All plans approved under previous zoning regulations shall be valid and may be used to obtain permits for a period of not more than 6 months after the effective date of this chapter, except where subject to developer's agreement provisions. This chapter shall become effective upon passage and posting according to law.

17.020 WORD USAGE.

Words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; the word "building" includes the word "structure;" the word "shall" is mandatory and not directory. Any words not herein defined shall be construed as defined in the State and City Building Codes.

17.021 DEFINITIONS.

The following words, terms and phrases, wherever they occur in this chapter, shall have the meanings ascribed to them by this section. Definitions provided by this section include:
ACCESSORY BUILDINGS OF STRUCTURES. (Am. Ord. #10-00; #6-02) A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or structure or the use of the premises. When an accessory building is a part of the main building or structure or is substantially attached thereto by means of an enclosed or open breezeway, porch or vestibule or is a detached building located within 5 feet of the principal building or structure, the setback, side yard and rear yard requirements of the main building or structure shall be applied to the accessory building. Television antennas, satellite dishes and amateur radio towers and ancillary structures under the height of 25 feet from the ground measured at the base of the

tower shall be considered accessory structures. Any such tower/structure over 25 feet and under 55 feet shall fall under the requirements of sec. 17.440 of the Zoning Code.

ACCESSORY USE. A subordinate use which is incidental to and customary in connection with the principal building or use, and is located on the same lot with such building or use.

ALLEY. A street or thoroughfare less than 21 feet wide and affording only secondary access to abutting property.

APARTMENT HOUSE. See DWELLING, MULTIPLE.

AUTOMOBILE WRECKING YARD. Any premises on which more than one motor vehicle, not in running or operating condition, is stored in the open.

BASEMENT. A story partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement.

BOARDING HOUSE. A building other than a hotel where meals, or lodging and meals, are furnished for compensation for 3 or more persons not members of a family.

BUILDING. Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

BUILDING, HEIGHT OF. The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

BUILDING, MAIN. A building constituting the principal use of a lot.

CLINIC. An establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together.

CLUB. Buildings and facilities owned or operated by a corporation, association, person or persons for a social, education or recreational purpose, but not primarily to render a service which is customarily carried on as a business.

COMMERCIAL ANIMAL BOARDING. Any land use which provides short-term and/or long-term boarding for dogs and/or cats as the *primary* use of the property. Examples include commercial kennels and pet 'day care' facilities. Outdoor exercise yards, fields, training areas, etc. associated with such land uses are considered accessory to such land uses and do not require separate consideration.

DAY CARE CENTER, GROUP. Any facility operated for the purpose of providing care, protection, and guidance to children and/or adults during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

DWELLING. A building or portion thereof designed or used exclusively for residential occupancy, but not including automobile trailers, hotels, motels or boarding and lodging houses.

DWELLING UNIT. A room or suite of rooms used as a single-family dwelling including bath and culinary accommodations.

DWELLING, ONE-FAMILY. A detached building designed for or occupied exclusively by one family.

DWELLING, 2-FAMILY. A detached or semi-detached building designed for and occupied exclusively by 2 families.

DWELLING, MULTIPLE. A building or portion thereof designed for and occupied by more than 2 families, including tenement houses, row houses, apartment houses and apartment hotels.

FAMILY. One or more persons related by blood, adoption or marriage, or not more than 2 unrelated persons living and cooking together as a single housekeeping unit.

FILLING STATION. See SERVICE STATION.

FLOOR AREA. The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages or space in a basement or cellar when said basement or cellar space is used for storage or incidental uses.

FRONTAGE. All the property abutting on one side of a street between 2 intersecting streets, or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

GARAGE, PRIVATE. (Rep. & Recr. Ord. #10-00)

- **Attached Garage .** An accessory building, structure or covered space for the storage of not more than 3 motor-driven vehicles. All buildings or structures in any way physically attached to the main building or within 5 feet of the main building shall be considered attached.
- **Detached Garage .** An accessory building, structure or covered space for the storage of not more than 3 motor-driven vehicles. A garage is considered detached if there is no physical attachment to the main building or if it is separated from the main building by more than 5 feet.

GARAGE, PUBLIC. A building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring, selling or storing of motor-driven vehicles. The term "repairing" shall not include any automotive body repair shop, nor the rebuilding, dismantling or storage of wrecked or junked vehicles.

GARAGE, STORAGE. Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements, and not to transients and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold. No commercial motor vehicle exceeding 2 tons capacity shall be stored in any storage garage.

HOME OCCUPATION. Any gainful occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling purposes, and which is carried on wholly within a main building or accessory building by a member of the family residing on the premises.

HOTEL. A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation, and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all times. As such, it is open to the public in contradistinction to a boarding house, lodging house or an apartment, which are herein separately defined.

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 non-personal or non-professional services, entirely within an enclosed building. This 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.

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 vehicle repair and maintenance services). Such land uses often have traffic volumes which 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, vehicular fuel stations, all forms of car washes. If performed in conjunction with a principal land use (for example, a convenience

store, restaurant or bank), in-vehicle sales and service land uses shall be considered an accessory use.

JUNK YARD. Any premises on which there is an accumulation of scrap metal, paper, rags, glass, lumber or other materials stored for salvage unless such accumulation shall be stored in a completely enclosed building.

LAUNDRY, SELF-SERVICE. An establishment providing home-type washing, drying or ironing machines for use on the premises by the general public.

LODGING HOUSE. A building other than a hotel where lodging only is provided for compensation for not more than 3 persons not members of the family.

LOT. A parcel of land having a width and depth sufficient to provide the space necessary for one main building and its accessory building, together with the open spaces required by this chapter and abutting on a public street or officially approved place.

LOT, CORNER. A lot abutting on 2 or more streets at their intersection, provided that the interior angle of such intersection is less than 135 degrees.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

LOT, INTERIOR. A lot other than a corner lot.

LOT, THROUGH. An interior lot having frontage on 2 nonintersecting streets.

LOT, SUBSTANDARD. A lot of record which lawfully existed prior to this chapter, which would not conform to the applicable regulations if the lot were to be created under the current provisions of this chapter.

LOT LINES. The lines bounding a lot, as defined herein.

LOT OF RECORD. A lot which is part of a subdivision, the map of which has been recorded in the office of the County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the County Register of Deeds.

MANUFACTURED HOME. A residential dwelling for one family as is defined in §101.91(2), Wis. Stats., fabricated in an off-site facility for installation or assembly at the building site, bearing a HUD label or insignia certifying that it is built in compliance with the Federal Manufactured Housing Construction Standards under 42 U.S.C. §5401 to 5426, and built after June 14, 1976. A manufactured home shall be considered a single-family dwelling for the purposes of this chapter only where it meets said regulations.

MANUFACTURING. The mechanical or chemical transformation of materials or substances into new products, including the assembly of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

MOBILE HOME. A transportable factory built structure as is defined in §101.91(2k), Wis. Stats., designed for long-term occupancy by one family and built prior to June 15, 1976, the effective date of the Federal Manufactured Housing Construction and Safety Standards Act. A mobile home is not considered to be a type of single-family dwelling for the purposes of this Title.

MOTEL. A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.

NURSING, REST OR CONVALESCENT HOME. A home for the aged or infirm in which 3 or more persons not of the immediate family are received, kept or provided with food, shelter or care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

OFFICE. A room or suite of rooms used for conducting the affairs of a business, profession, service industry, or government.

OPEN SPACE. The areas of a lot which contain permeable surfaces and shall remain unbuilt and shall not be used for parking, storage, access drives, or display. The use of gravel or pavers shall not be considered permeable surface for the calculation of open space. Open space represents many different landscaping elements, including greens, quadrangles, lawns, hedgerows, gardens, pathways/walkways, groves, wooded areas, fields, and natural areas.

PROFESSIONAL OFFICE. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession. When established in a residential district, a professional office shall be incidental to the residential use, not more than 25% of the floor area of only one story of a dwelling unit shall be occupied by such office and only one unlighted name plate, not exceeding one square foot in area, containing the name and profession of the occupant of the premises shall be exhibited.

PUBLIC AIRPORT. Any airport which complies with the definition contained in §114.013(3), (6) and (9), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.

ROADSIDE STAND. A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 300 square feet in ground area, and there shall be not more than one roadside stand on any one premises.

SERVICE STATION. Any building, structure or land used primarily for the dispensing, sale or offering for sale at retail of any automobile or truck fuels, oils or accessories, including lubricants and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair or spray painting.

SETBACK. The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, excluding uncovered steps.

SIGN. An emblem, name, identification, description or illustration which is affixed to or appears directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business. Neither official court or public notices, nor the flag of the nation or State shall be considered a sign under this chapter.

SIGN, ADVERTISING. A sign which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.

SIGN, BUSINESS. A sign which directs attention to a business or profession conducted, or to one principal commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

SIGN, DIRECTIONAL: A sign intended solely for the purpose of directing patrons or customers to an establishment off the main traveled road and not including promotional advertising unnecessary to such directional purpose

SIGN, OFF PREMISE: A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located

SPECIAL USES. A use of land, buildings, or structure that because of its inherent nature, extent, and its external or ancillary effects requires special care in the control of its location, design, and methods of operation in order to ensure protection of the public health, safety, and welfare. Such uses shall only be permitted in a district after site specific review and is subject to special conditions as approved by the Plan Commission and City Council.

STORAGE UNITS, SELF-SERVICE OR MINI-WAREHOUSES (Cr. Ord. #17-98). Real property containing leased spaces that a lessee is entitled to use for the storage of personal property on a self-service basis pursuant to a rental agreement and that is not rented or provided to the lessee in conjunction with property for residential use by the lessee. A "mini-warehouse" does not include warehouses licensed and regulated under Ch. 99, Wis. Stats.

STORY. That portion of a building included between the surface of a floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having 1/2 or more of its height above grade shall be deemed a story for the purpose of height regulation.

STORY, HALF. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than 3 feet above the top floor level, and in which space not more than 2/3 of the floor area is finished off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.

STREET. All property dedicated or intended for public or private street purposes or subject to public easements therefore and which is 21 feet or more in width.

STREET LINE. A dividing line between a lot, tract or parcel of land and a contiguous street.

STRUCTURE. (Am. Ord. #11-07) Anything constructed or erected, the use of which requires a fixed location on the ground, or attached to something having a fixed location on the ground.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, any substantial change in the roof structure or in the exterior walls, or any change that would increase the floor space, area or height of a building.

STRUCTURE, NONCONFORMING. Any building, or other structure, which was lawfully existing under ordinances or regulations preceding this chapter, but which would not conform to this chapter if the building or structure were to be erected under the provisions of this chapter.

STRUCTURE, TEMPORARY. (Am. Ord. #11-07) A structure without any foundation or footings and that is removed when the designated time period has ceased.

TOURIST CAMP. A tract or parcel of land, with or without buildings, or other equipment, on which one or more camp cabins are located, or where temporary accommodations are provided for 2 or more automobile trailers or house cars, open to the public free or for a fee.

TRAILER. Any structure which is or may be mounted upon wheels for moving about and is propelled by its own or drawn by other motive power, and which is used as a dwelling or as an accessory building or structure in the conduct of a business trade or occupation, or is used for hauling purposes.

USE, NONCONFORMING. A building or premises lawfully used or occupied on November 3, 1967, or the date of amendments hereto, which use or occupancy does not conform to the regulations of this chapter or any amendments thereto.

USE, PERMITTED. The use of land by occupancy, activity, building, or other structure which is specifically enumerated as permissible by the regulations of the zoning district in which the land is located.

USE, SPECIAL. Any use of a lot, structure, or building which by its nature, intensity, or potential impact on an area cannot be considered as a principal or accessory use within a use district, but when subject to special conditions and standards specified in a special use grant or permit may be compatible with other uses in the same or adjacent use districts.

VISION CLEARANCE. An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

YARD. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

YARD, FRONT. A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding uncovered steps.

YARD, REAR. A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the building, excluding uncovered steps.

YARD, SIDE. A yard extending from the front yard to the rear yard, being the minimum horizontal distance between a building and the side lot line.

GENERAL DISTRICT REGULATIONS

17.100 COMPLIANCE WITH REGULATIONS REQUIRED.

Except as otherwise provided, the use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area and yard regulations hereby established for the district in which a building or premises is located.

No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.

17.101 LOCATION ON LOT REQUIRED.

Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one main residential building on one lot.

17.102 BUILDING PERMIT REQUIRED.

No structure 6 inches or more above the surface of the ground, nor any structure classified as a building shall be erected, structurally altered, or relocated within the City of Waupaca until a building permit has been issued by the Building Inspector certifying that such building as proposed, would be in compliance with the provisions of this chapter and with the Building Code of the City. 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 title whether such play structures are placed on a foundation or not. Swing sets, slides, and sandboxes are not considered structures, and a building permit is not required.

17.103 TEMPORARY STRUCTURES.(Am. Ord. #11-07)

(1) INTENT. Temporary structures are those that have the potential to create unwanted impacts on nearby properties if allowed to develop simply under the general requirements of this Title. In order to prevent this from occurring, all temporary structures are required to meet certain procedural requirements applicable only to temporary structures, in addition to the general requirements of this Title and the requirements of the zoning district in which the subject property is located. It is also recognized that the use of temporary structures may vary

greatly between residential districts and commercial/industrial districts, thus separate regulations for the varying districts are provided.

(a) General Regulations for Temporary Structures in Residential Zoning Districts .

Temporary structures located within residential zoning districts (R-1, R-2, R-3 and MH) shall be controlled by the following regulations:

1. Temporary buildings, trailers, equipment and signs necessary for construction purposes and for the temporary storage of building materials and equipment, for a period not to exceed the duration of such construction, are permitted provided a building permit has been issued for a permanent structure and that such temporary structures are not used for living purposes.

(b) General Regulations for Temporary Structures in Commercial and Industrial Zoning Districts . Temporary structures located within commercial and industrial zoning districts (B-1, B-2, B-3, B-4, B-5, I-1 and I-2) shall be controlled by the following regulations:

1. Permit and Timeframe.

a. No permit is required for temporary structures which are erected for a period of up to 14 days.

b. No permit is required for temporary buildings, trailers, equipment and signs necessary for construction purposes and for the temporary storage of building materials and equipment, for a period not to exceed the duration of such construction, provided a building permit has been issued for a permanent structure and that such temporary structures are not used for living purposes.

c. A permit is required for all temporary structures to be erected for a period of 15 days up to 180 consecutive days.

2. Application Requirements. All applications for proposed temporary structures shall be approved as complete by the Zoning Administrator prior to certification of the proposed temporary structures. Said complete application shall be comprised of all of the following:

a. A site map/sketch of the subject property showing all lands for which the temporary structure is proposed, and all other lands within 200 feet of the boundaries of the subject property. Said map shall clearly indicate the current structures on the subject property and its environs. All lot dimensions of the subject property, setbacks for the temporary structure, a graphic scale, and a north arrow shall be provided.

b. A written description of the proposed temporary structure(s) describing the type of activities, buildings, and structures proposed for the subject property and their general locations.

3. Approval by the Zoning Administrator. Approval of a temporary structure shall be by the Zoning Administrator following review of said complete application per subsection 2. above.

4. Fee. A fee shall be required for a temporary structure permit per the approved fee schedule.

17.104 SWIMMING POOLS.

(1) EXEMPT POOLS. Storable children's swimming or wading pools, with a maximum dimension of 15 feet and a maximum wall height of 15 inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.

(2) SETBACKS AND OTHER REQUIREMENTS.

(a) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. In no case shall a swimming pool be erected or constructed in a yard adjacent to a street right-of-way.

(b) All swimming pools shall be at least 10 feet from any lot line or building.

(c) The pumps and filter equipment may not be closer than 20 feet to a property line and must be adequately housed and muffled.

(d) No swimming pool shall be erected or constructed on an otherwise vacant lot.

(3) FENCING REQUIREMENTS.

(a) In-ground pools shall be completely fenced, before filling, by a permanent, sturdy fence, not less than 4 feet or more than 6 feet in height. Access to any such pool shall be through a gate or gates in the fence, equipped with a self-closing, self-latching device placed at a minimum height of 3 feet above the ground.

(b) Above-ground pools having a height of less than 3 1/2 feet (42 inches) above ground at any portion of the poolside wall are required to be fenced the same as in-ground pools. When fencing is required, it shall be installed to extend a minimum of 4 feet beyond any area less than 42 inches high. When the height of a poolside wall is such that a fence will not be required (42 inches or higher), all ladders, steps or other means of access to an above-ground pool shall be removed and/or designed to prevent access when the pool is unattended.

(4) **FILTER SYSTEM REQUIRED.** All private swimming pools must have a filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

17.105 SATELLITE DISHES OR ANTENNAE.

All satellite dishes or antennae located in the City of Waupaca shall conform to the following regulations contained herein:

(1) Satellite dishes or antennae shall not exceed a diameter of 18 inches with approval of the Plan Commission.

(2) Dishes or antenna shall be located within the rear yard of the property except for corner lots. On corner lots, the antenna may be located in the portion of the lot which functions as a rear yard, but shall not be located closer to the street than the principal structure (that portion of the principal structure closest to the street). Any antenna located within a required side yard shall be located behind (further from the street than) the principal structure on any lot abutting the side yard.

(3) All satellite dishes or antennas shall be screened from view from any street by an opaque fence, wall, or hedge of a minimum of 6 feet in height.

17.106 YARD REQUIREMENTS WHERE DIFFERENT DISTRICTS ABUT.

Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the 2 districts which abut the district boundary line.

17.110 HEIGHT AND AREA EXCEPTIONS.

The regulations contained herein relating to the height of buildings and size of yards and other open spaces shall be subject to the following exceptions:

(1) Churches, schools, hospitals, sanitariums and other public and quasi-public buildings may be erected to a height not exceeding 45 feet nor 3 stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

(2) Chimneys; cooling towers; elevator bulkheads; fire towers; monuments; penthouses; stacks; scenery lofts; tanks; water towers; ornamental towers; spires;

wireless, television or broadcasting towers; masts or aerials; telephone, telegraph and power poles and lines; microwave radio relay structures; and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or ordinances of the City.

(3) Residences in the residential districts may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by one foot for each foot which such building exceeds the height limit of the district in which it is located.

(4) Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.

(5) Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets are complied with.

(6) 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 on November 3, 1967, such lot may be occupied by one family.

(7) Accessory building, structures and use. (Rep. & Recr. Ord. #10-00)

(a) No accessory building, structure or use shall be permitted on a lot without a principal building, structure or use unless said lot adjoins a lot with the same ownership with a principal building, structure or use.

(b) If not attached to the principal building, an accessory building shall maintain 5 feet of clearance from the principal building or any other accessory building or structure on the same lot, except uncovered decks or patios are permitted within 5 feet of a principal building or structure provided that they are located a minimum of 6 feet from an adjoining lot line.

(c) An accessory building or structure that is not attached to the principal building or structure shall not extend into the established front yard of the building or structure or be closer than 3 feet, measured from the nearest point of a building or structure or any projection thereof, excluding uncovered decks, porches, stairs or patios, to a side or rear lot line. If the rear or side lot lines abut on an alley, the setback from the alley shall be a minimum of 10 feet.

(d) No detached garage for a one-family or 2-family dwelling shall exceed 864 square feet and no additional accessory building or structure shall exceed 200 square feet. No combination of accessory buildings shall exceed 1,000 square feet or 20% of the actual rear yard, whichever is less unless, in the case of properties on the Historic Register, a special exception is granted by the Historic Preservation Commission after proper notice to any adjacent property owners.

(e) On corner lots an accessory building or structure shall have a required setback of not less than that required of the principal building.

(f) The height limitations on accessory buildings, structures or uses shall be as follows:

1. If attached to a main building or structure, the height limitations of the principal building shall apply.
2. If the accessory building is considered detached, the maximum height shall be 15 feet.

(8) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 12 inches.

(9) Open or enclosed fire escapes and fire towers may project into a required yard not more than 5 feet and into a required court not more than 3 1/2 feet, provided it be so located as not to obstruct light and ventilation.

(10) All fences placed on residential lands within the City shall comply with the provisions of this subsection.

(a) For the purpose of this chapter, "fence" is herein defined as an enclosing barrier consisting of vegetation, wood, stone or metal, which is located on or near the boundary lines common with adjacent properties, and is intended to prevent straying from within or intrusion from without.

(b) Fences shall not exceed six (6) feet in height when located in a side or rear yard.

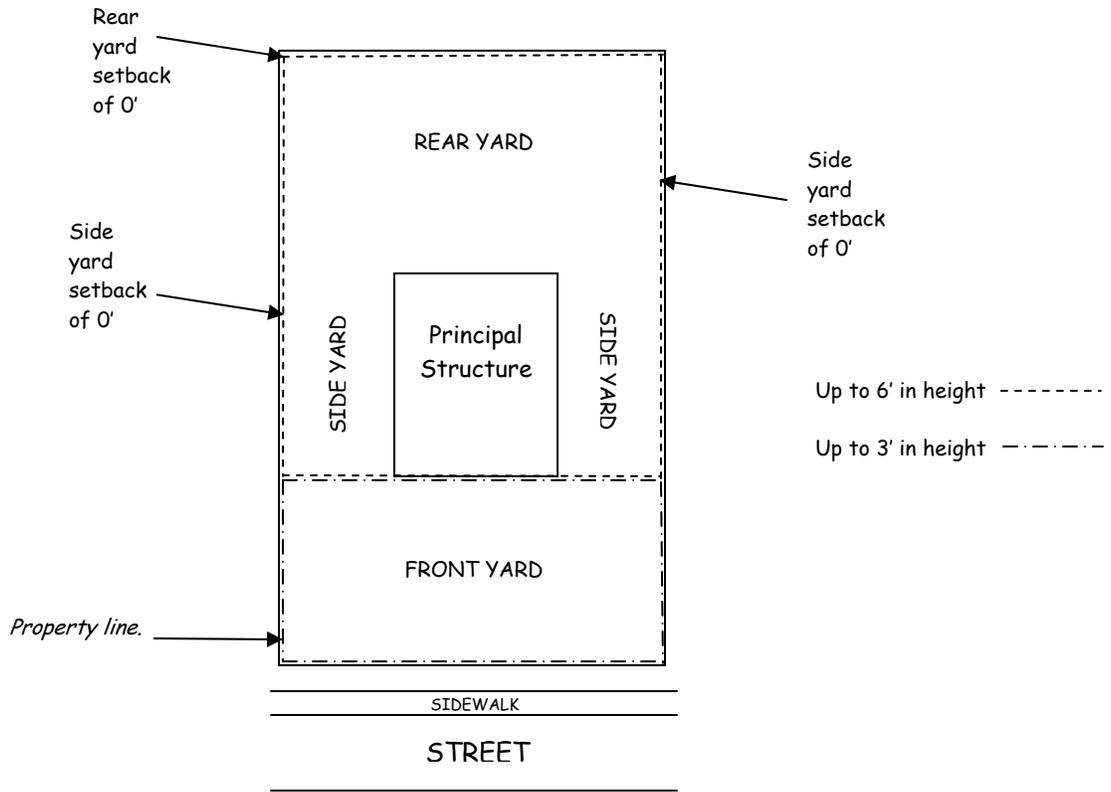
(c) The finished side of the fence shall be erected to face the adjoining property. The side with protruding studs or posts shall face the building of the lot responsible for the erection of the fence.

(d) Fences shall not exceed three feet (3') in height when located in a front yard.

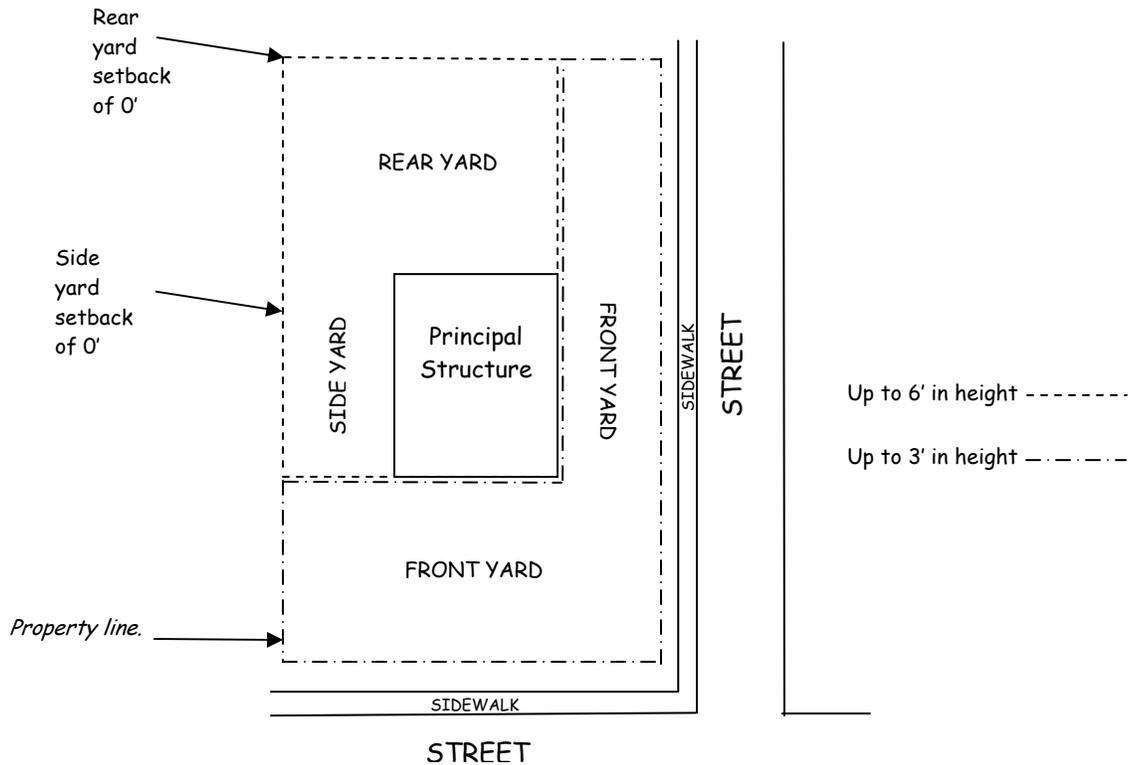
(e) Barbed wire or electrical and single, double or triple strand fences are prohibited.

(f) Fences on junk yards and on publicly owned lands or semipublic lands such as churches, schools, educational institutions, utility substations, etc., are excluded from the provisions of this subsection, except that such fences that incorporate the use of barbed wire, such barbed wire shall not be less than 7 feet above ground level.

BUILDABLE AREA FOR RESIDENTIAL FENCES ON A TYPICAL INTERIOR LOT WITH FRONTAGE ON ONE STREET

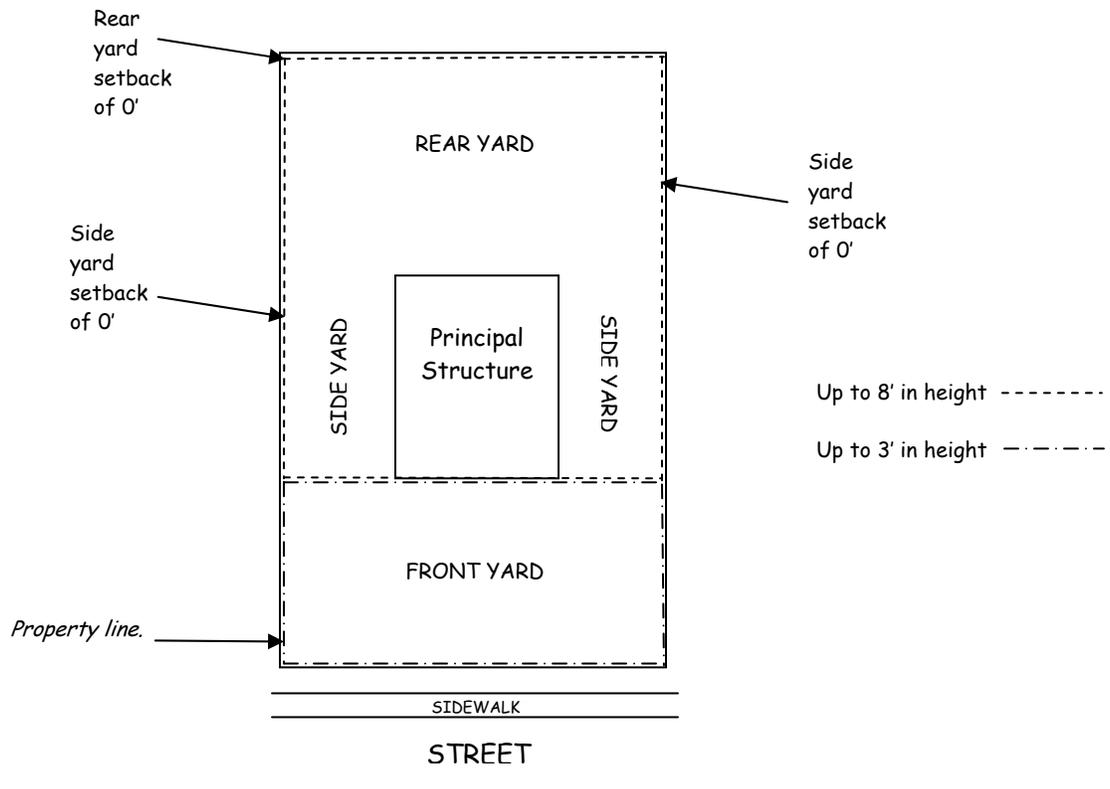


BUILDABLE AREA FOR RESIDENTIAL FENCES ON A TYPICAL CORNER LOT WITH FRONTAGE ON TWO STREETS

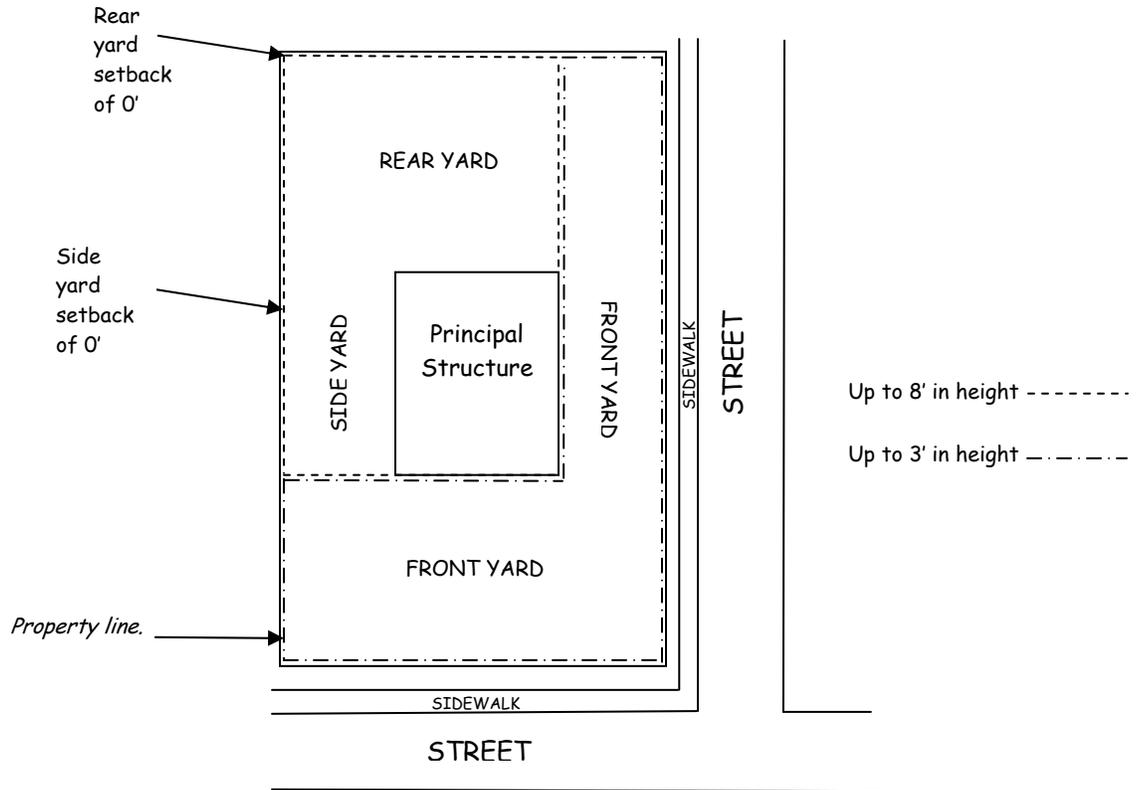


- (11) All fences placed on nonresidential lands within the City shall comply with the provisions of this subsection.
- (a) For the purpose of this section, “fence” is herein defined as an enclosing barrier consisting of vegetation, wood, stone or metal, which is located on or near the boundary lines common with adjacent properties, and is intended to prevent straying from within or intrusion from without.
- (b) Fences shall not exceed eight feet (8’) in height when located in a side or rear yard.
- (c) The finished side of the fence shall be erected to face the adjoining property. The side with protruding studs or posts shall face the building of the lot responsible for the erection of the fence.
- (d) Fences shall not exceed three feet (3’) in height when located in a front yard.
- (e) Barbed wire or electrical and single, double or triple strand fences are prohibited, except in areas zoned AG-1 Agricultural, I-1 Light Industrial or I-2 Heavy Industrial. On fences that incorporate the use of barbed wire, such barbed wire shall not be less than seven feet (7’) above ground level.

BUILDABLE AREA FOR *NON-RESIDENTIAL* FENCES ON A TYPICAL INTERIOR LOT WITH FRONTAGE ON ONE STREET



BUILDABLE AREA FOR *NON-RESIDENTIAL* FENCES ON A TYPICAL
CORNER LOT WITH FRONTAGE ON TWO STREETS



17.111 HEIGHT LIMITATIONS IN AIRPORT VICINITY, (Cr. Ord. #8-85)

(1) **DEFINITIONS.** The words and terms used in this section shall be defined as follows:

(a) **Airport** . (Am. Ord. #20-04) The Waupaca Municipal Airport located in Sections 33, 34 and 35, T 22 N, R 12 E; and Section 2, T 21 N, R 12 E, Waupaca County, Wisconsin.

(b) **Airport Hazard** . Any structure or object of natural growth which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

(c) **Nonconforming Use** . Any structure or tree which does not conform to a regulation prescribed in this section or an amendment thereto, as of the effective date of such regulation.

(d) **Structure** . Any object constructed or installed by man.

(e) **Trees** . Does not include shrubs, bushes or plants which do not grow to a height of more than 20 feet.

(f) **Runway** . A level portion of an airport having a surface specifically developed and maintained for the landing and take-off of aircraft.

(2) **ZONES.** (Am. Ord. #20-04) All zones established by this section are as shown on the map dated January 14, 2004, entitled "Height Limitation Zoning Map, Waupaca Municipal Airport, Waupaca, Wisconsin," which is hereby adopted by reference.

(3) **HEIGHT LIMITATION ZONES.** Except as otherwise provided in this section, no structure shall be constructed, altered, located or permitted to remain after such construction, alteration or location, and no trees shall be allowed to grow to a height in excess of the height limit indicated on the Map referred to in subsection (2) above.

(4) **EXCEPTIONS.** The restrictions contained in subsection (3) above shall not apply to objects which are less than 35 feet in height above ground level at the object site.

(5) **NONCONFORMING USES.**

(a) **Not Retroactive** . The regulations prescribed in subsections (2) and (3) above shall not be construed to require the removal, lowering or other change or alteration of any nonconforming use, or otherwise interfere with the continuance of any nonconforming use, except as otherwise provided by subsection (7)(b) below.

(b) **Changes** . Nothing herein contained shall require any change in the construction, alteration or intended use of any structure if the construction or alteration of such was begun prior to the effective date of this section, and if such was diligently prosecuted.

(c) **Removal** . This section shall not interfere with the removal of nonconforming uses by purchase or the use of eminent domain.

(6) **ADMINISTRATION.** (Am. Ord. #20-04) It shall be the duty of the Building Inspector to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Building Inspector upon forms furnished by him/her. Applications which, under this section are to be decided by the Building Inspector, shall be granted or denied within 10 days of the date of filing of the applications unless Federal Aviation Administration approval is requested. Applications for action by the Board of Appeals shall be forthwith transmitted by the Building Inspector to the Board for hearing and decision. The charge for applications for permits and variances shall be the fee as provided under sec. 17.462 Waupaca City Ordinances and as it may be amended from time to time.

(7) PERMITS.

(a) Future Uses . No structure shall hereafter be constructed, erected or installed, or be permitted to remain in any zone created by subsection (2) above until the owner or his/her agent shall have applied, in writing, for a permit therefore and obtained such permit from the Building Inspector, except structures less than 35 feet in height above the ground. Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment. Application for such permit shall indicate the use for which the permit is desired and shall describe and locate the use with sufficient particularity to permit the Building Inspector to determine whether such use would conform to the regulations herein prescribed. If such determination is in the affirmative, the Building Inspector shall issue the permit applied for.

(b) Existing Uses . Before any nonconforming structure may be replaced, altered or rebuilt, a permit shall be applied for and secured in the manner prescribed by paragraph (a) above authorizing such change, replacement or repair. No such permit shall be denied if the structure will not become a greater hazard to air navigation than it was on the effective date of this section, or than it was when the application for permit was made.

(8) BOARD OF APPEALS. See sec. 17.430 of this chapter.

(9) APPEALS AND REVIEW.

(a) Variances . Upon appeal in special cases, the Board of Appeals may, after investigation and public hearing, grant such variance from the terms of this section as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this section would result in unnecessary hardship, and such relief will do substantial justice and be in accord with the spirit of this section, and does not create a hazard to the safe, normal operation of aircraft.

(b) Aggrieved Person . Any person aggrieved or affected by any decision or action of the Building Inspector made in his/her administration of this section may appeal such decision or action to the Board of Appeals.

(c) Procedure . Any appeal taken pursuant to this section shall be in conformity with the procedure established by §62.23(7)(e), Wis. Stats.

(10) PENALTY. Any person violating any of the provisions of this section shall, upon conviction, forfeit not less than \$25 nor more than \$200 for such offense, together with the costs of prosecution, and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed 30 days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

17.112 OPEN SPACE.

(1) MINIMUM REQUIRED. No building shall be erected, structurally altered or relocated on a lot so as to reduce the landscaped open space of such lot to less than that hereinafter specified by the regulations for that district.

(2) HOW MEASURED. Open space shall consist of all permeable, landscaped areas that provide for the amenities and necessities of light, air, play space, drying yard, garden, lawns, etc., but shall not include parking areas and drives. Crop pasture and wooded land may be included in computing such open area.

(3) OVERLAPPING. No part of the open space provided for any building shall be included as part of the open space required for another building, except as hereinafter provided for planned development projects.

17.120 NONCONFORMITY REGULATIONS.

(1) NONCONFORMING USE REGULATIONS.

(a) The existing lawful use of a building or premises on November 3, 1967, or the date of any amendment thereto may be continued although such use does not conform with the provisions of this chapter for the district in which it is located, but such nonconforming use shall not be extended.

(b) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.

(c) If a nonconforming use of a building or premises is discontinued for a period of 12 months, any future use of the building or premises shall conform to the regulations for the district in which it is located.

(d) When a building containing a nonconforming use is damaged by fire, explosion, act of God or the public enemy to the extent of more than 50% of its fair market value, it shall not be restored except in conformity with the regulations of the district in which it is located. The total structural repairs or alterations in any such nonconforming building shall not, during its life, exceed 50% of the fair market value of the building unless permanently changed to a conforming use.

(e) No illegal use existing on November 3, 1967, is legalized by such action.

(2) SUBSTANDARD LOT REGULATIONS.

(a) Upon and after the effective date of this chapter, no lot shall be created which does not meet the minimum area requirements of each zoning district or the minimum lot area requirements of each zoning district or which does not meet the lot dimension requirements of each zoning district.

(b) A lot of record existing upon the effective date of this chapter in a residential district which does not meet the minimum area of each zoning district or the minimum lot area requirements each zoning district, or which does not meet the lot dimension requirements of each zoning district may be utilized for a detached single-family dwelling unit. Said lot shall not be more intensively developed (with multifamily or nonresidential uses) unless combined with one or more abutting lots (or portions thereof) so as to create a lot which meets the requirements of this chapter.

(3) NONCONFORMING STRUCTURE AND BUILDING REGULATIONS. (Rep. & Recr. #20-07)

(a) Continuation. Any structure or building lawfully existing upon the effective date of this chapter may be continued at the size and in a manner of operation existing upon such date, except as hereafter specified.

(b) Unsafe Structures. Nothing in this chapter shall preclude the Building Inspector from remedial or enforcement actions when said structure or building is declared unsafe.

(c) Substantial Improvement. Whenever a lawful nonconforming structure has been damaged by fire, flood, wind, explosion, earthquake, war, riot, unlawful act, or Act of God or as outlined in §61.351(5m), Wis. Stats., it may be reconstructed and used as before. In such cases, the reconstruction shall be limited to uses permitted by the provisions of this chapter (unless the ability to reestablish a nonconforming use is specifically granted by the Plan Commission).

(d) Ordinary Maintenance and Repairs. Ordinary maintenance and repairs made to a nonconforming building or structure may be allowed provided that ordinary maintenance

and repair conforms with the requirements of the district in which it is located and all other provisions of this chapter. Ordinary maintenance and repairs are defined as follows:

1. Internal and external painting, decorating;
2. The repair or replacement of doors, windows, nonbearing walls, fixtures, heating components, wiring, plumbing, siding, roofing or other nonstructural components;
3. Resurfacing a parking lot or parking space, which means adding a layer of asphalt or concrete to an existing off-street parking lot or parking space;
4. Removing asphalt or concrete from a parking lot or parking space without exposing the gravel base course and repaving such area.

(e) Alterations.

Alterations within the footprint of a nonconforming building or structure may be allowed provided that the alteration conforms with the requirements of the district in which it is located and all other provisions of this chapter. Alterations are defined as:

1. Changing or rearranging the supporting members of an existing building or structure, such as bearing walls, columns, beams, girders, or interior partitions;
2. Changing location of doors, windows, means of ingress and egress;
3. Adding asphalt or concrete over a gravel parking lot or parking space;
4. Removing asphalt or concrete from a parking lot or parking space and exposing the gravel base course and the repaving of such area.

(f) Additions . Additions made to nonconforming buildings or structures may be permissible in the front, side and rear yards subject to the following:

1. The addition shall not encroach into the required side yard setbacks of the district in which it is located;
2. The addition shall not further encroach into the established nonconforming front or rear yard setbacks of the existing nonconforming structure;
3. The addition shall conform with all other requirements of the district in which it is located and all other provisions of this chapter.

(g) Nonconforming Accessory Structures . Additions to legal nonconforming accessory structures may be permitted provided that:

1. The existing accessory structure is not located closer than 2 feet from the side or rear lot line, or 5 feet from the principal building after the addition has been made;
2. The addition shall not result in new construction which exceeds 50% of the original size of the accessory structure or 200 square feet, whichever is less;
3. The addition will not further encroach into the established nonconforming yard setbacks and clearance areas.

SPECIFIC DISTRICT REGULATIONS

17.200 STANDARD ZONING DISTRICTS AND STANDARD ZONING DISTRICT CATEGORIES.

For the purpose of this chapter, all areas within the jurisdiction of this chapter are hereby divided into the following standard zoning districts, and standard zoning district categories, which shall be designated as follows:

Agricultural Category:

Agricultural District (AG-1)

Residential Category:

Single-family Residential District (R-1)

Two-Family Residential District (R-2)

Multiple-Family Residential District (R-3)

Commercial Category:

Neighborhood Commercial District (B-1)

Central Business District (B-2)

General Commercial District (B-3)

Strip Commercial District (B-4)

Planned Commercial District (B-5)

Industrial Category:

Light Industrial District (I-1)

Heavy Industrial District (I-2)

Planned Development Category:

Planned Unit Development District

Other Districts:

Resource Conservation District

Quarrying District

State Law Reference: Section 62.23(7)(b), Wisconsin Statutes.

17.201 MAP OF STANDARD ZONING DISTRICTS.

(1) DISTRICT MAP. The boundaries of the districts listed in sec. 17.200 of this chapter are hereby established as shown on the map entitled "Zoning District Map, Waupaca, Wisconsin," dated September 6, 1966, which map is made a part of this chapter. All amendments to the Zoning District Map shall be made by the Building Inspector. A record of all amendments shall be kept on file in the offices of the Clerk/Treasurer and the Building Inspector.

(2) AMENDMENTS TO DISTRICT MAP. Ordinance numbers 276, 294, 302, 3-71, 6-71, 7-71, 2-72, 4-72, 7-72, 7-73, 8-73, 9-73, 10-73, 4-74, 6-74, 7-74, 10-74, 5-75, 11-75, 18-75, 8-76, 9-76, 11-76, 7-77, 9-77, 12-77, 2-78, 3-78, 10-78, 14-78, 15-78, 16-78, 20-78, 5-79, 6-79, 8-79, 14-79, 17-80, 8-81, 8A-81, 10A-81, 8-82, 4-83, 6-84, 9-84, 11-84, 14-84, 8-86, 9-86, 13-86, 14-86, 2-87, 6-87, 7-87, 8-87, 9-87, 1-88, 2-88, 5-88, 6-88, 8-88, 12-88, 13-88, 14-88, 10-89, 11-89, 16-89, 25-89, 28-89, 10-90, 13-90, 18-90, 21-90, 2-92, 10-92, 11-92, 12-92, 15-92, 17-92, 1-93, 2-93, 3-93, 5-93, 13-93, 14-94, 17-93, 21-93, 8-94, 15-94, 16-94, 28-94, 16-95, 17-95, 18A-95, 6-96, 11-96, 23-96, 7-97, 6-98, 1-99, 4-99, 6-99, 14-99, 15-99, 16-99, 1-00, 2-00, 3-00, 7-00, 14-00, 19-00, 20-00, 21-00, 23-00, 9-01, 19-01, 7-02, 11-02, 15-02, 04-03, 17-03, 23-03, 28-04, 02-07, 09-07, 12-07, 14-07, 18-07, 21-07, 24-07.

17.202 INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

(1) STREET AND ALLEY LINES. The district boundaries are either streets or alleys, unless otherwise shown, and where the designation on the Zoning District Map indicates that the various districts are approximately bounded by a street or alley line, such street or alley line shall be construed to be the district boundary line.

(2) LOT LINES. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the Zoning District Map are approximately bounded by lot lines, such lot line shall be construed to be the boundary of the district.

(3) UNSUBDIVIDED PROPERTY. In unsubdivided property, the district boundary lines shown on the Zoning District Map shall be determined by the use of the scale shown on such map.

17.203 CHANGES AND AMENDMENTS.

The Council may, from time to time, on its own motion or on petition, after first submitting the proposal to the Plan Commission, amend, supplement or change the district boundaries or the regulations herein or subsequently established upon giving notice by publication in the official City newspaper by a Class 2 notice under Ch. 985, Wis. Stats., of the proposed amendment, supplement or change and of the hearing thereon, and the opportunity to any person interested to be heard. In case of protest against such change duly signed and acknowledged by the owners of 20% or more either of the land included in such proposed amendment or the owners of 20% or more of the areas of land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment, supplement or change shall not become effective except by the favorable vote of 3/4 of the members of the Council voting on the proposed change.

17.210 AGRICULTURAL DISTRICT REQUIREMENTS.

(1) AGRICULTURE DISTRICT.

(a) Intent . This district is intended to preserve a rural setting of very low density and high quality for "estate" or "gentlemen's farm" type development, while providing also for the continuance of commercial agriculture on properties of sufficient area to permit compatibility with surrounding residential development, in areas not intended to be served by municipal sewer or water facilities.

(b) Uses Permitted by Right . In the agricultural district no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:

1. One-family and 2-family farm residences.
2. Crop, dairy, cattle and tree farming subject to the following:
 - a. The keeping or raising of hogs, fur bearing animals, or goats shall not be permitted.
 - b. The keeping or raising of poultry and domestic livestock, except for hogs and fur-bearing animals, the raising of which is absolutely prohibited in this district, shall be permitted as part of a principal agricultural use of the premises on farms of at least 10 acres in area on the basis of not more than one head of livestock per acre nor more than 50 fowl per acre, nor more than 2 goats on one farm.
3. Customary accessory uses, including not more than one roadside stand for the sale of farm products produced on the premises. Any such stand shall conform to setback, sign and other provisions of this chapter.

4. Passive outdoor public recreation.
 5. Active outdoor public recreation.
 6. Public services and utilities.
- (c) Special Uses . Uses permitted after approval of a special use as outlined in sec. 17.440.
1. Animal hospital, provided the lot area is not less than 3 acres, and all principal structures and uses are not less than 100 feet from any residential district.
 2. Dumps, disposal areas, incinerators and sewage disposal plants, including farms for disposal of garbage, sewage, rubbish or offal.
 3. Commercial raising, propagation, boarding or butchering of animals such as dogs, mink, rabbits, foxes, goats and pigs; the commercial production of eggs; and the hatching, raising, fattening or butchering of fowl.
 4. Pea vineries, creameries and condenseries.
 5. Recreational uses such as archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, hunting, pools, riding academies, skating rinks, sport fields, zoological and botanical gardens.
 6. Airports.
 7. Outdoor institutional.
 8. Outdoor commercial entertainment.
 9. Commercial animal boarding.
 10. Bed and breakfast establishments.
 11. Campground.
 12. Junkyard or salvage yard.
 13. Waste disposal facility.
 14. Composting operation.
 15. Airport/heliport.
 16. Communication tower.
 17. Extraction use.
 18. The keeping or raising of domestic livestock for show, breeding, or other use incidental to the principal use of the premises subject to the following:
 - a. The keeping or raising of hogs, or fur bearing animals other than rabbits shall not be permitted.
 - b. Not more than one head of domestic livestock or 10 fowl shall be permitted per 80,000 square feet of lot area. Nor shall any such livestock or fowl be permitted on a lot less than 5 acres in area.
 19. Nurseries and greenhouses for the propagation and cultivation of plants.
 20. Guest houses provided such structure shall not be rented or leased. Such structure shall be a minimum of 1,200 square feet.

Bulk Requirements	
1. Lot Size	
Minimum Area	5.0 acres
Minimum Width	300 feet
2. Building Location*	
Minimum Setback	80 feet
Minimum Side Setback	
One Side	50 feet
All Other Sides	50 feet
3. Open Spaces	
Main Per Residential D/U	4.25 acres
4. Height Maximum Permitted	
Principal Structure	35 feet
Accessory Structure	50 feet

* For buildings intended for human habitation

17.220 RESIDENTIAL DISTRICT REQUIREMENTS.

(1) R-1 SINGLE-FAMILY RESIDENCE DISTRICT.

(a) Intent . This district is intended to permit development which has a moderate density community character. Density and intensity standards for this district are designed to ensure that the single-family residential district shall serve as a designation which preserves and protects the residential community character of its area.

(b) Uses Permitted by Right . In the single-family residence district, no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:

1. Single-family dwellings.
2. Accessory buildings or one private garage.
3. Not over 2 boarders or lodgers not members of the family.
4. Public services and utilities.
5. Community living arrangement (1--8 residents).
6. Uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business; including home occupations not involving the conduct of a business on the premises.
7. Professional or announcement signs not over one square foot in area, except that public or religious institutions may have for their own use an announcement sign or bulletin board not over 8 square feet in area; signs not over 6 square feet in area pertaining to the lease, hire or sale of a building or premises, provided that no advertising sign of any other character shall be permitted in the single-family residence district; and provided further that all permitted signs shall be located within the lot lines and at least 2 feet from the street right-of-way.

(c) Special Uses . Uses permitted after approval of a special use as outlined in sec. 17.440.

1. Churches, public schools, parochial schools, colleges including dormitories, public libraries, public museums and art galleries. Municipal buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards, and penal or correctional institutions and asylums. Public recreational and community buildings and grounds. all existing uses detailed above and their existing accessory uses as of the date of adoption of the amendment of this paragraph are hereby defined as an existing special use and shall be issued a special use permit by the Zoning Administrator. Any expansion, change, addition or alterations to the existing special use of the property or structures thereon, including existing accessory uses, shall be approved by the Plan Commission in accordance with sec. 17.440. (Am. Ord. #9-00)
2. Telephone buildings, exchanges and lines and static transformer stations, provided there is no service garage or storage yard. This regulation, however, shall not include microwave radio relay structures unless and until the location thereof shall first have been approved by the Plan Commission.
3. Railroad right-of-way and passenger depots, not including switching, storage, freight yards or siding.
4. Professional offices.
5. Community living arrangement (9--16 residents).
6. Bed and breakfast establishments.
7. Cemeteries.

Bulk Requirements	
1. Lot Size	
Minimum Area	8,500 square feet / dwelling unit
Minimum Width	66 feet
2. Building Location*	
Minimum Setback	25 feet
Rear Yard	30 feet
Minimum Side Setback (1 side / Total)	
<1.5 stories	8 feet / 18 feet
>1.5 stories	10 feet / 25 feet
3. Building Size	
Minimum Residential Floor Area / Dwelling Unit	650 square feet
4. Minimum Open Space	
Minimum Open Space	40% of the lot area
5. Maximum Height	
Principal Structure	35 feet
Accessory Structure	15 feet

** On a single lot having a width of less than 66 feet and of record on November 3, 1967, the sum*

of the widths of the side yards shall be not less than the equivalent of 4.6 inches per foot of the lot width for buildings not over 1 1/2 stories high and of 5.5 inches per foot of lot width for buildings from 1 1/2 to 2 1/2 stories high; provided further, that the buildable width of any such lot in no case shall be reduced to less than 24 feet, nor shall the width of any single side yard be less than 40% of the total required side yard width.

(2) R-2 TWO-FAMILY RESIDENCE DISTRICT.

(a) Intent . This district is intended to permit development which has a moderate density community character. The land use standards for this district permit both single-family detached residential development and twin house/duplexes permitted by right. Density and intensity standards for this district are designed to ensure that the district shall serve as a designation which preserves and protects the moderate density residential community character of its area.

(b) Uses Permitted by Right . In the single-family and 2-family residence district, no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for any use permitted in the single-family residence district or for the 2-family, shall be as follows:

1. Any use permitted in the single-family residence district.
2. Two-family dwellings.
3. Public services and utilities.
4. Zero lot line or common wall single-family attached developments.
 - a. Platting Requirements. A certified survey map shall illustrate the proposed lot line, the location of the dwellings, required setbacks, easements, and the location of the sanitary sewer and water laterals servicing each side of the duplex the dwellings shall be provided to the City Plan Commission and Common Council for review and approval prior to recording with the County Register of Deeds.
 - b. Maintenance and Drainage Easements. A perpetual easement related to maintenance, eaves, and drainage of at least 5 feet shall be provided on the lot adjacent to the zero lot line property line which, with the exception of fences, shall be kept clear of structures. These easements shall be shown on the face of the certified survey map and incorporated into each deed transferring title on the property. The building wall along the zero lot line shall be maintained in its original color and treatment unless otherwise agreed to in writing by the 2 affected lot owners.
 - c. Covenants and Maintenance Agreement. The proposed covenants and maintenance agreements shall be provided to the City Plan Commission and Common Council for review and approval prior to recording with the County Register of Deeds.
 - d. Miscellaneous Documentation. Letter from licensed plumber indicating that each unit is served by separate sanitary sewer and water laterals.
5. Community living arrangement (1--8 residents).

(c) Special Uses .

1. Churches, public schools, parochial schools, colleges including dormitories, public libraries, public museums and art galleries. Municipal buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards, and penal or correctional institutions and asylums. Public recreational and community

buildings and grounds. All existing uses detailed above and their existing accessory uses as of the date of adoption of the amendment of this paragraph are hereby defined as an existing special use and shall be issued a special use permit by the Zoning Administrator. Any expansion, change, addition or alterations to the existing special use of the property or structures thereon, including existing accessory uses, shall be approved by the Plan Commission in accordance with sec. 17.440. (Am. Ord. #9-00)

2. Telephone buildings, exchanges and lines and static transformer stations, provided there is no service garage or storage yard. This regulation, however, shall not include microwave radio relay structures unless and until the location thereof shall first have been approved by the Plan Commission.

3. Railroad right-of-way and passenger depots, not including switching, storage, freight yards or siding.

4. Professional offices.

5. Community living arrangement (9--16 residents).

6. Sewage disposal plants.

7. Bed and breakfast establishments.

8. Buildings or premises for such public utility purposes as are reasonably necessary for public convenience and welfare.

Bulk Requirements	
1. Lot Size	
Minimum Area	
Single-family	8,500 square feet / unit
Two-family	5,000 square feet / unit
Minimum Width*	66 feet
2. Building Location	
Minimum Setback	25 feet
Minimum Rear Yard	30 feet
Minimum Side Yard (1 side / Total)**	10 feet / 25 feet
3. Building Size	
Minimum Residential Floor Area	
2 Unit Building	1,200 square feet
Per Unit Minimum	450 square feet
4. Minimum Open Space	
Minimum Open Space	40% of the lot area
5. Maximum Height	
Principal Structure	35 feet
Accessory Structure	15 feet

* Every zero lot line or common wall development shall be on a zoning lot where each single-family attached dwelling hereafter erected shall have a minimum area of not less than 3,600 square feet and a minimum width of 33 feet at the building line.

** For zero lot line or common wall development a dwelling unit may be placed on one interior side property line, giving it one zero-side/interior setback. The exterior of the other side yard of the principal building shall have a setback of not less than 12.5 feet.

(3) R-3 MULTIPLE-FAMILY RESIDENCE DISTRICT.

(a) Intent . This district is intended to permit development which has a moderate density community character. The land use standards for this district permit single-family detached, twin house/duplex, 2-flats, townhouses, and multiplexes and apartments permitted by right and related institutional land uses. Density and intensity standards for this district are designed to ensure that the multifamily residence district shall serve as a designation which preserves and protects the community character of its area.

(b) Uses Permitted by Right . In the multiple-family residence district no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:

1. Any use permitted by right in the single-family residence district.
2. Two-family dwellings.
3. Multiple-family dwellings.
4. Community living arrangement (1--8 residents).
5. Community living arrangement (9--16 residents).
6. Public services and utilities.
7. Storage garage when located not less than 75 feet from the front lot line and not less than 50 feet from any other street line on which the property faces; provided that no such garage shall have an entrance or exit for motor vehicles within 300 feet of an entrance or exit of a public or private school, playground, public library, church, hospital, children's or old peoples' home or other similar public or semi-public institution; provided further, that there be a lot area of not less than 2,000 square feet for each vehicle stored and the minimum required side yards and rear yard be maintained.

(c) Special Uses .

1. Boardinghouses and lodging houses.
2. Philanthropic and eleemosynary institutions.
3. Private clubs, fraternities and lodges, except those whose chief activity is customarily carried on as a business.
4. Churches, public schools, parochial schools, colleges including dormitories, public libraries, public museums and art galleries. Municipal buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards, and penal or correctional institutions and asylums. Public recreational and community buildings and grounds. All existing uses detailed above and their existing accessory uses as of the date of adoption of the amendment of this paragraph are hereby defined as an existing special use and shall be issued a special use permit by the Zoning Administrator. Any expansion, change, addition or alterations to the existing special use of the property or structures thereon, including existing accessory uses, shall be approved by the Plan Commission in accordance with sec. 17.440. (Am. Ord. #9-00)
5. Telephone buildings, exchanges and lines and static transformer stations, provided there is no service garage or storage yard. This

regulation, however, shall not include microwave radio relay structures unless and until the location thereof shall first have been approved by the Plan Commission.

6. Railroad right-of-way and passenger depots, not including switching, storage, freight yards or siding.
7. Professional offices.
8. Storage garage or parking area in connection with a housing development project.
9. Sewage disposal plants.
10. Buildings or premises for such public utility purposes as are reasonably necessary for public convenience and welfare.
11. Nursing, rest, or convalescent homes. (Cr. Ord. #10-00)
12. Bed and breakfast establishments.
13. Group day care center (9+ children).

Bulk Requirements	
1. Lot Size	
Minimum Area	
Total Lot	10,000 square feet
Per Unit	2,150 square feet
Minimum Width	100 feet
2. Building Location	
Minimum Setback	25 feet
Minimum Rear Yard*	30 feet
Minimum Side Yard (1 side / Total)	
1 Family	Same as 17.120 (1)
2+ Families	10 feet / 25 feet
3. Building Size	
Minimum Residential Floor Area	
2 Units	1,200 square feet
3 Units	1,500 square feet
4+ Units	450 square feet / unit
4. Minimum Open Space	
Minimum Open Space	50% of the lot area
5. Maximum Height	
Principal Structure	45 feet
Accessory Structure	15 feet

* Buildings 30 or more feet in height, 5 feet shall be added to the rear yard for each additional 5 feet in height.

(4) MH MOBILE HOME DISTRICT.

(a) Intent . This district is intended to provide a safe, attractive, and functional environment for mobile and manufactured home parks and subdivisions, where the characteristics of manufactured homes do not allow them to be classified as single-family dwellings. The district shall be mapped only where the mobile or manufactured home park will be provided with public sanitary sewer service.

(b) Uses Permitted by Right . In the mobile home district, no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses. In addition, laundries, washrooms, recreation rooms, maintenance equipment storage, and one office associated with each mobile or manufactured home park shall be permitted as accessory land uses by right.

1. Mobile homes.
2. Manufactured homes not meeting single-family standards.
3. Community living arrangement (1--8 residents).
4. Group day care center (less than 8 children).
5. Outdoor public recreation facilities.
6. Home occupations per sec. 17.304.

(c) Special Uses . Uses permitted after approval of a special use as outlined in sec. 17.440

1. Mobile home parks per sec. 17.301.
2. Institutional and public utility installations.
3. Community living arrangement (9--16 residents).
4. Group day care center (9+ children).
5. Private clubs, fraternities and lodges, except those whose chief activity is customarily carried on as a business.
6. Cemeteries.

(d) Bulk Requirements .

Bulk Requirements	
1. Lot Size	
Minimum Area	
Total Lot	10 acres
Per Unit	6,000 square feet
Minimum Width per Unit	50 feet
2. Building Location	
Minimum Perimeter Yard	40 feet
Minimum Setback from ROW	25 feet
Minimum Setback from Private Road	20 feet
Minimum Setback Between Units	30 feet
3. Building Size	
Minimum Residential Floor Area	1,000 square feet
Minimum Unit Width	25 feet
4. Minimum Open Space	
Minimum Open Space	50% of the lot area
5. Maximum Height	
Principal Structure	35 feet
Accessory Structure	15 feet

(e) Other Standards .

1. All dwelling units shall comply with the following design standards:
 - a. Minimum dwelling unit dimensions of 25' x 40'.
 - b. Minimum roof pitch of 4:12.
 - c. Minimum eave width of 18 inches.
2. Other regulations as outlined in sec. 17.301.

17.230 NONRESIDENTIAL DISTRICT REQUIREMENTS.

(1) B-1 NEIGHBORHOOD BUSINESS DISTRICT.

(a) Intent . This district is intended to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood and the character, appearance and operation of which are compatible with the character of the surrounding area.

(b) Uses Permitted by Right .

1. Any use permitted by right in the multiple-family residence district, except single-family residences.
2. Public services and utilities.
3. Office.
4. Personal or professional services.
5. Indoor sales or service.
6. Indoor maintenance service.
7. Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto.

(c) Special Uses . (Am. Ord. #7-90)

1. Truck garage, repair and service of motor propelled vehicles including the storage and sale of automotive accessories, underground fuel storage and pumps, light manufacturing operations when such operations do not exceed 7,500 square feet of working area and not more than 15 employees. Storage parking of trailers outside buildings is prohibited, but employees' personal vehicles may be parked on the premises.
2. Drive-in restaurants or fast food restaurants.
3. Undertaking establishments.
4. Restaurants, lunch rooms, refreshment stands, cocktail lounges and taverns.
5. Public or private parking lots or structures (not including parking lots as accessory to a principal use.
6. Motels.
7. Food products, retail.
8. Community living arrangement (9--15 residents).
9. Community living arrangement (16+ residents).
10. In-vehicle sales or service.
11. Bed and breakfast establishments.
12. Group day care center (9+ children).
13. Boarding house.
14. Private clubs and lodges, except those the chief activity of which is a service customarily carried on as a business.
15. Hospitals and clinics.
16. Institutions of an educational, philanthropic or eleemosynary nature.

17. Cemeteries.
18. Uses with a floor area in excess of 10,000 square feet.
19. Churches

(d) Bulk Requirements.

Bulk Requirements	
1. Lot Size	
Minimum Area	8,500 square feet
Minimum Width	66 feet
2. Building Location	
Minimum Setback	25 feet
Minimum Rear Yard	15 feet
Minimum Side Yard	10 feet
3. Building Size	
Maximum Floor Area	
One Story	5,000 square feet
Two Story	10,000 square feet
4. Minimum Open Space by Lot Area	
Minimum Open Space by Lot Area	<20,000 – 0% 20,001-30,000 – 10% >30,000 – 25%
5. Maximum Height	
Principal Structure	20 feet
Accessory Structure	15 feet

(2) B-2 CENTRAL BUSINESS DISTRICT.

(a) Intent . This 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. In an effort to minimum the potential disruptions to existing residential development, nonresidential development within this district should minimize direct access to local residential streets or residential collector streets. No requirements for on site landscaping or parking are required in this district. This district is strictly limited to the central City locations.

(b) Uses Permitted by Right .

1. Any use permitted by right in sec. 17.230(1)(b) of this chapter, except residential living units on the first floor of a structure.
2. Upper story residential units.
3. Public services and utilities.
4. Office.
5. Personal or professional services.
6. Indoor sales or service.

7. Indoor maintenance service.
8. Animal hospital and pet shops.
9. Bakery employing not more than 12 persons on the premises.
10. Bowling alleys, pool and billiard rooms, gymnasiums, dancing schools, dance halls, skating rinks, theaters except drive-in theaters.
11. Business and professional offices.
12. Cleaning and dyeing, collection and distribution depots only.
13. Crockery stores and plumbing, heating and electrical supplies.
14. Department stores.
15. Financial institutions, brokerage, pawnbrokers.
16. Hotels.
17. Microwave relay structures.
18. Radio broadcast studios.
19. Any other uses similar in character and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.
20. Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto.

(c) Special Uses .

1. Any special use permitted by sec. 17.230(1)(c) in the B-1 Neighborhood Commercial District.
2. Automobile sales and service and mobile home sales establishments.
3. Convention and exhibition halls.
4. Railroad and bus passenger depots.
5. Community living arrangement (9--15 residents).
6. Community living arrangement (16+ residents).
7. In-vehicle sales or service.
8. Indoor commercial entertainment.
9. Brewing and distilling of alcohol.
10. Bed and breakfast establishments.
11. Group day care center (9+ persons).
12. Boarding house.
13. Drive-in, drive-thru, and other restaurants.
14. Retail and wholesale uses that exceed 10,000 square feet in floor area.

(d) Bulk Requirements.

Bulk Requirements	
1. Lot Size	
Minimum Area	None
Minimum Width	None
2. Building Location	
Minimum Setback	None
Minimum Rear Yard	None
Minimum Side Yard	None
3. Building Size	
Maximum Floor Area	
One Story	None
Two Story	None
4. Minimum Open Space by Lot Area	
Minimum Open Space	None
5. Maximum Height	
Principal Structure	45 feet
Accessory Structure	15 feet

(3) B-3 GENERAL COMMERCIAL DISTRICT.

(a) Intent . This district is intended to permit large and small scale commercial development which is compatible with the desired overall community 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 office, retail, and lodging land uses are permitted within this district. In order to ensure a minimum of disruption to residential development, direct access to a local residential street or a residential collector street is strongly discouraged.

(b) Uses Permitted by Right .

1. Any use permitted by right in sec. 17.230(1)(b) and (2)(b) of this chapter.
2. Office.
3. Personal or professional services.
4. Indoor sales or service.

(c) Special Uses . (Am. Ord. #18-04)

1. Any special use permitted in sec. 17.230(1)(c) and (2)(c).
2. Truck garage; repair and service of motor propelled vehicles; including the sale and storage of automobile accessories.
3. Underground fuel storage and pumps.
4. Pre-manufactured home sales facilities.
5. Golf ball driving range.
6. Miniature golf establishment.
7. Amusement rides including related equipment; go-kart track including vehicles and other necessary equipment.
8. Water slides including related accessory structures.
9. Baseball/softball batting cage including related equipment and helipad including accessory buildings.
10. Community living arrangement (9--15 residents).
11. Community living arrangement (16+ residents).

12. In-vehicle sales or service.
13. Bed and breakfast establishments.
14. Group day care center (9+ children).
15. Retail and wholesale uses that exceed 10,000 square feet in floor area.
16. Sewage disposal plants.
17. Buildings or premises for such public utility purposes as are reasonably necessary for public convenience and welfare.
18. Day care centers.
19. Ambulance service. (Cr. Ord. #1-84)
20. Nursing, rest, or convalescent homes. (Cr. Ord. #10-00)
21. County penal institutions. (Cr. Ord. #10-00)
22. Antennas, satellite dishes and amateur radio towers and ancillary structures provided the structure/tower is between 25 feet and 55 feet in height measured from the ground directly at the base of the tower. (Cr. Ord. #6-02)
23. Commercial Animal Boarding (Cr. Ord. #05-08)

(d) Bulk Requirements .

Bulk Requirements	
1. Lot Size	
Minimum Area	20,000 square feet
Minimum Width	100 feet
2. Building Location	
Minimum Setback	25 feet
Minimum Rear Yard	15 feet
Minimum Side Yard	10 feet
3. Building Size	
Maximum Floor Area	50% of lot area
4. Minimum Open Space by Lot Area	
Minimum Open Space by Lot Area	<20,000 – 0% 20,001-30,000 – 10% >30,000 – 25%
5. Maximum Height	
Principal Structure	35 feet
Accessory Structure	15 feet

(4) B-4 STRIP COMMERCIAL DISTRICT.

(a) Intent . The strip commercial district was created to facilitate the development of land annexed to the City of Waupaca on the West Side. This property was envisioned to be developed into larger retail properties which would attract businesses that would desire a close proximity to U.S. Highway 10 (i.e.,

hotels, fast food restaurants, convenience stores/gas stations, and other convenience type businesses).

The City will maintain the current strip commercial district for those properties already in this district. Future properties will be discouraged from using this zoning category. At the time the City of Waupaca undertakes a complete zoning code rewrite, the City may choose to rezone any or all properties currently zoned strip commercial district to a more suitable district.

(b) Uses Permitted by Right .

1. Any use permitted by right in sec. 17.230(1)(b), (2)(b), and (3)(b) of this chapter.
2. Office.
3. Personal or professional services.
4. Indoor sales or service.

(c) Special Uses .

1. Truck garage; repair and service of motor propelled vehicles, including the sale and storage of automobile accessories; underground fuel storage and pumps; and mobile home sales facilities.
2. Any special use permitted in sec. 17.230(2)(c) and (3)(c).
3. Pre-manufactured home sales facilities.
4. Retail and wholesale uses that exceed 10,000 square feet in floor area.
5. Commercial Animal Boarding

(d) Bulk Requirements .

Bulk Requirements	
1. Lot Size	
Minimum Area	None
Minimum Width	100 feet
2. Building Location	
Minimum Setback	
Major Street	50 feet
Minor Street	25 feet
Minimum Rear Yard	25 feet
Minimum Side Yard	20 feet
3. Building Size	
Minimum Building Size	1,000 square feet
Maximum Floor Area	50% of lot area
4. Minimum Open Space by Lot Area	
Minimum Open Space by Lot Area	<20,000 – 0% 20,001-30,000 – 10% >30,000 – 25%
5. Maximum Height	
Principal Structure*	20 feet
Accessory Structure	15 feet

* 45 feet in height shall be allowed if the structure is located more than 50 feet from any lot line.

(e) Signs . The provisions of sec. 17.310 of this chapter shall apply in this district.

(5) B-5 PLANNED COMMERCIAL DISTRICT. (Am. Ord. #18-95)

(a) Intent. This district is intended to permit large and small scale commercial development which is compatible with the desired overall community 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 office, retail, and lodging land uses are permitted within this district. In order to ensure a minimum of disruption to residential development, development within this district should take access from a collector or arterial street.

(b) Uses Permitted by Right.

1. Passive outdoor public recreation.
2. Active outdoor public recreation.
3. Public services and utilities.
4. Office.
5. Personal or professional services.
6. Indoor sales or service.
7. Indoor maintenance service.

(c) Special Uses. The following uses shall be permitted in accordance with sec. 17.440 of this chapter.

1. Outdoor display.
2. In-vehicle sales or service.
3. Indoor commercial entertainment.
4. Commercial animal boarding.
5. Commercial indoor lodging.
6. Bed and breakfast establishments.
7. Group day care center (9+ children).
8. Vehicle repair and maintenance.
9. In-vehicle sales and service
10. Light industrial incidental to indoor sales.

(d) Bulk Requirements .

Bulk Requirements	
1. Lot Size	
Minimum Area	20,000 square feet
Minimum Width	100 feet
2. Building Location	
Minimum Setback	
Major Street	50 feet
Minor Street	25 feet
Minimum Rear Yard	25 feet
Minimum Side Yard	20 feet
3. Building Size	
Minimum Building Size	1,000 square feet
Maximum Floor Area	50% of lot area
4. Minimum Open Space by Lot Area	
Minimum Open Space by Lot Area	<20,000 – 0% 20,001-30,000 – 10% >30,000 – 25%
5. Maximum Height	
Principal Structure*	20 feet
Accessory Structure	15 feet

* 45 feet in height shall be allowed if the structure is located more than 50 feet from any lot line.

17.240 INDUSTRIAL DISTRICT REQUIREMENTS.

(1) I-1 LIGHT INDUSTRIAL DISTRICT.

(a) Intent . This district is intended to permit both large and small scale industrial and office development at an intensity which is consistent with the overall desired suburban community character of the community. Beyond relatively extensive landscaping, 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.

(b) Uses Permitted by Right . (Am. Ord. #11-07) The following uses shall be permitted by right:

1. Office.
2. Personal or professional services.
3. Indoor maintenance service.
4. Single-family and 2-family dwellings are a permitted use on those properties used for residential purposes on the date of passage of this subparagraph. (Cr. Ord. #9-90)
5. Light industrial.
6. Wholesale business.

7. Indoor sales incidental to light industrial use.
 8. Indoor storage or wholesaling.
 9. Indoor maintenance service.
 10. Repair, service and assembly of motorized or nonmotorized vehicles, including the repair and storage of automatic accessories, except the wrecking of motor-propelled vehicles.
- (c) Special Uses . (Am. Ord. #11-07)
1. Any use permitted in sec. 17.230(4)(c).
 2. Public services and utilities.
 3. Printing and publishing shop when the usable working area exceeds 2,500 square feet and/or such printing or publishing shop employs more than 4 employees.
 4. Manufacture and bottling of nonalcoholic beverages.
 5. Processing, packing and manufacture of food, except meat and meat products, fish and fish products, sauerkraut and cabbage byproducts, or the vining of peas.
 6. Sewage disposal plants.
 7. Buildings or premises for such public utility purposes as are reasonably necessary for public convenience and welfare.
 8. Day care centers.
 9. Ambulance service. (Cr. Ord. #1-84)
 10. Self-service storage units and mini-warehouses. (Cr. Ord. #17-98)
 11. County penal institutions. (Cr. Ord. #10-00)
 12. Antennas, satellite dishes and amateur radio towers and ancillary structures provided the structure/tower is between 25 feet and 55 feet in height measured from the ground directly at the base of the tower. (Cr. Ord. #6-02)
 13. Institutional and educational uses.
- (d) Bulk Requirements .

Bulk Requirements	
1. Lot Size	
Minimum Area	20,000 square feet
Minimum Width	100 feet
2. Building Location	
Minimum Setback	25 feet
Minimum Rear Yard	
<2 Stories	20 feet
>2 Stories	23 feet
Minimum Side Yard	20 feet
3. Building Size	
Maximum Floor Area	60% of lot area
4. Minimum Open Space	
Minimum Open Space	35% of lot area
5. Maximum Height	
Principal Structure	45 feet
Accessory Structure	15 feet

(2) I-2 HEAVY INDUSTRIAL DISTRICT.

(a) Intent . 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 this chapter. 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) Uses Permitted by Right . The following uses shall be permitted by right:
(Am. Ord. #11-07)

1. Any use permitted in sec. 17.240(1)(b).
2. Manufacturing operations.
3. Office.
4. Indoor maintenance service.
5. Indoor storage or wholesaling.
6. Light industrial.
7. Vehicle repair and maintenance.
8. Distribution center.

(c) Special Uses . (Am. Ord. #11-07)

1. Public services and utilities.
2. Outdoor storage or wholesaling.
3. Outdoor maintenance service.
4. Sexually oriented land use.
5. Junkyard or salvage yard.
6. Waste disposal facility.
7. Composting operation.
8. Airport/heliport.
9. Freight terminal.
10. Communication tower.
11. Retail and wholesale buildings shall be limited to a maximum of 10,000 square feet unless special authority for a larger building is granted in conjunction with the requirements of sec. 17.440 of the Municipal Code.
12. Institutional and educational uses.
13. Day care centers.

(d) Bulk Requirements .

Bulk Requirements	
1. Lot Size	
Minimum Area	10,000 square feet
Minimum Width	100 feet
2. Building Location	
Minimum Setback	25 feet
Minimum Rear Yard	
<2 Stories	30 feet
>2 Stories	33 feet
Minimum Side Yard	20 feet
3. Building Size	
Maximum Floor Area	60% of lot area
4. Minimum Open Space	
Minimum Open Space	25% of the lot area
5. Maximum Height	
Principal Structure	45 feet
Accessory Structure	15 feet

17.250 OVERLAY DISTRICT REQUIREMENTS.(Rep. & Recr. Ord. #23-07)

(1) SHORELAND PROTECTION OVERLAY DISTRICT.

(a) Intent . The Shoreland Protection Overlay District is intended to preserve and protect the environmental quality of surface waters and the natural and economic values of shoreland areas within the City of Waupaca.

1. District Application. The Shoreland Protection Overlay District shall be superimposed (overlaid) upon the base zoning district in effect. The regulations and requirements imposed by the Shoreland Protection overlay District shall be in addition to those established by the base zoning district which jointly apply. Under joint application of the districts, the more restrictive requirements shall apply.

2. Exemption. A structure or use which was lawful before adoption of this section, but which is not in conformity with the provisions of the Shoreland Protection Overlay District, may be continued subject to sec. 17.120 of this chapter.

(b) Boundaries . The boundaries of the Shoreland Protection Overlay District within the City consists of the first tier of riparian lots abutting Mirror Lake and Shadow Lake, the specific boundaries of which are shown on the official City of Waupaca Shoreland Protection Overlay District Map.

(c) Definitions . For the purpose of this district the following definitions shall apply:

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

- (d) Uses . Any uses permitted by right or by special use permit in the underlying base zoning district is allowed as a permitted or special use in the Shoreland Protection Overlay District.
- (e) Lot Areas and Width . Lot area and width shall conform to that required in the underlying base zoning district.
- (f) Building Height and Area . Building and structure height and area shall conform to the requirements of the underlying base zoning district.
- (g) Setback and Yards . Structures shall be located as follows:
 - 1. Required Setbacks. All rear yard, side yard and front yard setbacks shall be met per the underlying base zoning district.
 - 2. Ordinary High Water Mark Setback. No building or structure, as defined in the underlying base zoning district, shall be located closer than 75 feet to the OHWM of a navigable lake or channel.

17.260 PLANNED DEVELOPMENT DISTRICT REQUIREMENTS.

(1) PLANNED UNIT DEVELOPMENT DISTRICT. (Cr. Ord. #11-00)

- (a) Intent . This section is intended to encourage residential and commercial planned unit developments offering greater creativity and flexibility in site plan design than is provided under the strict application of zoning and subdivision regulations while, at the same time, preserving the health, safety, order, convenience, prosperity and general welfare of the City. Specifically, the purpose of the planned unit development district is to:
 - 1. Assure that growth is planned and accomplished within the City's goals, both for the surrounding neighborhood and the community as a whole.
 - 2. Promote flexibility in design and the efficient use of land to facilitate a more economic arrangement of buildings, uses, circulation systems and utilities.
 - 3. Provide for the accomplishment of external architectural unity so as to promote design harmony.
 - 4. Preserve, to the greatest extent possible, existing landscape features and natural amenities and utilize such features in an effective manner.
 - 5. Enhance the natural setting through the placement of man-made facilities and plant materials.
 - 6. Provide more usable and suitably located common and open space areas than would otherwise be provided under conventional land development procedures.
- (b) Uses Permitted by Right . Uses permitted in a planned unit development may consist of one or a mixture of land uses clearly designated by type on the approved final development plan. Mixed uses may occur among or within buildings as long as the uses are compatible with each other and with planned and existing uses surrounding the PUD.
- (c) District Standards . The district standards shall be as follows:
 - 1. Access. All land uses shall abut on a public street or have adequate access to a public street by means of a private drive. All streets and drives

shall tie in effectively with the City's existing street system and with those arterial and collector streets proposed in its future land use plan.

2. Architectural Style. The architectural style of individual structures shall be compatible with other structures in the PUD, with the overall site design and with surrounding land uses.

3. Common Open Space. Whenever possible, common open space shall be linked to the open space areas of surrounding developments. Common open space shall be of a size, shape, location and usability for its proposed purpose.

4. Density. Density shall be governed by the standards of the zoning district most similar in function to the proposed use. A residential PUD may provide up to a 25% increase in the number of units per acre if the PUD provides substantially more site amenities than are found in a conventional residential development. The character, use of existing landscape, design variation and environmental concern of a PUD shall govern the amount of approved density increase.

5. Determining Standards. Standards for lot area, coverage, setbacks, parking and screening shall be governed by the standards of the zoning district most similar in function to the proposed PUD use, as determined by the Plan Commission. Deviation from those standards may be permitted only if such deviation is consistent with the total design of the development, encourages a desirable living environment and is not detrimental to the welfare of the City.

6. Exterior Boundary Setback. No principal building shall be set back less than 20 feet from the exterior of a PUD or a public street right-of-way. No commercial or industrial structure shall be nearer than 50 feet to its side or rear property lines where such line abuts a single-family use.

7. Property Owner's Association. If not platted in a conventional manner, membership in a property owner's association shall be mandatory for all owners of property within the PUD. The property owner's association shall own and maintain all common open space and private interior drives.

a. Designation of Recreational Trails. When possible, trails should be integrated into the PUD. Trails within a PUD shall be encouraged to connect to existing or future exterior trail systems. A PUD not conventionally platted shall include at least 10% common open space.

b. Minimum PUD Development Area. At least 2 acres of land in single ownership or control shall be the minimum land area for a PUD. However, a site of less than 2 acres may qualify if one or more of the following conditions exist:

(i) Natural features of the land are such that development under standard zoning regulations would not be appropriate in order to conserve such features; or

(ii) The land is adjacent to or across the street from property which has been developed as a PUD and is to be developed in relationship to such prior development; or

(iii) Flexible design is needed to address detrimental site features affecting the development potential of a site such as heavily used

highways, railroad tracks traversing a property, rock outcroppings, adjacent incompatible land uses or similar site constraints.

(d) Environmental Review Standards and Design Standards . In reviewing a proposed planned development, the City shall apply the following standards and the Plan Commission shall recommend approval of such planned development only when it has determined that the following standards have been reasonably satisfied.

1. The proposal shall demonstrate an effective and unified treatment of the development possibilities on the project site, making appropriate provision for the preservation of scenic features and physical amenities of the site and the surrounding areas.
2. The project shall be planned and developed to harmonize with any existing or proposed surrounding land uses.
3. Individual buildings shall be related to each other in design, mass, placement and connection to provide a visually and physically integrated development.
4. All buildings shall be arranged so as to be accessible to services and emergency vehicles.
5. Landscape treatment for open spaces, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area, except lands donated to the City for park or trail development.
6. Primary landscape treatment shall consist of shrubs, ground cover and street trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Whenever possible, existing trees shall be conserved and integrated into the landscape design plan.
7. All streets bordering the project area shall be planted at regular intervals with street trees.
8. There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, i.e. sidewalks and/or trails; roadways; driveways; off-street parking and loading spaces; trash removal facilities; and outdoor storage areas. All such facilities shall be designed to City specifications.
 - a. Materials and design of paving, lighting fixtures, retaining walls, fences, signage, curbs, benches, etc. shall be of good appearance, easily maintained and indicative of their function.
 - b. Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping and ease of access, and shall be developed as an integral part of an overall site design. To reduce unsightliness and the visual monotony of parked cars, such facilities shall be screened from public view with landscaping or fencing.
 - c. Any above-grade loading facility should be screened from public view to the extent necessary to reduce unsightliness.

(2) PRELIMINARY DEVELOPMENT PLAN APPLICATION.

(a) Preliminary Plan . The preliminary plan shall include the following:

1. Existing wooded areas, streams, marshes and other predominant natural features.
 2. Phasing schedule stating the geographical phasing and approximate construction timing of the PUD or portions thereof.
 3. Preliminary drainage plan.
 4. Preliminary utility plan for all public utilities.
 5. Site plan showing the lot lines, building locations, street system, parking spaces, drives, common open space areas, trails, recreational improvements and structures.
 6. Summary sheet indicating the area of land in each land use, number of units proposed, density of development, percentage of land in usable open space, number of acres of common recreational open space and number of parking spaces provided.
 7. Vicinity map showing sufficient area surrounding the proposed PUD to demonstrate the development's relationship to the adjacent land uses and street system.
- (b) Application Information . The application form shall include the following:
1. A written explanation of the character and purpose of the proposed planned development including the type and density of any housing proposed; the nature and purpose of any nonresidential development; the proposed method for preserving and maintaining open space, streets and parking areas; and a general statement of proposed financing for the project.
 2. Each proposal for planned development shall be accompanied by a schedule showing the times within which each phase or segment of the PUD will be completed. Approval of any PUD by the Council shall carry with it approval of the time schedule for completion of each phase or segment contained in the proposal and any changes or amendments.

(3) PROCEDURE FOR REVIEW OF A PRELIMINARY PLANNED UNIT DEVELOPMENT. To obtain PUD zoning, the following procedures shall be followed:

- (a) Prior to filing an application for a planned unit development zoning, the City shall schedule a pre-filing conference with the developer. The purpose of this to jointly review the proposal and consider any modifications or conditions that should be included in the application and preliminary site plan.
- (b) Following the pre-filing meeting, the petitioner shall file 6 copies of a preliminary development plan and application form with the City at least 10 days prior to the Plan Commission meeting.
- (c) Within 45 days from the filing date, the Plan Commission shall make a recommendation to the Council to approve, approve with modifications or disapprove the proposal.
- (d) After receipt of the Plan Commission report, the Council shall hold a public hearing on the proposed development. Within 45 days after such public hearing, the Council shall approve conditionally or disapprove the proposed planned unit development. Conditional approval shall be valid for one year and shall be subject to acceptance by the City of a final plan for all or a portion of the preliminary development plan. The final plan shall incorporate all conditions and modifications imposed by the Council.

(e) If part of the PUD involves the subdivision of land into parcels for sale to individual owners, the site plan review required pursuant to this section may run concurrent with a subdivision review consistent with the City's platting requirements.

(4) APPLICATION FOR FINAL DEVELOPMENT PLAN APPROVAL. Prior to issuance of a building permit, an application for final development plan approval for particular phases or for the entire preliminary PUD project shall be filed with the City. Said application and final development plan shall include the following:

- (a) A definite time frame for start of construction and approximate amount of time to build out the project.
- (b) All pertinent dimensions shown to the nearest foot.
- (c) Final grading, drainage, utility, lighting and landscape plans.
- (d) Project or identification signs, including their locations, dimensions, height, size and illumination, consistent with City's sign code.
- (e) Deed restrictions and instruments dedicating all rights-of-way, access easements and public lands, drafted to the satisfaction of the City Attorney.
- (f) By-laws of the property owner's association if one is pertinent to the project.
- (g) Building elevation drawings, including specifications, except for detached single-family dwellings meeting required single-family residential district standards. The City may waive this requirement.

Before a building permit may be issued, the developer shall file with the City a security instrument, i.e., a performance bond acceptable to the City in an amount equal to 150% of the estimated cost of public utilities and infrastructure in accordance with the subdivision regulations; paved parking; landscaping; walkways; recreational equipment, if any; and lighting in accordance with final development plans. Such bond shall be posted for each phase as it is proposed for development. The estimated cost for termination of each phase shall be retained by the City' until subsequent phases are under construction.

(5) FINAL DEVELOPMENT PLAN APPROVAL. Within 30 days after the final development plan is submitted, the Plan Commission shall make a recommendation to the Council on such plan as to its conformity with the preliminary development plan, fulfillment of all required items and continued compliance with findings required for preliminary development plan approval. Upon receiving the Plan Commission's recommendation, the Council shall either grant, grant subject to conditions or deny the final development plan. If approval is granted, a PUD permit shall be issued to the developer by the City, which permit shall contain any conditions attached by the Council.

(6) FILING OF FINAL DEVELOPMENT PLAN. Upon approval, the City Clerk shall certify 3 copies of such plan with one plan filed in the Clerk's office, the second plan in the planning office and the third plan in the Assessor's office. Such plan shall be drawn to a scale of 40 feet to one inch or larger. The dimensions of such plan shall not exceed 3 feet by 6 feet. In case of a large plan, 2 or more sheets may be required. If so, the sheets shall be numbered.

(7) FINAL DEVELOPMENT PLAN, CHANGES.

(a) Any significant changes in the approved final development plan may be made only after Plan Commission and Council approval. No changes in the final development plan may be made unless they are shown by the developer to be required by changes in conditions or circumstances not foreseen at the time of the final plan approval. Any significant changes shall be recorded as amendments to the approved final development plan. Minor changes and adjustments to the final site plan may be approved by City administration.

(b) In the event that any portion of such time schedule in the approved final development plan is not met, the developer may submit a written request for an extension of time, delivered to the Council at least 20 days prior to the expiration of the build out date. The Council may, for good cause, extend the previously agreed completion date. The petitioner has no limit upon the number of time extensions requested.

(c) If the developer fails to satisfy any phase or segment of the completion schedule within 20 days of the expiration date or within 30 days of an extension denial by the Council, said phase or portion of a previously approved site plan associated with the PUD shall become null and void.

(8) TERMINATION OF FINAL DEVELOPMENT PLAN APPROVAL. If final development plan approval is given to a developer and thereafter he/she wishes to abandon the plan, the developer shall notify the City in writing. If the developer fails to commence the development within 18 months or upon a finding by the Plan Commission that there has not been substantial progress, as indicated by installation of utilities or completion of 5% of the proposed floor area, such final development plan approval may be terminated after public hearing by the Council.

17.270 NATURAL RESOURCES PROTECTION DISTRICT REQUIREMENTS.

(1) RESOURCE CONSERVATION DISTRICT.

(a) District Purpose . The resource conservation district is intended to be used to prevent destruction of natural or manmade resources and protect areas which are not adequately drained, or which are subject to periodic or potential flooding, where developments would result in hazards to health or safety; would deplete or destroy irreplaceable resources; or be otherwise incompatible with the public welfare.

(b) Principal Uses . Fishing, hunting, preservation, conservation, forestry, wildlife preserves, hatcheries and water retention.

(c) Special Uses . Permitted after review, public hearing, and approval by the Plan Commission and the Council. Drainage, grazing, orchards, truck farming, utilities and wild crop harvesting.

17.280 DESIGN AND HISTORIC ZONING DISTRICT REQUIREMENTS.

(1) EAST GATEWAY DESIGN REQUIREMENTS.

(a) Area . The approximate boundary of this area lies south of State Highway 22/54 (Royalton Street) and east of a line extended running east of the west 1/2 of the northwest 1/4 of the southeast 1/4, Section 28 extending south to the southern City limits, and shall be referred to as the "East Gateway Area."

(b) Review Responsibility . Nonresidential development proposals in the East Gateway Area shall be purview of the City of Waupaca Plan Commission, or their designee.

(c) Locational Requirements . The following setbacks shall be required for all structures and storage of materials or products:

1. Minimum front setback: 50 feet.
2. Minimum side and rear setbacks: 25 feet.

(d) Design Requirements . The following shall be incorporated into all development proposals in the East Gateway Area:

1. Landscaping plans shall utilize native planting species. Greenways (appropriate mixture of berms, trees, shrubs, grasses, trails and walkways) shall be installed along frontage roads, interior roads, STH 10, and the proposed Highway 22/54 Bypass.
2. Common brick and common block are prohibited as exterior building surfaces. Facades adjacent to public ways shall be constructed with face brick, stone, glass, or pre-cast concrete panels, or other similar materials. Materials shall blend with existing adjacent areas.
3. Building colors shall reflect earth tones (tan, brown, green, gray, etc.) with other accent colors. Variations in color shall be kept to a minimum.
4. Simple and uniform texture patterns are encouraged to reduce high visibility.
5. Sloped roofs acceptable but not constructed on wood, fiberglass, and asphalt unless approved by the Plan Commission.
6. All access drives and parking area shall be on paved surfaces.
7. Utilities shall be installed underground.
8. Outdoor storage shall be screened from public view. Outdoor storage areas shall be illustrated on the site plan.
9. Monument-type signs shall be utilized. Rooftop signs shall be prohibited. Moving, flashing, or revolving signs shall be prohibited. Mobile and portable signage shall be prohibited.
10. Refuse area shall be screened from public view.
11. Lighting shall not cast glare on adjacent properties or roadways.

(e) Submittal Requirements . The following plans submittals shall be required for consideration by the Plan Commission in determining the appropriateness of the proposed use and buildings:

1. Site plan, including location of all structures and appurtenances, parking areas, vehicular and pedestrian ingress and egress, outside sales or storage areas, outdoor lighting location and details, and any other information as requested by the Plan Commission.
2. Landscaping plan, including detailed listing of planting species, locations, and sizes.

3. Exterior building elevations, including building materials, aesthetics, and visual characteristics.
4. Signage details, including locations, dimensions, and, details.
5. Stormwater management plan.
6. Project narrative, including an understanding of the proposal, economic impact on the community, traffic impacts, and adjacent land uses.

17.290 OTHER DISTRICT REQUIREMENTS.

(1) QUARRYING DISTRICT.

- (a) Principal Uses . Mineral extraction operations that are presently in existence, including washing, crushing or other processing of minerals and the creation of new extraction operations, including washing, crushing or other processing.
- (b) Yards .
 1. Minimum 200 feet from any right-of-way or property line.
 2. Minimum 100 feet for accessory uses such as official parking areas and stock piles.
- (c) Building Height . Maximum 45 feet.

SPECIAL REGULATIONS

17.300 AIRPORTS.(Cr. Ord. #10-88)

Special Authority at Airport. (Cr. Ord. #5-99) After review and recommendation by the Airport Board, the Plan Commission and the Council, airport property owned by the City may be leased to allow for the development of businesses or industries that are compatible with the use of the entire property as a municipal airport. In review of the appropriateness of a particular business or industrial use of a site, the following factors shall be considered:

- (1) Land use compatibility with airport activity. To promote safe airport operations, the City will restrict the use of this land to activities and purposes compatible with airport operations, including landing and take-off of aircraft.
- (2) City services required by the lessee.
- (3) Effect on the environment.
- (4) Traffic that may be generated on adjoining streets or highways.
- (5) Any adverse effect that could have a negative effect on the safe operation of the airport.
- (6) Future plans for airport expansion.
- (7) Effect on surrounding properties.

17.301 MOBILE HOME PARKS.

A parcel of land or subdivision used for the placement of 2 or more mobile homes and/or manufactured homes. Manufactured home developments and subdivisions shall not be included under this land use category where all manufactured homes meet the regulations of built in compliance with the Federal Manufactured Housing Construction Standards under 42 U.S.C. §5401 to 5426, and built after June 14, 1976.

(1) The applicant for rezoning to the MH Mobile Home Park District shall submit the following information with the application to the Zoning Administrator:

(a) A written description of the proposed mobile or manufactured home park, including proposed terms of sale or lease of sites; park rules; a maintenance program and responsibilities; types of homes to be constructed or allowed; other ancillary uses for the site; and assurances that the site will be developed and operated in accordance with all approved plans, including bylaws and deed restrictions.

(b) A site plan map(s), drawn to scale, and including information listed in sec. 17.220(4), plus the proposed mobile or manufactured home park layout; location of home sites, roads, parking areas, and site boundaries; existing topography lines; existing natural features including waterways, wetlands, floodplains, woodlands, and shoreland areas; required perimeter and home setbacks and spacing; existing and proposed buildings and other structures; water supply well and lines; sanitary waste disposal lines and system; grading and stormwater management plan; covered or screened refuse storage areas; proposed types and locations of landscape plantings and recreation areas; proposed development phasing if any; and any other information the Zoning Administrator shall deem necessary. Professional engineering assistance is encouraged in such design, especially of roadways, home siting, site grading and stormwater management, and utility placement.

(2) Shall conform to requirements of HFS 177, Wis. Adm. Code.

(3) Shall provide an acceptable sewage treatment and/or disposal system meeting the requirements of all applicable State regulations and Chapter 15: Plumbing Code of the Waupaca Municipal Code.

(4) Shall conform to all dimensional requirements of the MH Mobile Home Park District, per sec. 17.220(4).

(5) Shall have direct access to a public road and a circulation plan that facilitates the safe and efficient movement of emergency vehicles.

(6) All access interior park roads shall meet the minimum construction standards required by Chapter 18: Subdivision and Platting. All interior park roads, driveways to individual home sites, and parking areas shall be hard surfaced, and maintained in a dust-free condition. Where driveways to individual home sites are located on opposite sides of the road, they shall be offset to avoid collisions when backing out.

(7) Home sites and access drives shall be located, graded, and maintained to provide each site with positive site drainage and for each site to be free from flooding. All sites shall be provided with anchor points for securing mobile or manufactured homes.

(8) Shall provide a minimum of one acre of common recreation open space, plus an additional 500 square feet for each home site or lot in the park. The minimum required perimeter setback and individual home sites shall be included in the gross site area, but not in the calculation of common recreation open space. Such common open space shall be regular in shape and shall not be subject to flooding or lengthy periods of wet conditions. Common recreation open space shall be maintained in perpetuity by the mobile or manufactured park owner.

(9) Each mobile or manufactured home, principal and accessory building, and vehicle parking area shall meet the minimum shoreland setback associated with any navigable waterway in Chapter 21: Shoreland-Wetland Code. There shall be a 40-foot landscaped buffer setback from all other exterior lot lines of the mobile or manufactured home park to all home sites, roads, parking areas, recreation areas, wells, and private sewage disposal systems. Roads and utility crossings of the buffer setback shall be minimized and shall occur at right angles wherever possible. The project shall provide a landscaped bufferyard along all exterior lot lines.

(10) All mobile or manufactured homes shall be used for dwelling purposes. No mobile or manufactured home site shall be rented for a period of less than 30 days.

(11) The mobile or manufactured home park shall be owned by a single individual, trust, partnership, public or private association, or corporation, except for a mobile or manufactured home subdivision, where a homeowners association shall be established for the management and maintenance of all common areas not in public ownership.

17.302 COMMUNITY LIVING ARRANGEMENTS (CLA); FAMILY DAY CARE HOMES.(Cr. Ord. #16-85)

(1) STATE LAWS ADOPTED. The provisions of §§62.23(7)(i) and 66.1017, Wis. Stats., are hereby adopted by reference and shall supersede all permitted and special uses as stated in this chapter.

(2) PERMITTED USES; RESTRICTIONS.

Family Day Care Homes	Districts Permitted	Statutory Restrictions
(a) Foster family home (domicile) licensed under §48.62, Wis. Stats., up to 4 children	All residential districts	None
(b) Other foster homes	All residential districts	§62.23(7)(i)1 and 2 Wis. Stats.
(b1) (Cr. Ord. #15-88) Adult family home (domicile) as defined in §50.01(1), Wis. Stats., up to 4 adults, or more if all adults are siblings	All residential districts	None
(b2) (Cr. Ord. #15-88) Other adult family homes	All residential districts	§62.23(7)(i)1 and 2, Wis. Stats.
(c) CLA, up to 8 persons	All residential districts	§62.23(7)(i)1, 2, and 9, Wis. Stats.
(d) CLA, 9 to 15 persons	Multi-Family districts	§62.23(7)(i)1, 2 and 9, Wis. Stats.
(e) Family day care home licensed under §48.65, Wis. Stats., up to 8 children	All 1- and 2-family districts and planned residential districts	§66.1017, Wis. Stats.

(3) SPECIAL USES. All community living arrangements and family day care homes not permitted in subsection (2) above. See special use sections for individual zoning districts.

17.303 TELECOMMUNICATION TOWERS, ANTENNAS AND RELATED FACILITIES.(Cr. Ord. #15-06)

This section shall apply to provide development standards relating to specific types of telecommunication towers, antennas, and related facilities.

(1) **PURPOSE AND INTENT.** The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for siting and installation of telecommunication towers, antennas, and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare, and the aesthetic quality of the City as set forth within the goals, objectives and policies of the Zoning Code, to encourage managed development of telecommunications infrastructure, while at the same time not unduly restricting the development of needed telecommunications facilities. It is intended that the City shall apply these regulations to accomplish the following:

- (a) Minimize adverse visual effects of telecommunication towers, antennas, and related facilities through design and siting standards.
- (b) Maintain and ensure that competitive, and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the City's police, fire, and emergency response network.
- (c) Provide a process for obtaining necessary permits for telecommunication facilities while at the same time protecting the interests of the City's citizens.
- (d) Protect environmentally sensitive areas of the City by regulating the location, design, and operation of telecommunication towers, antennas, and related facilities.
- (e) Encourage the use of alternative support structures, co-location of new antennas on existing telecommunication towers, camouflaged towers, and construction of towers with the ability to accommodate 3 or more providers.
- (f) To encourage co-location onto city-owned tower facilities and structures such as water towers, the special use process and associated fees are waived for facilities regulated under this chapter.

Furthermore, this section is not intended to regulate residential satellite dishes, residential television antennas that are used privately or not reselling signal antennas used by private businesses/residents for wireless technology uses provided the facilities are less than 55 feet measured at ground level. Additionally, it is not intended to regulate satellite dishes/antennas whose regulation is prohibited by State law or preempted by Federal law.

- (2) **DEFINITIONS.** For the purpose of this section, the following terms and phrases shall have the meaning ascribed to them in this chapter:

ALTERNATIVE SUPPORT STRUCTURE: Clock towers, steeples, silos, light poles, water towers, lighthouses, buildings, or similar structures that may support telecommunication facilities.

ANTENNA: Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of communication waves when such system is either external or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam

type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

ANTENNA, BUILDING MOUNTED: Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

ANTENNA, GROUND MOUNTED: Any antenna with its base placed directly on the ground.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

CAMOUFLAGED TOWER: Any telecommunication tower that, due to design or appearance entirely hides, obscures, or conceals the presence of the tower and antennas.

GUYED TOWER: A telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

HEIGHT, TELECOMMUNICATIONS TOWER: The distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, protection devices (e.g. lightning rods), and lighting.

LATTICE TOWER: A telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

MONOPOLE: A telecommunication tower of a single pole design.

NONCONFORMING: Any preexisting telecommunications facility that was in existence prior to the adoption of this chapter and that has not been issued a conditional use permit or was issued a conditional use permit prior to the adoption date of this section. This definition shall only apply to this chapter and shall not apply to other City zoning ordinances.

NON-RESELLING SIGNAL (NRS) ANTENNAS: Private business/residence antennas that receive and transmit telecommunications signals only.

OPERATION: Means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications it shall be deemed in operation.

PERSONAL COMMUNICATION SERVICES (PCS): Means commercial mobile services, unlicensed wireless services and common carrier wireless exchange services as now defined in 47 U.S.C. 332 § (7)(C), as the same may be amended from time to time.

PLATFORM: A support system that may be used to connect antennas and antenna arrays to telecommunication towers or alternative support structures.

SATELLITE DISH: A device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

SIGNAL FOR RESALE (SFR) ANTENNAS: Private and/or public sector companies/organizations reselling telecommunication signals (i.e. personal communication services (PCS)).

TELECOMMUNICATION FACILITY: A facility, site, or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunications signals.

TELECOMMUNICATION FACILITY CO-LOCATED: A telecommunication facility comprised of a single telecommunication tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

TELECOMMUNICATION SUPPORT FACILITY: The telecommunication equipment buildings and equipment cabinets.

TELECOMMUNICATIONS TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures.

UTILITY POLE MOUNTED ANTENNA: An antenna attached, without regard to mounting, to or upon an existing or replacement electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar structure approved by the zoning inspector.

(3) TELECOMMUNICATIONS FACILITIES REQUIREMENTS (NO PERMIT REQUIRED). The following shall be permitted without City approvals under this section:

(a) The use of all television antennas, satellite dishes and receive only antennas and non-reselling signal (NRS) antennas provided that the primary use of the property is not a telecommunications facility and that the antenna use is accessory to the primary use of the property and the structure supporting the antenna and satellite dish is less than 55 feet in height measured from ground level.

(b) Amateur radio. This section shall not govern the installation of any antenna and their supporting towers, poles, and masts that is owned and/or operated by a Federally licensed amateur radio operator or, is used exclusively for receive-only antennas provided the supporting tower, pole or mast is less than 55 feet in height measured from ground level.

(c) Mobile services providing public information coverage of news events of a temporary or emergency nature.

(d) City-owned and operated telecommunications facilities required in the public interest to provide for and maintain a radio frequency telecommunications system, including digital, analog, wireless or electromagnetic waves, for police, fire and other municipal purposes.

(4) AREAS PERMITTING TELECOMMUNICATION FACILITY LOCATION WITH PLAN COMMISSION APPROVAL AND WITH PUBLIC HEARING.

Telecommunications facilities may be permitted in nonresidential zoning districts subject to special use public hearing review by the Plan Commission and approval by both the Plan Commission and Common Council and in compliance with all other applicable parts of this chapter.

(5) AREAS LIMITING TELECOMMUNICATION FACILITY LOCATION.

(a) Telecommunication facilities may be permitted in the following locations subject to special use public hearing review and approval by the Plan Commission as identified in sec. 17.303(7) are also subject to review and approval of the Federal Aviation Administration (FAA), Wisconsin State Bureau of Aeronautics, and other appropriate agencies, if applicable:

1. One-half-mile radius from heliport.
2. One-mile radius from private airport runway(s).
3. Three-mile radius from public use airport runway(s).

(b) Telecommunication facilities may be permitted subject to special use review with public hearing and approval by the Plan Commission and Common Council under sec. 17.303(7) in these restricted areas and zoning districts if there are no other alternatives and/or options available to provide adequate coverage within the City (within the scope of the 1996 Telecommunications Act), and if it can be demonstrated to the Plan Commission that no adverse impact would occur to the natural resource base:

1. B-1 Neighborhood Business District
2. B-2 Central Business District
3. B-3 General Commercial District
4. B-4 Strip Commercial District
5. B-5 Planned Commercial District
6. I-1 Light Industrial District
7. I-2 Heavy Industrial District
8. AG-1 Agricultural District
9. RC Resource Conservation District
10. Q Quarrying District
11. PUD Planned Unit Development District

(6) AREAS PROHIBITING TELECOMMUNICATION FACILITY LOCATION. No telecommunication facilities, except facilities listed in subsection (3), shall be permitted within historic sites and districts listed on the National Register of Historic Places, and critical species habitats.

(7) SPECIAL USE PROCESS. Relocating an existing tower or constructing a new telecommunication tower or a new alternative support structure, including the buildings or other supporting equipment used in connection with said telecommunication tower shall require a special use permit. Other than those to which sec. 17.303(10) applies, the Plan Commission may authorize the Building Inspection Department to issue a special use permit after review and a public hearing, provided that such special use is in accordance with the purpose and intent of this section.

(a) Application Information . For all telecommunication facilities, described in sec. 17.303(4) and (5), the Community Development Department shall require the following information to accompany every application for special use permit.

Said information shall include, but may not be limited to:

1. Completed special use application and nonrefundable fee payable to the city.
2. Original signature of applicant and land owner (if the telecommunication facility is located in an easement or pursuant to a

- ground lease, the beneficiaries of the easement or ground lease and underlying property owner must authorize the application);
3. The identity of the carrier, provider, applicant, landowner, and service provider and their legal status;
 4. The name, address and telephone number of the officer, agent and/or employee responsible for the accuracy of the application;
 5. A scaled site plan showing the parcel boundaries, type and height of proposed tower, facilities, location, proposed means of access, landscaping showing specific landscape materials, fencing, on-site land uses and zoning, adjacent land uses and zoning, buildings, pavement, adjacent roadways, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, easements, parking, and if applicable, the method of camouflage, and obstruction marking and lighting;
 6. A written legal description of the site;
 7. Tabulation of lot characteristics (i.e., lot area, green space, lot coverage, and floor area ratio);
 8. In the case of a leased site, an affidavit certifying that the lease document requires the tower owner to remove an abandoned facility; the legal description and amount of property leased; the term and renewal period of the lease; and that the property owner may enter into leases with other providers;
 9. A description of the telecommunications services that the applicant will offers or provides, to persons, firms, business, or institutions from the facilities subject to the application;
 10. Federal Communications Commission (FCC) license numbers and registration numbers, if applicable;
 11. Copies of "Finding of No Significant Impacts" (FONSI) statement from the Federal Communications Commission (FCC) or Environmental Impact Study (EIS), if applicable;
 12. An alternative analysis shall be prepared by the actual applicant or on behalf of the applicant by its designated technical representative subject to the review and approval of the Plan Commission, which identifies all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies which could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the City. The analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Approval of the project is subject to the review and approval of the Plan Commission. The City may require independent verification of this analysis at the applicant's expense, the consultant or the alternate chosen by the Plan Commission from a list mutually agreed upon by the City and the applicant;
 13. Plans indicating security measures (i.e., access, fencing, lighting, etc.);

14. Shall include inventory of all of the applicant's existing telecommunications towers that are located within the City and all of the applicant's existing towers within 5,000 feet of the City boundaries. The inventory shall specify the location, height, type, and design of each of the applicant's existing telecommunication towers, and the ability of the tower or antenna structure to accommodate additional co-location antennas;
15. A report prepared by an engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate additional antennas;
16. Proof of liability coverage;
17. Such other information as the Plan Commission may reasonably require;
18. Copies of an affidavit of notification indicating that the airport operator and airport property owner(s), within the areas limiting telecommunication facility locations as identified under subsection (4), if applicable, have been notified via certified mail.

(b) Co-location . All tower owners shall make available unused space for co-location of other telecommunications facilities, including space for those entities providing similar, competing services. Co-location is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline. All co-located and multiple-user telecommunication support facilities, to include structure/utilities shall be designed to facilitate co-location at the site.

(c) Technical Review . The City staff may employ on behalf of the City an independent technical expert to perform a timely review of materials submitted in those cases where a technical demonstration of unavoidable need or unavailability of co-location alternatives has been determined necessary by the Commission or where other technical issues exist. The applicant shall reimburse the City for all the costs of said review. Payment is due within 30 days of invoicing by the City.

(d) Submittals Required For Special Use Approval. For each special use permit approved by the Plan Commission, the applicant shall submit the following before the conditional use permit will be issued:

1. Copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings and the Wisconsin State Bureau of Aeronautics, if applicable.
2. Copies of any environmental assessment (EA) reports on Form 600 or Form 854 submitted to the Federal Communication Commission (FCC), if applicable.
3. Copies of any filings submitted to the Federal Communication Commission (FCC) shall be submitted within 30 days of hiring, subject to the review of the City Assessor/Building Inspector or his/her designee.
4. Proof of bond as security for removal. The applicant may provide a single security bond for all sites and covering all of its telecommunications facilities within the City.

(e) Hearing . The Plan Commission shall hold a hearing upon a completed application as soon as is reasonably practical. Any denial of an application shall

be in writing and shall be based upon substantial evidence contained in the written record.

(8) ANNUAL INFORMATION REPORT. The purpose of the annual review report under this section is to provide the City with accurate and current information concerning the telecommunication tower owners and providers who offer or provide telecommunications services within the City, or that own or operate telecommunication facilities with the City, to assist the City in enforcement of this section, and to assist the City in monitoring compliance with the conditional use permit and this section.

(a) Annual Information Report . All telecommunications tower owners of any new or existing telecommunication tower shall submit annually on or before January 31 of each year, to the Building Inspection Department a "Telecommunications Facility Annual Information Report". The annual information report shall include the tower owner name(s), address(es), phone number(s), contact person(s), annual review fee, current tenant information, and proof of bond as security for removal. The tower owner shall supply the tower height and current occupancy, if applicable, and any required information regarding co-location capabilities. This information shall be submitted on a City form, designated for such use, and shall become evidence of compliance.

(b) Annual Information Report Fee . Together with the annual information report, the tower owner shall submit, on or before January 31 of each year, to the Building Inspection Department the annual review fee of \$100 per tower site. The fee submittal is the responsibility of each tower owner. Failure to provide the report and fee within 30 days of said date shall result in a civil forfeiture of \$200 per day until the information is received by the Building Inspection Department, and could result in the forfeiture or revocation of the conditional use permit. Owners of exempt telecommunications towers and/or facilities identified in subsection (3) shall be required to file the annual information report however no reporting fee is required to be paid.

(9) REMOVAL/SECURITY FOR REMOVAL.

(a) Removal. It is the express policy of the City and this section that telecommunications facilities be removed once they are no longer in use and not a functional part of providing telecommunications service and that it is the telecommunications facility owner's responsibility to remove such facilities and restore the site to its original condition or a condition approved by the Board of Public Works. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility down to 10 feet below the surface. This depth of removal requirement may be modified by the Board of Public Works. After a telecommunications facility is no longer in operation, the facility owner shall have 120 days to effect removal and restoration unless weather prohibits such efforts or unless a longer period is approved by the Director of Public Works based upon a good faith effort to obtain a new user for such facility.

(b) Security for Removal . The telecommunications facility owner shall provide to the City, prior to the issuance of the conditional use permit or the issuance of an occupancy permit, a performance bond in the amount of \$20,000 per tower or a bond equal to a written estimate from a qualified tower removal contractor to

guarantee that the telecommunications tower and any telecommunication support facility will be removed when no longer in operation and guaranteeing any municipal costs associated with said removal. The City will be named as obligee in the bond and must approve the bonding company.

(10) PRE-EXISTING TELECOMMUNICATION TOWERS.

Nonconforming pre-existing telecommunication towers and facilities may extend, move, or replace the tower and facilities upon review and approval of a revised plan and method by the Plan Commission. An existing telecommunication tower may be increased in height to a maximum of 50 feet, relocated, or reconstructed within 100 feet of its existing location to accommodate co-location subject to meeting all other subsections of this section except subsections (7) and (12). Routine maintenance and repair on telecommunications facilities is permitted.

(11) COMPLIANCE.

(a) Revocation . Grounds for revocation of the conditional/special use permit shall be limited to one of the following findings as determined by the Plan Commission:

1. The owner of such site, service provider or tower owner (if applicable) fails to comply with the requirements of this section, as it existed at the time of the issuance of the conditional use permit;
2. The permittee has failed to comply with the conditions of approval imposed;
3. The facility has not been properly maintained in accordance with applicable codes and safety standards.

(b) Revocation Process .

1. The owner of such site, service provider and/or tower owner shall be notified by certified mail of noncompliance by the Building Inspection Department.
2. The party not in compliance shall comply with such notice within 30 days to the satisfaction of the Building Inspection Department.
3. If compliance is not obtained within 30 days, the Building Inspection Department shall notify the Plan Commission of the noncompliance and request permission to proceed with the revocation process. This time period may be extended by staff to allow for seasonal limitations.
4. The Planning Commission shall hold a public hearing following publication of a Class 2 notice in the legal newspaper of the City.
5. A copy of a hearing notice shall be mailed certified to the owner of record of the tower site, the tower owner, and lessees, as disclosed on the most recent annual information report, at least 2 weeks prior to the hearing date.
6. City staff shall appear at the hearing to present the evidence of non compliance. All other interested parties may also give testimony to the Planning Commission.
7. In compliance with the procedures of a special use hearing, a written decision of the Planning Commission will be made.

(c) Abandonment. Any telecommunication facility or support facility that is not operated for a continuous period of 12 months shall be considered abandoned. Time may be extended, upon review and approval of the Plan Commission, if the

tower owner demonstrated a good faith effort to secure new tenants. In such circumstances, the following shall apply:

1. The owner of such telecommunication facility shall remove said facility including all supporting equipment and building(s) within 90 days of receipt of notice from the Building Inspection Department notifying the owner of such abandonment. If removal to the satisfaction of the Building Inspection Department does not occur within said 90 days, the Building Inspection Director may order removal utilizing the established bond as provided under subsection (9) and salvage said antenna or tower and all supporting equipment and building(s). If there are 2 or more users of a single tower, then this provision shall not become effective until all operations of the tower cease.
2. The recipient of a conditional use permit or occupancy permit for a telecommunications facility under this chapter shall notify the Building Inspection Department immediately when the facility is no longer in operation.

(12) **STRUCTURAL, DESIGN, AND ENVIRONMENTAL STANDARDS.**

(a) Tower, Antenna and Facilities Requirements. With the exception of those facilities identified in subsection (3), all telecommunication facilities shall be designed to blend into the surrounding environment and be symmetrical to the greatest extent feasible. To this end, all of the following measures shall be implemented:

1. All telecommunication facilities shall comply at all times with all applicable Federal Communication Commission (FCC) rules, regulations, and standards. To that end, no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the Federal Communication Commission (FCC) adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the Federal Government which applies to the telecommunication facility. All telecommunication towers and antennas shall meet or exceed the standards and regulations, in place at the time of the issuance of the Condition Use Permit, of the Federal Aviation Administration (FAA), the Wisconsin State Bureau of Aeronautics, Occupational Safety and Health Association (OSHA), the Federal Communication Commission (FCC), and any other agency of the State and/or Federal government with the authority to regulate towers and antennas.
2. Subject to the considerations in paragraph 3., below, telecommunication towers shall be constructed out of metal or other nonflammable material, unless specifically permitted by the City to be otherwise. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
3. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials; colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings. Where circumstances so justify, a camouflaged tower or alternative support structure may be required. The design and construction

of telecommunication facilities and towers, antennas, and related equipment shall be as symmetrical as possible to minimize visual obtrusion.

4. All ground mounted telecommunication towers shall be self-supporting monopoles or lattice towers except where satisfactory evidence is submitted to the Plan Commission that a guyed tower is required.

5. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

6. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.

7. Telecommunication support facilities (i.e., equipment rooms, utilities, and equipment enclosures) shall be constructed out of materials approved in the base zoning district and consistent with the main building on the property. In all noncommercial districts the principal building material shall be assumed to be brick. Telecommunication support facilities shall be measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility. The height of such structures shall be determined by the Plan Commission in the context of the built environment.

8. State or Federal requirements. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed and such changes are applicable to existing towers, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations to the extent required shall constitute grounds for the removal of the tower or antenna at the owner's expense.

9. Building codes; safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, in effect at the time the tower is constructed. Upon request, the tower owner shall provide documentation from an engineer establishing that the project is complete to their specifications, and which concludes that a tower complies with applicable codes and standards and does not constitute a danger to persons or property. Upon notice being provided to the owner of the tower, the owner shall have 30 days to bring any such tower into compliance with such

standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense. Said time period may be extended for a reasonable period of time if there is no immediate danger to persons or property and the tower owner is working diligently to correct the failure.

10. Telecommunications facilities shall not interfere with or obstruct existing or proposed public safety, fire protection, or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and or obstruction shall be corrected immediately including shutting down at no cost to the City.

11. Except as required by Federal or State law or as otherwise necessary to provide notice of dangerous conditions, no signs shall be allowed on an antenna or tower.

(b) Height . The height of a telecommunication tower shall be measured from the original grade at the base of said tower to the highest part of the tower itself. In the case of building mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of "crankup" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised. The maximum height of any tower at its fullest extension shall be 199 feet, unless the applicant can establish that there are no other alternatives and/or options available to provide adequate coverage within the City (within the scope of the 1996 Telecommunications Act), and it can be demonstrated that there will be a significant gap in service to the local community, or if the Plan Commission determines that to minimize visual impact an increase in tower height is preferable to the proliferation of towers at the site.

(c) Lighting . Telecommunications towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other applicable regulatory authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(d) Vegetation Protection and Facility Screening .

1. Except exempt facilities as defined in subsection (3), all telecommunications facilities shall be installed in such a manner so as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this section, "mature landscaping" shall mean trees, shrubs or other vegetation that meets the minimums from the City's site development standards.

2. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping for a one-year period.

3. Facility structures and equipment, including supporting structures, shall be located, designed, and screened to blend with the existing natural or built surroundings, so as to reduce visual impacts.

(e) Fire Prevention. All telecommunication facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.

(f) Noise and Traffic. All telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to

nearby properties. To that end, all the following measures shall be implemented for all telecommunication facilities, except facilities listed in subsection (3):

1. Noise producing construction activities shall only take place on weekdays (Monday through Saturday, non-holiday) between the hours of 7:00 a.m. and 7:00 p.m., except in times of emergency repair; and
2. Backup generators shall only be operated during power outages and for testing and maintenance purposes.

(13) **SETBACK/OFFSET REQUIREMENTS.** Except facilities listed in subsection (3), all setbacks/offsets shall be as follows:

- (a) If adjacent to a residential zoning district the setback/offset shall be equal to twice the height of the tower; and
- (b) If adjacent to any other district the setback/offset shall be set by the Plan Commission with consideration given to general zoning requirements and safety considerations.

(14) **OCCUPANCY PERMITS.** An occupancy permit is required from the Building Inspector for the location of all telecommunication facilities, except those described in subsection (3). The applicant shall submit information required under subsection (7), Special Use Process, except the special use application and fee. Facilities proposed to be co-located on facilities previously approved under this section shall be exempt from submitting information required under subsection (7), but shall be required to submit an occupancy permit application for review and approval pursuant to the zoning code.

(15) **APPEAL PROCEDURES.** A person aggrieved by any decision of the City hereunder may, within 30 days after the filing of the decision in the office of the Building Inspection Department, commence an action seeking the remedy available by certiorari.

(16) **SEVERABILITY.** If any section, subsection, clause or phrase of this section is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this section. The Common Council declares that it would have passed this section and each subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more such provisions be declared unconstitutional or invalid.

17.304 HOME OCCUPATIONS.

Home occupations and professional offices, when incident to the principal residential use, situated in the same building, and carried on by the residential occupant, subject to the following conditions:

- (1) Such uses shall not occupy more than 20% of the assessed floor area of the principal structure in which it is located.
- (2) Such use shall not employ more than one person not a resident on the premises.
- (3) No such use shall be permitted which normally necessitates the coming of the customer or client to the premises, or customer presence on the premises while the service is being performed, or otherwise generates pedestrian or vehicular traffic incompatible with the rural or residential character of the neighborhood, except for teaching or tutoring academic subjects, or the studios where dancing, music or other art instruction is offered to no more than 2 pupils at one time.

- (4) Any off-street parking area provided shall be maintained reasonably dustless, and adequately screened from adjoining residential properties.
- (5) Such use shall not include the conduct of any retail or wholesale business on the premises, nor the removal of sand, gravel, stone, top-soil, or peat moss for commercial purposes.
- (6) There shall be no exterior indication that the dwelling is being used for any other purpose than a dwelling.
- (7) Such use shall not include the operation of any machinery, tools or other appliances, or the outside storage of materials, or other operational activity which would create offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-rays or electrical disturbances to radio or television instruments, or be otherwise incompatible to the surrounding residential area.
- (8) A name plate not in excess of one square foot in area shall be permitted.
- (9) A home occupation shall not be interpreted to include barber shops, beauty shops, auto repairing, antique shops, restaurants or similar occupations or professions.

17.310 SIGNS.

(1) **PERMIT REQUIRED.** No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit, except those signs excepted in subsection (2) below and without being in conformity with the provisions of this chapter. The sign shall also meet all the structural requirements of the Building Code.

(2) **SIGNS EXCEPTED.** All signs are prohibited in the R-1 and R-2 Districts, except the following:

- (a) Real Estate Signs . Not to exceed 6 square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.
- (b) Name, Occupation and Warning Signs . Not to exceed one square foot located on the premises.
- (c) Bulletin Boards . For public, charitable or religious institutions not to exceed 15 square feet in area located on the premises.
- (d) Memorial Signs . Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- (e) Official Signs . Official signs such as traffic control, parking restrictions, information and notices.

(3) **SIGN RESTRICTIONS.** Signs are permitted in all business and industrial districts subject to the following restrictions:

- (a) Number. The total number of freestanding signs shall be limited to one sign per property for each abutting and accessible street frontage unless otherwise approved in a planned unit development.
- (b) Setbacks and Offsets. All signs shall conform to the setback and offset requirements outlined in the Table of District Sign Requirements, per subsection (3).
- (c) Wall Signs. The maximum number of wall signs shall be limited to a maximum of 3 and the aggregate area of the signs shall be limited as outlined in

the Table of District Sign Requirements subsection (3). Wall signs placed against the exterior walls of buildings shall not extend more than 6 inches outside of a building to wall surface.

(d) Projecting Signs. Projecting signs fastened to, suspended from or supported by structures shall not extend more than 9 feet into any public right-of-way and in no case will sign extend beyond back of curb line.

(e) Roof Signs. Signs which are located or extend above the eave or parapet of a roof shall not be permitted.

(f) Combinations. Combinations of any of the above signs shall meet all the requirements for the individual sign.

(4) DISTRICT SIGN REQUIREMENTS.

Zoning District	Wall Signs (% of Wall Area)	Projecting Signs (max. Ft. ²)(1)	Max. Single Side Area for Freestanding Signs (2)	Min. Side Yard Setback	Min. Front Setback (3)	Max. Pole Sign Height (4)
R-3	n/a	n/a	20 to 30 ft. ²	3'	Equal to height	10'
B-1	3%	35	10 to 45 ft. ²	3'	Equal to height	20'
B-2	5%	55	30 to 65 ft. ²	3'	Equal to height	20'
B-3	5%	55	30 to 65 ft. ²	3'	Equal to height	20' to 30'
B-4	5%	55	30 to 65 ft. ²	3'	Equal to height	20'
B-5	5%	55	30 to 65 ft. ²	3'	Equal to height	20'
I-1	5%	35	10 to 45 ft. ²	3'	Equal to height	20'
I-2	5%	35	10 to 45 ft. ²	3'	Equal to height	20'

(1) The lowest point of any sign projecting over a public way, space, walk, or road shall be a minimum of 12 feet above grade.

(2) Square footage may be increased to the second number at a rate of one square foot for each additional 10 feet of lot frontage, after the first 50 feet of frontage, up to 300 feet of frontage. In addition, square footage may be increased by one square foot for every 2 feet additional setback up from the required setback to a maximum of a 40-foot setback from the base setback line.

(3) Freestanding signs with a total height less than 6 feet may be located with a zero-foot setback from the right-of-way line in the R-3, B-1, and I-1 Districts.

(4) Height may be increased to the second number at the rate of one foot for every 2 feet additional setback from the required setback.

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"

(5) PROHIBITED SIGNS. Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices. No sign shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

(6) OFF-PREMISES SIGNS. Off-premises signs shall be expressly prohibited in all zoning districts.

(7) DIRECTIONAL SIGNS.

(a) A sign, not to exceed 6 square feet in area, indicating direction to a church, hospital, school or other public service building may be permitted in any district upon approval by the Plan Commission. Not more than 4 such signs may be erected within the City for any business or organization.

(b) A sign, not to exceed 12 square feet in area, for the purpose of directing patrons or attendants to an establishment off the main traveled highway for service clubs, churches, or other nonprofit organizations may be permitted in any district other than a residential district upon approval of the Plan Commission.

(c) Signs, not to exceed 30 square feet, for service clubs, churches or other nonprofit organizations, may be permitted in any district, upon approval of the Plan Commission, provided the sign is designed with a substantial landscape base area.

(d) A sign, not exceeding 2 square feet in total nonilluminated copy area (2 sides of copy permitted), only for the display of local religious and/or civic organization directional signage, may be permitted in the public right-of-way. Four such signs per organization may be erected in the City at any intersection of an arterial and/or collector highway in any zoning district, and all signs must be located within a 2-mile radius of the organization. Four such signs per intersection shall be permitted. An individual organization may have one such sign per intersection, and shall be responsible for all costs of maintenance and removal of the structure. Such a sign shall not:

1. Be located so as to block the traveling public's line of vision; impede safe traffic movements; interfere with the viewing and/or function of any traffic control devices;
2. Be designed or positioned so as to be misconstrued as a traffic control device.

(8) EXISTING SIGNS. Any sign which was a nonconforming sign on November 3, 1967, or which becomes a nonconforming sign at any future date, may be continued provided that no increase in size, illumination or flashing of such sign shall be made.

(9) RESTRICTIONS ON POSTING SIGNS. (Cr. Ord. #25-84) No person shall cause to be placed any type of sign, notice or other item on any traffic sign pole, utility pole, street indicator sign or any other pole under the jurisdiction of the City.

(10) ABANDONED SIGNS. Abandoned signs are prohibited and shall be removed. The Zoning Administrator shall give notice to the subject property owner requiring that the sign be removed. The notice shall advise the property owner that the sign must be removed within 20 days from the date of the notice, unless the property owner files a request for an extension with the Plan Commission within that 20-day period. Thereafter, the sign must be removed:

- (a) Prior to expiration of the 20-day notice period; or
- (b) If a request for extension is timely filed with the Plan Commission and the Plan Commission denies the request, the sign must be removed within 20 days of the denial; or

- (c) If a request for extension is timely filed with the Plan Commission and if the Plan Commission grants the request, the sign must be removed prior to expiration of any extension granted.

Failure to remove an abandoned sign as required herein shall be subject to all of the penalties and remedies described in sec. 17.463 of this chapter.

(11) **BONDS, SURETIES, AND INSURANCE.**

(a) Every applicant for a projecting sign permit shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Building Inspection Department and it shall be of a form and type approved by the City Attorney, indemnifying the City against all loss, cost, damages or expenses incurred or sustained by or recovered against the City by reason of the erection, construction or maintenance of such sign. A liability insurance policy issued by an insurance company authorized to do business in the State and conforming to the requirements of this section may be permitted by the City Attorney in lieu of a bond.

(b) The City shall be named as additional insured for any use or operation where projecting signs are utilized. The form shall be determined by the City Clerk.

17.320 TRAFFIC, PARKING AND ACCESS.

(1) **VISIBILITY AND CLEARANCE.**

(a) **Traffic Visibility and Vision Clearance.** There shall be an unoccupied triangular vision clearance space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points 10 feet from the corner on each street line. In the case of arterial streets intersecting with other arterial streets or railways, the corner cut-off distances establishing the triangular vision clearance space shall be increased to 50 feet. No obstructions such as structures, parking or vegetation, except for necessary highway and traffic signs or public utility lines, shall be permitted in any district between the heights of 2 1/2 feet and 10 feet above the curb level.

(2) **LOADING REQUIREMENTS.**

(a) **In All Districts .** All adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

(b) **Loading Space Required For Lots Abutting Alleys .** In any commercial or industrial district, wherever a lot abuts upon a public or private alley, sufficient space for the loading or unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that the alley shall be, at all times, free and unobstructed to the passage of traffic.

(3) **PARKING REQUIREMENTS.** In all districts and in connection with every use, 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) **Adequate Access.** Adequate access to a public street shall be provided for each parking space, and driveways shall be at least 10 feet wide for one-family and 2-family dwellings and a minimum of 24 feet for all other uses.

- (b) Size. The size of each parking space shall be not less than 9 feet by 20 feet, exclusive of the space required for ingress and egress.
- (c) Location. The location shall be on the same lot as the principal use or not over 400 feet from the principal use. No parking stall or driveway, except in residential districts, shall be closer than 15 feet to a residential district lot line or a street line opposite a residential district lot line or a street line opposite a residential district with an appropriate landscape buffer as outlined in subsection (i) below and approved by the Plan Commission.
- (d) Surfacing. All off-street parking areas shall be graded and surfaced so as to be dust-free and properly drained. Any parking area for more than 5 vehicles shall have the aisles and spaces clearly marked.
- (e) Curbs or Barriers. Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.
- (f) Number of Parking Stalls Required. The following table shall establish the minimum number of parking stalls for particular land uses. (g) Uses Not Listed . In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Where uses are not enumerated, the Plan Commission shall make the appropriate determination.
- (h) Combinations . Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.
- (i) Landscape Buffers . Buffers should incorporate shrubs, berming, and deciduous and coniferous trees to provide an all-season screen, with an opacity of at least 60% at maturity (80% for outdoor storage facilities). Buffer yard landscaping shall have a minimum height of 3 feet at time of planting. The use of berming or an opaque fence constructed of materials compatible with the building on the site may be approved by the Plan Commission in addition to landscaping. The location of buffer yard plantings shall be within 25 feet of the property line, except where necessary to avoid utility easements

Use	Requirements
Duplex	2 spaces per dwelling unit
Single Family Detached Residence	2 spaces per dwelling unit
Single Family Attached Residence	1.5 spaces per dwelling unit
Mobile/Manufactured Homes & Parks	3 spaces per dwelling unit
Multi-family dwellings	1 stall for each guest room plus 1 stall for each 3 employees
Motels and hotels	1-1/2 stalls for each sleeping unit
Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats
College, secondary and elementary schools	1 stall for each 2 employees
High Schools (Junior & Senior)	Auditorium requirement or 1 space for every 5 students of maximum capacity
Manufacturing and processing plants, laboratories and warehouses	1 stall for each 3 employees
Hospitals	1 space for every 3 beds plus 1 space for each medical staff member plus 1 space for every 3 employee
Nursing, Convalescent, Rest and Old Age Homes	1 space for every 3 rooms plus 1 space for each staff member and employee
Clinics	5 spaces for every practitioner or the staff
Industrial Uses	1 space for every 2 employees
Commercial Office Buildings	1 space for every 300 square feet of gross floor area
Retail Stores	1 space for every 150 square feet of gross floor area
Customer Service Establishments	1 space for every 200 square feet of gross floor area
Restaurants, Taverns, Club, etc	1 space for every 100 square feet of gross floor area
Planned Shopping Center	1 space for every 100 square feet of gross floor area

(4) DRIVEWAYS. All driveways installed, altered, changed, replaced or extended after November 3, 1967, shall meet the following requirements:

- (a) Openings . Openings for vehicular ingress and egress for residential occupancy shall not exceed 24 feet at the property line and 30 feet at the roadway. For all other uses openings shall be determined by the Board of Public Works.
- (b) Vehicular Entrances and Exits . Vehicular entrances and exits to drive-in theaters, banks and restaurants; motels; funeral homes; vehicular sales, service washing and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance on exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or other place of public assembly.

(5) HIGHWAY ACCESS. No direct private access shall be permitted to the existing or proposed rights-of-way nor 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 the following:

- (a) Arterial streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.
- (b) Streets intersecting an arterial street within 50 feet of the intersection of the right-of-way lines.

Access barriers such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above

specified streets or highways. Temporary access to the above rights-of-way may be granted by the Plan Commission 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.

17.330 SITE PLAN REQUIREMENTS

In all zoning districts, no building or premises may be used for any purpose other than those uses permitted in the respective district, and only when development and use of property is undertaken in accordance with the following procedures:

- 1) *Development subject to Site Plan Review:* A Site Plan shall be submitted to the Plan Commission for review and approval prior to issuance of a building permit for the:
 - a) Construction of any new building, except for single- and two-family dwellings and accessory structures associated with single- and two-family dwellings; and
 - b) Additions to existing buildings which increase the square footage of the existing building by 50% or more; and
 - c) Any addition or expansion to an existing building which does not increase the square footage of the existing building by 50% or more, but which results in a substantial modification to the property as determined by the Development Director.
- 2) *Authority:* Site plan review shall be subject to review and approval by the Plan Commission, which shall have 30 days to consider and approve or reject the site plan with or without modifications, although this period may be extended by agreement of the parties concerned.
- 3) No occupancy permits shall be issued for any building or use that is not in accordance with the approved site plan.
- 4) *Submittal Requirements:* The Site Plan submittals shall:
 - (a) Be drawn to scale.
 - (b) Show boundaries to be developed.
 - (c) Show existing topography with contour intervals of not less than 2 feet (upon request).
 - (d) Show the proposed size, location, use and arrangement of buildings, parking areas with proposed arrangement of stalls and number of cars, entrance and exit driveways and their relationship to existing and proposed streets, outside storage areas/refuse enclosures, outdoor lighting locations and details, all fences or retaining walls, identification of all surface types (i.e., grass, concrete, asphalt), and any other information as requested by the Plan Commission.
 - (e) Stormwater management or drainage plan.
 - (f) Landscaping plan.
 - (g) Exterior building elevations including identification of building materials and colors.
 - (h) Signage information including location(s) and dimension(s).

- (i) Indicate location, type, use and size of structures on adjacent properties within 200 feet of the proposed development.
- 5) If the development of property is subject to more restrictive Site Plan Review standards per a different section of this ordinance, the more restrictive standards for review shall prevail.
- 6) Validity of Approval, Expiration and Revisions to Site Plans: A site plan shall become effective upon obtaining approval by the City of Waupaca Plan Commission. The approval of any site plan required by this section shall remain valid for one year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction has not commenced. A revision to a site plan may be requested by submitting the changes to the Plan Commission. The Plan Commission may then approve, approve with conditions, or deny the requested revision(s).

17.340 HISTORIC PRESERVATION.(Cr. Ord. #21-95)

(1) PURPOSE AND INTENT. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special architectural, archeological or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this section is to:

- (a) Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history.
 - (b) Safeguard the City's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts.
 - (c) Stabilize and improve property values and enhance the visual and aesthetic character of the City.
 - (d) Protect and enhance the City's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.
- (2) DEFINITIONS. The definitions used herein are defined as follows:
- (a) Certificate of Appropriateness. (Am. Ord. #20-97) The certificate issued by the Commission approving alteration, rehabilitation, construction, reconstruction or demolition of an historic structure, historic site or any improvement in an historic district which would include relocation of an historic structure to another location on or off its existing site.
 - (b) Commission. The Historic Preservation Commission created under this section.
 - (c) Historic District. An area designated by the Council, on recommendation of the Commission, that contains 2 or more historic improvements or sites.
 - (d) Historic Site. Any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which an historic event has occurred and which has been designated as an historic site under this section or an improvement parcel, or part thereof, on which is situated an historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

(e) Historic Structure . Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, State or Nation and which has been designated as an historic structure pursuant to the provisions of this section.

(f) Improvement . Any building, structure, place, work of art or other object constituting a physical betterment of real property or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

(3) HISTORIC PRESERVATION COMMISSION.

(a) Membership . (Am. Ord. #1-96; #07-03) A Historic Preservation Commission is hereby created, consisting of 7 members. Of the membership, if available in the community, one shall be a registered architect, one shall be an historian, one shall be a licensed real estate broker, one shall be an Alderperson and 3 shall be citizen members of which one must be a youth. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Mayor shall appoint the Commissioners subject to confirmation by the Council. Terms shall be for 3 years except that the term of the Alderperson Commissioner shall be for one year. The appointments, except the Alderperson, shall be staggered the first year with 2 members for 3 years, 2 members for 2 years and 2 members for one year.

(b) Powers and Duties . The Commission shall have the power, subject to subsection (6) below, to designate historic structures and historic sites and to recommend designation of historic districts within the City limits. Such designations shall be made based on subsection (4) below. Historic districts shall be approved by the Council. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this section.

(4) HISTORIC STRUCTURE, HISTORIC SITE AND HISTORIC DISTRICT DESIGNATION CRITERIA.

(a) For purposes of this section, an historic structure, historic site or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the City such as historic structures, sites or districts which:

1. Exemplify or reflect the broad cultural, political, economic or social history of the Nation, State or community; or
2. Are identified with historic personages or with important events in National, State or local history; or
3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship; or
4. Are representative of the notable work of a master builder, designer or architect who influenced his/her age; or
5. Have yielded, or may be likely to yield, information important to prehistory or history.

(b) The Commission shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this section.

(5) REGULATION OF CONSTRUCTION, RECONSTRUCTION, ALTERATION AND DEMOLITION.

(a) No owner or person in charge of an historic structure, historic site or structure within an historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a certificate of appropriateness has been granted by the Historic Preservation Commission. Also, unless such certificate has been granted by the Commission, the Building Inspector shall not issue a permit for any such work. No fee shall be paid by the owner to the City when applying for a certificate of appropriateness unless it is necessary to hold a special meeting of the Historic Preservation Commission to act on said application and, in that event, a \$25 filing fee shall be paid by the owner to the City. (Am. Ord. #12-97)

(b) Upon filing of any application for a certificate of appropriateness with the Commission, the Commission shall approve the application unless:

1. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done.
2. In the case of the construction of a new improvement upon a historic site or within an historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district.
3. In the case of any property located in an historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district.
4. The building or structure is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State.
5. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.

(c) If the Commission determines that the application for a certificate of appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the certificate. The Commission shall make this decision within 45 days of the filing of the application.

(d) The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the certificate required for the proposed work.

(e) Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness provided that the work involves repairs to existing features of an historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

(f) Appeals. Should the Commission fail to issue a certificate of appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Council within 30 days. In addition, if the Commission fails to issue a certificate, the Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a certificate within the guidelines of this section.

(g) Recognition of Historic Structures, Sites and Districts. At such time as an historic structure, site or district has been properly designated, the Commission, in cooperation with the property owner, may cause to be prepared and erected on such property a suitable plaque declaring that such property is an historic structure, site or district. The property owner shall pay for the plaque if the historic designation is of the owner's structure or site; the City shall pay for the plaque if the designation is of an historic district.

(6) PROCEDURES.

(a) Designation of Historic Structures and Historic Sites.

1. The Commission may, after notice and public hearing, designate historic structures and historic sites or rescind such designation or recommendation after application of the criteria in subsection (4) above. At least 10 days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part situated within 200 feet of the boundaries of the property affected.

2. The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within 10 days after the close of the public hearing, the Commission may designate the property as either an historic structure or an historic site or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk and the Building Inspector. The Commission shall cause the designation or rescission to be recorded, at City expense, in the County Register of Deeds office.

3. Costs. The costs of the proceedings, including publication, witness and recording fees shall be paid by the property owner if he/she is requesting action by the Commission. If the City is requesting action by the Commission, it shall pay the costs of the proceedings.

(b) Creation of Historic District. For preservation purposes, the Commission shall select geographically defined areas within the City to be designated as historic districts and shall prepare an historic preservation plan for each area. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the City after application of the criteria in subsection (4) above. Each historic preservation plan prepared for or by the Commission shall include a cultural and architectural analysis supporting the

historic significance of the area, the specific guidelines for development and a statement of preservation objectives.

(7) REVIEW AND ADOPTION PROCEDURE.

(a) Action by Historic Preservation Commission. The Historic Preservation Commission shall hold a public hearing when considering the plan for an historic district. Notice of the time, place and purpose of the public hearing shall be sent by the City Clerk to the Alderperson of the Aldermanic District or Districts in which the historic district is located and owners of record, as listed in the office of the City Assessor, who are owners of the property within the proposed district or are situated in whole or in part within 200 feet of the boundaries of the proposed district. Said notice is to be sent at least 10 days prior to the date of the public hearing. Following the public hearing, the Commission shall vote to recommend, reject or withhold action on the plan.

(b) Action by the Council. The Council, upon receipt of the recommendations from the Commission, shall hold a public hearing, notice to be given as noted in subparagraph (a), above, and shall, following the public hearing, either designate or reject the historic district. Designation of the district shall constitute adoption of the plan prepared for the district and direct the implementation of the plan.

(8) INTERIM CONTROL. No building permit shall be issued by the Building Inspector for alteration, construction, demolition or removal of a nominated historic structure, historic site or any property or structure within a nominated historic district from the date of the meeting of the Commission at which a nomination form is first presented until the final disposition of the nomination by the Commission or the Council unless such alteration, removal or demolition is authorized by formal resolution of the Council as necessary for public health, welfare or safety. In no event shall the delay be for more than 180 days.

(9) VIOLATION AND PENALTIES. Any person violating any provision of this section shall forfeit \$50 for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the Building Inspector.

17.350 FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS.

(1) FINDINGS OF FACT.

(a) The Common Council finds that Adult-Oriented Establishments, as defined and otherwise regulated by the City in its Adult-Oriented Licensing and Regulation Ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the City.

(b) Based its review of studies conducted in Phoenix, AZ; Garden Grove, CA; Los Angeles, CA; Whittier, CA; Indianapolis, IN; Minneapolis, MN; St. Paul, MN; Cleveland, OH; Oklahoma City, OK; Amarillo, TX; Austin, TX; Beaumont, TX; Houston, TX; Seattle, WA; and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Coleman A. Young v. American

Mini-Theaters, Inc. , 427 U.S. 50 (1976), the Common Council finds that there is convincing evidence that the secondary effects of adult-oriented establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.

(c) The Common Council intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.

(d) It is not the intent of the Common Council to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult-oriented establishments while providing an outlet for First Amendment protected activities.

(e) In order to minimize and control the secondary effects of adult-oriented establishments upon the City, it is the intent of the Common Council to prevent the concentration of adult-oriented establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of adult-oriented establishments.

(f) Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Common Council finds that a geographic separation of adult-oriented establishments from alcohol beverage licensed premises is warranted.

(2) LOCATION OF FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS.

(a) The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that adult-oriented establishments, as defined and otherwise regulated by the City, are entitled to certain protections, including the opportunity to locate in the City. Therefore, if an adult-oriented establishment license has been granted by the City, and if all the requirements of this section of the zoning code are met, an adult-oriented establishment shall be an allowed use in the I-2 zoning district and shall be a prohibited use in any other zoning district. No other requirements of the zoning code need be satisfied, but for those required in order to obtain an adult-oriented entertainment license from the City.

(b) Adult-oriented establishments shall be located at least 1,000 feet from any:

1. Residential district line, playground lot line, or public park lot line;
2. Structure used as a residence, place of religious worship, public or private school, or youth facility as defined in the City's Adult-Oriented Establishment Licensing and Regulation Ordinance;
3. Other structure housing an adult-oriented establishment;
4. Structure housing an establishment which holds an alcohol beverage license.

(c) Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the adult-oriented establishment to the above residential district boundary lines, to the lot line of any lot used for a park, playground, or the lot line of any structure listed in subsection (2)(b), above.

- (d) The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
- (e) For adult-oriented establishments located in conjunction with other buildings and clearly separate from other establishments such as in a shopping center, measurements shall be taken from the boundaries of the space occupied by the adult-oriented establishment.
- (f) For any adult-oriented establishment located above ground level in a multistory structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the adult-oriented establishment (excluding emergency exits).
- (g) A licensed adult-oriented establishment is not disqualified from holding an adult-oriented establishment license by the location subsequent to the grant or renewal of its license of any of the establishments described in subsection paragraph 2., above, within 1,000 feet of the licensed premises. This provision applies only to the renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

17.360 ANNEXATION.(Rep. & Recr. Ord. #1-02)

- (1) Annexation to or consolidations with the City subsequent to the effective date of this Code shall be placed in the A-1 Agricultural District unless the annexation ordinance temporarily places the land in another district. Within one year the Plan Commission shall evaluate and recommend a permanent district classification to the Council.
- (2) Notwithstanding the provisions of §16.53(14), Wis. Stats., the Common Council may, in its sole discretion, pay the annexation petition review fees prescribed by the Department of Administration.

ADMINISTRATION AND ENFORCEMENT

17.400 ADMINISTRATIVE AND ENFORCEMENT OFFICER.

- (1) CITY ADMINISTRATOR DESIGNATED. The City Administrator, or his/her designee, is hereby designated as the administrative and enforcement officer for the provisions of this chapter. For such duties he/she may be provided with the assistance of such additional persons as the Common Council may direct.
- (2) DUTIES. In the enforcement of said chapter the Building Inspector shall perform the following duties:
 - (a) Issue the necessary zoning use permit and occupancy permits required by the provisions of this chapter, provided its provisions and those of the building code have been complied with.
 - (b) In case of any finding of a violation of a provision of this chapter, notify in writing, the actual violator where known, owner of the property on which the violation has taken place and the Common Council, indicating the nature of the violation and the action necessary to correct it.

(c) Carry out such additional responsibilities as are hereinafter set forth by the provisions of this chapter.

(3) **AUTHORITY.** In the enforcement of this chapter, the Building Inspector shall have the power and authority for the following:

(a) At any reasonable time and for any proper purpose to enter upon any public or private premises and make inspection thereof.

(b) Upon reasonable cause or question as to proper compliance, to revoke any zoning use permits or occupancy permit, and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter, such revocation to be in effect until reinstated by the Building Inspector or the Board of Appeals; or take any other action as directed by the Common Council to insure compliance with or to prevent violation of its provisions.

(c) In the name of the City and with authorization of the Common Council commence any legal proceedings necessary to enforce the provisions of this chapter, including the collection of forfeitures provided for herein.

17.410 PUBLIC HEARINGS.

(1) **NOTICE.** Notice of the proposed zoning map or text amendment shall require a Class II notice, and the notice of a special use shall require a Class I notice. Hearing thereon shall be given by publication in the official paper, and in cases of petitions requesting changes in the zoning district classification of any property, granting of special uses, or of planned developments under 6.02 [sec. 17.260], the Clerk shall mail notice of the public hearing to the owners of all lands within 250 feet of any part of the land included in such proposed change or special use at least 5 days before such public hearing. The failure of such notice to reach any property owner provided such failure be not intentional, shall not invalidate any amending ordinance, or grant of special use of planned development. Such mailed notice shall not be required where the Common Council determines that the change is of such comprehensive nature that such notice would involve excessive administrative effort and expense and is not necessary for reasonable notification of affected property owners. At least 5 days prior written notice of changes in the district plan shall also be given to the Clerk of any municipality whose boundaries are within 1,000 feet of the land to be affected by the proposed change. Failure to give such notice shall not invalidate any such change.

(2) **INFORMATION.** Such notices shall state the time and place of such public hearing and the purpose for which the hearing is held, and shall include, in the case of map changes a description of the area involved and in the case of text changes a description of the proposed change, in sufficient detail for general public identification. Reference shall also be made to the fact that detailed descriptions are available for public inspection at the Clerk's Office.

(3) **PETITIONS NOT INVOLVING ZONING CHANGE.** Where such hearing is required by the provisions of this chapter as a result of a request for other than a zoning change or appearance before the Board of Appeals, such request shall be presented to the Clerk in writing, and shall be accompanied by a map or description clearly identifying the property involved and by a fee payable to the City, as from time to time established by Resolution of the Common Council, to defray the cost of notification and holding of a public hearing.

(4) **INFORMAL HEARINGS.** Hearings not specifically required under the provisions of this chapter may be noticed as deemed appropriate by the body holding the hearing.

17.420 PLAN COMMISSION.

(1) **DUTIES.** The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the City to the City Council, other public officials and other interested organizations and citizens. The Commission, its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys.

(2) **POWERS.** The Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Code, its functions are primarily recommendatory to the City Council pursuant to guidelines set forth in this Code as to various matters, and, always, being mindful of the intent and purposes of this Code. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion and of its own volition, conduct its own public hearing.

17.430 BOARD OF APPEALS.

(1) **ESTABLISHMENT.**

(a) A Board of Appeals is hereby established. The Board shall consist of 5 members appointed by the Mayor, subject to confirmation by the Council, for 3-year terms. The members shall serve without compensation and shall be removable by the Mayor for cause upon written charges and after public hearing. The Mayor shall designate one of the members as Chairman. The Mayor shall appoint 2 alternate members for 3-year terms who shall act with full power only when a member of the Board is absent or refuses to vote because of interest.

Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Board may employ a secretary and other employees.

(b) The Board shall adopt rules for its government and procedure. Meetings of the Board shall be held at the call of the Chairman or, in his/her absence, the Acting Chairman. The Chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(c) The City Clerk shall keep minutes of the proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record. (Am. Ord. #01-04)

(2) **APPEALS.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officers from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officers from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board shall fix a

reasonable time for the hearing of appeals and shall give public notice thereof as well as due notice to the parties in interest, and shall decide the same within a reasonable time.

(3) MEETINGS. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his/her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action, all of which shall be immediately filed in the office of the Board and shall be public record.

(4) POWERS. The Board of Appeals shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector.
- (b) To hear and decide special exceptions to the terms of this chapter upon which the Board is required to act.
- (c) To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to public interest where, owing to special conditions peculiar to a specific lot or tract of land, a literal enforcement will result in practical difficulty or unnecessary hardship so that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done. In every case where a variance from these regulations has been granted by the Board, the minutes of the Board shall affirmatively show that an "unnecessary hardship" or "practical difficulty" would be created.
- (d) The Board may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Building Inspector. If a quorum is present, a majority vote of the members of the Board present shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter in which it is required to act or to effect any variation in the requirements of this chapter.

(5) ADDITIONAL POWERS. In addition to the foregoing, the Board shall have the following specific powers:

- (a) Grant a permit for a temporary building for commerce or industry in a residence district which is incidental to the residential development, such permit to be issued for a period of not more than one year.
- (b) Grant a permit for the extension of a district boundary for a distance of not more than 25 feet where the boundary of a district divides a lot in a single ownership at the time of the adoption of this chapter (November 3, 1967).
- (c) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan as shown on the district map where the street layout actually on the ground varies from the street layout on the aforesaid map.
- (d) The Board shall have the power to call on any other City department for assistance in the performance of its duties and it shall be the duty of such other departments to render such assistance as may be reasonably required.

(e) In exercising the foregoing powers, the Board may, in appropriate cases, establish suitable conditions and safeguards in harmony with the general purpose and intent of this chapter.

(6) PROHIBITED USES NOT AFFECTED BY BOARD ACTION. Except as specifically provided, no action of the Board shall have the effect of permitting in any district uses prohibited in such district.

(7) ADDITIONAL REQUIREMENTS. In making its determination the Board shall consider whether the proposed exception, or variance would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such maintenance and operation, as the Board may deem necessary for the protection of adjacent properties and the public interest and welfare.

(8) PERFORMANCE STANDARDS. In order to reach a fair and objective decision the Board may utilize and give recognition to appropriate performance standards which are available to model codes or ordinances or which have been developed by planning, manufacturing, health, architectural, and engineering research organizations.

(9) ENFORCEMENT OF DECISION. In exercising the above mentioned powers, such Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit provided that no such action shall have the effect of permitting in any district a use prohibited in that district; of rezoning; of granting a special use or special exception where such grant is not specifically assigned to the Board for determination under this chapter; of permitting, without the approval of the Plan Commission any building within the base setback area as hereinafter established by the provisions of this chapter.

(10) REQUIRED VOTE. The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation therefrom. The grounds of every such determination shall be stated.

(11) FURTHER APPEAL. Any person or persons aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the municipality may appeal from a decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in the manner provided in §62.23(7)(e)10., Wis. Stats.

(12) PROCEDURE.

(a) Filing . A notice of appeal shall be filed with the Planning Department by completing the approved application form, supplying a recent plat of survey completed by a Registered Land Surveyor, and submitting a detailed explanation of the request. At the time of application, a fee, as from time to time established

by resolution of the Common Council, shall be submitted to defray the cost of giving notice, investigation, and other administrative processing. The Planning Director shall forthwith transmit to the Board, and/or any other affected officer of the City, all papers constituting the record upon which the action appealed from was taken.

(b) Stay . An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a Court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(c) Hearing . Each appeal shall be heard within 40 days from the time of filing and public notice of such hearing shall be given as provided by this chapter as well as to the parties in interest. Such notice however shall require only one publication, which shall not be less than one week prior to the date of the hearing. Any party may appear in person, or by agent or by attorney representing him.

(d) Decision . The Board of Appeals shall render its decision in writing within 15 days after completion of the hearing thereon.

(13) SPECIAL EXCEPTIONS. Requests for special exceptions upon which the Board of Appeals is required to pass under the provisions of this chapter shall be presented by petition and a public hearing held thereon as provided for appeals.

17.440 SPECIAL USES.

(1) GENERAL; APPROVAL REQUIRED. Uses listed as permitted by special use grant may be permitted in the district in which listed upon petition for such grant to the Plan Commission and subject to the approval of the Common Council and to such other conditions as hereinafter designated.

(2) BASIS FOR APPROVAL. The Plan Commission and Common Council shall base their determination on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the City and specifically of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carrying out the intent of special use grants.

(3) PROCEDURE.

(a) Petition . A request for special use grant shall be submitted in writing to the City Clerk who shall promptly refer such petition to the Plan Commission and Common Council for determination. Such petition shall be accompanied by appropriate data and information necessary for proper evaluation of the request including specifically the following:

1. An accurate map of the property including indication of general terrain and topographical characteristics, the location of all significant terrain features such as streams, ponds, tree growths, etc., and the location of all existing structures.
 2. An accurate and complete written description of the use for which a special use grant is being requested including pertinent statistics and operational characteristics.
 3. Plans and other drawings showing proposed development of the site and buildings including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc.
- (b) Hearing . The public hearing shall be held before the Plan Commission as soon as practical pursuant to sec. 17.410. The Plan Commission shall make a recommendation regarding the petition to the Common Council.
- (c) Determination . Following public hearing, necessary study and investigation, and recommendation of the Plan Commission, the Common Council shall as soon as practical render its decision in writing and a copy made a permanent part of the Council's records. Such decision shall include an accurate description of the special use permitted, of the property on which the special use is permitted, and any and all conditions made applicable thereto, or if disapproved, shall indicate the reasons for disapproval.
- (d) Mapping and Recording . When a special grant is approved, the building and occupancy and zoning use permits shall be applicable solely to the structures, use and property so described. Indication of such grant shall also be made on the zoning map by appropriate code number of symbol.
- (e) Termination . Where a permitted special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself causes it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare the special use grant may be terminated by action of the Common Council following referral to the Plan Commission for recommendation, and public hearing thereon. Such use shall thereafter be classified as legal nonconforming use, except that where the action is due to failure to comply with the conditions of the special use grant, the Common Council may require complete termination of such use.
- (f) Application to Existing Uses .
1. A use which existed lawfully on a lot at the time said lot was placed in a district where such use would be permitted only as a special use grant, shall automatically be granted special use status.
 2. The grant of a special use in such case shall be based upon the existing conditions at that time and any expansion or change in use shall require changing of the special use grant.
 3. Petition may be made at any time for expansion or other change of the special use grant and such petition shall not prejudice the existing grant as herein authorized.
 4. Special use status granted under previous zoning regulations shall be considered in effect under this chapter subject to the conditions established by the original grant. Any expansion or other change, however, shall be subject to the provisions of this chapter.

(g) Subsequent Change or Addition to the Approved Plans or Use . Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Plan Commission and if in the opinion of the Plan Commission such change or addition constitutes a substantial alteration based on the standards set forth, a public hearing before the Plan Commission shall be required and notice thereof be given pursuant to sec. 17.410.

(4) REQUIREMENTS.

(a) Standard Requirements .

1. Except as may be specifically otherwise provided, any such use shall conform to the building location, height, building size, lot size, and open space regulations of the district in which it is located.
2. Building, site and operation plans of the proposed use shall be submitted for approval of the Plan Commission. Such plans shall be in sufficient detail to enable the Commission to evaluate the suitability of architectural and landscape treatment; the proper location of the building or buildings on the lot; the satisfactory provision for parking and circulation needs, for drainage and sewage disposal for adequate planting screen where necessary, and for operational control devices where necessary to eliminate noise, dust, odor, smoke, or other objectionable operating condition; and the general compatibility of the proposed use with the area in which it is located.

(b) Special Requirements . In addition to the general standards and requirements as stated in this section, such special uses shall be subject to more specific standards and requirements pertinent to the particular use, which standards and requirements may be set out in a supplementary guide for special use regulation adopted by the Commission, and modified from time to time in order that they reflect the best and most contemporary of regulatory practices.

(c) Modification of Regulations . Requirements applicable to uses permitted by right or as accessory uses in any district by the regulations of this chapter may be modified or waived by the Plan Commission in their application to a special use if in the Commission's opinion they are not appropriate or necessary to the proper regulation of the special use, and where such modification or waiver would not in the Commission's opinion result in adverse effect upon surrounding properties.

(d) Accessory Uses and Structures . Uses and structures accessory to a principal special use may be permitted subject to appropriate regulations in the same manner as herein before set forth for the principle special use.

17.450 EXTRATERRITORIAL ZONING COMMITTEE.

(1) JURISDICTION. In the event an extraterritorial zoning committee is formed, pursuant to §62.23(7a), Wis. Stats., the jurisdiction of this section shall also extend to those lands and waters lying within the unincorporated area that are approved by a majority of the members of the appropriate joint extraterritorial zoning committee.

(2) **CHANGES AND AMENDMENTS.** Each change or amendment shall be subject to the review and recommendation of the Plan Commission and the appropriate joint extraterritorial zoning committee.

(3) **RECOMMENDATIONS.** The appropriate joint extraterritorial zoning committee and the Plan Commission shall review all proposed changes and amendments within the extraterritorial zoning jurisdiction, but only the members of the appropriate joint committee shall vote on matters relating to their zoning jurisdiction.

(4) **HEARINGS.** The Council shall hold a public hearing upon each recommendation, giving notice by publication thereof by a Class 2 notice under Ch. 985, Wis. Stats., during the preceding 30 days, listing the time, place and the changes or amendments proposed and by mailing notice to the town clerk of the town affected. The Council shall also give at least 10 days prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment. Prior to the Council hearing, the appropriate joint extraterritorial zoning committee shall hold a public hearing upon each proposed change or amendment within their zoning jurisdiction, giving notice thereof by a Class 2 notice under Ch. 985, Wis. Stats., during the preceding 30 days by listing the time, place and the changes or amendments proposed. The joint committee shall mail notice to the clerk of the affected town.

(5) **COUNCIL ACTION.** Following such hearing and after careful consideration to the recommendations of the Plan Commission and the appropriate joint extraterritorial zoning committee, the Council shall vote on the passage of the proposed change or amendment. The Plan Commission's recommendations may only be overruled by a 3/4 vote of the full Council membership. A favorable vote of a majority of 6 members of the appropriate joint extraterritorial zoning committee is required before the Council may adopt any changes or amendments affecting their extraterritorial zoning jurisdiction.

17.460 CERTIFICATE OF OCCUPANCY.

(1) No vacant land shall be occupied or used and no building hereafter erected, altered or moved shall be occupied until a certificate of occupancy shall have been issued by the Building Inspector. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter. Such permit shall be issued only when the building or premises and the proposed use thereof conform with all the requirements of this chapter.

(2) Under such rules and regulations as may be established by the Council, the Building Inspector may issue a temporary certificate of occupancy for part of a building.

(3) Upon written request from the owner, the Building Inspector shall issue a certificate of occupancy for any building or premises existing on November 3, 1967, certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this chapter.

17.461 TIME RESTRICTIONS FOR PLAN COMMISSION APPROVALS.

Plan Commission approvals granted for building, site and operation plans, signs, second garage structures, temporary structures and sketch land divisions in which the petitioner has not commenced construction activity or preparation of the land, or has not submitted a certified survey map or preliminary plat within the past 24 months of the date of

approval, said approval will expire and reapplication will be required. A reapplication shall be limited solely to reasonable compliance with current design, locational, and operational requirements. A reapplication shall not involve the basic permissibility of the use where such use is permitted by right at the time of reapplication. The Plan Commission may grant one 6-month extension if requested 30 days prior to the pending expiration date provided that the applicant demonstrates a valid cause. This section shall be in force and effect for all applications filed after the date of adoption and publication.

17.462 FEES.

(1) REVIEW FEES. A minimum review fee, as from time to time established by resolution of the Common Council, shall be charged for all applications to the Plan Commission where a fee has not been otherwise established by the zoning ordinance. Fees shall be, as from time to time, established by resolution of the Common Council. Fees shall be doubled if work, use or activity is commenced before the permit is issued or approval is granted.

(2) CONSULTANT FEES. The City may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the City's review of a proposal coming before the Plan Commission and/or City Council. The submittal of a development proposal application or petition shall be construed as an agreement to pay for such professional review services applicable to the proposal. The City may apply the charges for these services to the petitioner. The City may delay acceptance of the application or petition as complete, or may delay final approval of the proposal, until the petitioner pays such fees. Review fees which are applied to a petitioner, but which are not paid, may be assigned by the City as a special assessment to the subject property. The Petitioner shall be required to provide the City with an executed copy of a professional services reimbursement form as a prerequisite to the processing of the development application.

17.463 PENALTY.

Any person who violates any provision of this chapter shall be subject to a penalty as provided in sec. 25.04 of this Code.

17.464 ENFORCEMENT.

(1) The Building Inspector, with the aid of the Police Department, shall enforce the provisions of this chapter. The Building Inspector shall take steps to cause the correction of any violation of this chapter and all other chapters of this Code under the officer's jurisdiction. These steps may include warnings, a written order to correct the matter, filing of citations for ordinance violations or filing, with the assistance of the City Attorney, other court actions to enforce this Code. Section 66.0113, Wis. Stats., which authorizes the use of citations, is hereby adopted and incorporated herein by reference. The form of the citation shall comply with §66.0113, Wis. Stats. Any permitted cash deposits for violations shall be made to the Clerk of Courts for Waupaca County, who shall issue receipts for cash deposits. The schedule of cash deposits that are to be required for the various ordinance violations shall be used by the Building Inspector.

(2) No building shall hereafter be erected, moved or structurally altered until a building permit therefore shall have been applied for and issued.

(3) All applications for building permits shall be accompanied by building plans and survey plats in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing and/on intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots on buildings as may be necessary to determine and provide for the enforcement of this chapter.

(4) All dimensions shown relating to the location and size of the lot shall be based upon an actual survey by a licensed surveyor. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

Business Sign Size and Distance Calculator – City of Waupaca

Property Zoning Classification

Total Property Frontage (in feet)

Proposed Sign Height

Optional additional setback from baseline (40' max.)

Total Allowable Sq. Ft. Freestanding Signage

Minimum Front Setback

Minimum Side yard Setback

Maximum Pole Sign Height

Total Allowable Sq. Ft. Projecting Sign

Total Wall Area Frontage (if considering Wall Sign)

Total Allowable Sq. Ft. Wall Signage