
City of Portage Zoning Ordinance

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ARTICLE I: INTRODUCTION AND DEFINITIONS

Section 90-1: Title

This Chapter shall be known, cited, and referred to as the City of Portage Zoning Ordinance, except where as referred to herein, where it shall be known as “this Chapter.”

Section 90-2: Authority

This Chapter is enacted pursuant to the authority granted by §62.23(7), 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.

Section 90-3: Jurisdiction

This Chapter is applicable to all territory located within the corporate limits of the City of Portage.

Section 90-4: Purpose and Intent

This Chapter is adopted for the purpose of protecting the health, safety, morals, comfort, convenience, and general welfare of the public. This Chapter is designed to control and lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote adequate light and air; to protect groundwater resources; to prevent the overcrowding of land; to avoid undue concentration of population; to preserve, protect, and promote property values; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities; and to preserve burial sites as defined in §157.70(1)(b), Wisconsin Statutes. It is also the intent of this Chapter is to implement certain goals and objectives of the City of Portage comprehensive plan, which are best addressed through zoning approaches, as enabled by Wisconsin Statutes.

Section 90-5: Separability and Non-Liability

It is hereby declared to be the intention of the City of Portage Common Council that 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 said authorization shall also be invalid.
- (4) The City does not guarantee, warrant, or represent that only those areas designated as floodplain 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.

Section 90-6: 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.

Section 90-7: 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 Portage.
- (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. Where there are conflicts between or among regulations within this Chapter, the regulations that are more restrictive or which impose higher standards or requirements shall prevail. In all instances, where there are conflicts between the text of this Chapter and any tables or figures of this Chapter, the text shall prevail.
- (3) Nothing herein contained shall require any changes in plans, construction, size, or designated use of any building or part thereof for which a building permit has been issued before the effective date of this Chapter, and the construction of which shall have been started within one year from the date of such permit.

Section 90-8: Re-enactment and Repeal

- (1) This Chapter, in part, carries forward by re-enactment some of the provisions of the regulations governing zoning and related matters previously known collectively as Chapter 90, Zoning Ordinance of the Code of Ordinances for the City of Portage, adopted prior to the effective date of this Chapter. It is not the intention of this Chapter to repeal, but rather to re-enact 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 90 of the City of Portage Code of Ordinances which are not re-enacted 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 Code, provided the violation occurred while that Chapter was in effect.

Section 90-9: Effective Date

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

Section 90-10: Regulations Applicable to All Development and Land Uses

All development and uses of land initiated within the jurisdiction of this Chapter shall comply with the following.

- (1) Zoning district regulations per Article II.
- (2) Land use regulations per Article III.
- (3) Bulk regulations per Article IV.
- (4) Overlay zoning district regulations per Article VI.
- (5) Site design and performance standards per Article VII.
- (6) Landscaping standards per Article VIII.
- (7) Signage regulations per.
- (8) Procedural regulations and requirements per Article X.

- (9) Except as provided in this Chapter, under provisions for nonconforming uses, nonconforming sites, nonconforming and substandard lots, and nonconforming structures (Article V), no building, structure, development, or premises shall hereinafter be used or occupied, and no applicable permit granted, that does not conform to the requirements of this Chapter. In cases of mixed-occupancy or mixed-use structures, the regulations for each land use shall apply to the portion of the structure or land so occupied or so used.
- (10) 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 building permit, except structures not requiring a building permit (e.g. swing set, clothesline, etc.), and without full compliance with the provisions of this Chapter and all other applicable local, county, and state regulations.
- (11) Number of Principal Land Uses per Building.
 - (a) No more than one non-residential land use shall be permitted in any one building unless a conditional use permit has been granted for a group or large development in compliance with section 90-64.
 - (b) No building containing a non-residential land use shall contain a residential land use except the following land uses: single family residential, upper story dwelling unit, bed and breakfast, boarding house, home occupation, and in-home daycare.
- (12) Number of Buildings per Lot.
 - (a) In the RT, R-1, R-3, R-3, R-4, R-5, R-MH, B-1, and B-2 districts, only one principal building shall be permitted on any one lot.
 - (b) In the B-3, M-1, M-2, and M-3 districts, more than one principal building may be permitted on any one lot with the granting of a conditional use permit for a group or large development per section 90-64 or a planned development per sections 90-96 and 90-475.
- (13) Division or Combining of a Lot. No recorded lot shall be divided into two or more lots and not two or more recorded lots shall be combined into one or more lots unless such division or combination results in the creation of lots that conform to applicable regulations of the zoning district in which said lot(s) is located. See also Chapter 70 Subdivisions.
- (14) Street Frontage. All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage as designated by the district regulations in which the lot is located; however, to be buildable, the lot shall comply with the minimum width required at building line.
- (15) Dedicated Street. All lots shall abut a public street or approved private road which is constructed to applicable standards. No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (16) Lots Abutting More Restrictive Districts. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than 60 feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
- (17) Site Suitability. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Common Council, upon the recommendation of the Plan Commission, by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Plan Commission, in applying the provisions of the section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The

applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability when making its recommendation to the Common Council.

- (18) Preservation of Topography. In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1½ horizontal to one vertical, within a distance of 20 feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Common Council, upon the recommendation of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.
- (19) Decks. For the purposes of this Chapter, decks and porches shall be considered a part of a building or structure.
- (20) Vacated Streets. Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the vacated area shall not be affected by such proceeding.
- (21) Platting. All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features of proper subdivision and land platting.
- (22) Dwelling Units. No cellar, basement or unfinished home, garage, tent, trailer or accessory building shall, at any time, be used as a dwelling unit, except mobile homes located in an approved mobile home park. Basements shall not be used as dwelling units, except where specifically designed for such use through proper damp-proofing, fire-protecting walls and other requirements as may be imposed by the building and housing codes.

Section 90-11: Word Usage and Abbreviations

The interpretation of this Chapter shall abide by the provisions and rules of this section, except where the context clearly requires otherwise, or where the result would clearly be inconsistent with the apparent intent of this Chapter.

- (1) Words used or defined in one tense or form shall include other tenses and derivative forms.
- (2) Words in the singular number shall include the plural number, and words in the plural number shall include the single number.
- (3) The masculine gender shall include the feminine, and vice versa.
- (4) The words “shall,” “must,” and “will” are mandatory.
- (5) The words “may,” “can,” and “might” are permissive.
- (6) The word “person” includes individuals, firms, corporations, partnerships, associations, trusts, and any other legal entity.
- (7) The word “City” shall mean the City of Portage, Wisconsin.
- (8) The word “county” shall mean the County of Columbia, Wisconsin.
- (9) The word “state” shall mean the State of Wisconsin.
- (10) The words “Plan Commission” shall mean the City of Portage Plan Commission.
- (11) The word “Council” shall refer to the City of Portage Common Council.
- (12) The words “Board” or “Board of Appeals” shall refer to the City of Portage Board of Zoning Appeals.
- (13) The words “comprehensive plan” shall refer to the City of Portage comprehensive plan and subsequent amendments thereto.
- (14) The acronym “FEMA” shall mean Federal Emergency Management Agency.
- (15) The abbreviation “Wis. Stats.” shall mean Wisconsin Statutes.
- (16) The abbreviation “WisDNR” or “DNR” shall mean the Wisconsin Department of Natural Resources.

Section 90-12: Definitions

For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section.

Abutting means having a common property or district line.

Access is a means of providing vehicular or non-vehicular egress from or ingress to a property, highway, or private roadway.

Accessory structure means a detached structure subordinate to the principal structure and located on the same lot serving a purpose incidental to the principal use or the principal structure.

Acre means 43,560 square feet.

Addition means any walled and roofed expansion to the perimeter and/or height of a building in which the addition is connected by a common load bearing wall. Any walled and roofed addition connected by a fire wall or is separated by independent perimeter load bearing walls is new construction.

Alley means a public way which affords only a secondary means of access to abutting property.

Animal unit relates to the maximum carrying capacity of one acre of land and is related to the amount of feed various species consume, and the amount of waste they produce. The following figure indicates the number of common farm species which comprise a single animal unit:

Type of Livestock	# of Animals/ Animal Unit	Type of Livestock	# of Animals/ Animal Unit	Type of Livestock	# of Animals/ Animal Unit
Horse (>2 yrs)	1	Calves (<1 yr)	5	Lambs	14
Colt (<2 yrs)	2	Brood Sow or Boar	2	Chickens – Egg Layers	30
Cattle (>2 yrs)	1	Hogs (up to 220 lbs)	3	Chickens – Fryers	60
Cattle (<2 yrs)	2	Sheep	10	Turkeys	50
Source: The Stockman’s Handbook					

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

Awning means a shelter projecting from and supported by the exterior wall of a building.

Basement means the portion of any structure located partly below the average adjoining lot grade.

Block means a tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.

Bufferyard means any permitted combination of distance, vegetation, fencing, and berming which results in a reduction of visual and other interaction with an adjoining property.

Building means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or chattel.

Building coverage means the percentage of a lot covered by principal and accessory buildings, including all structures with a roof.

Building, principal means a building in which the principal use of the lot on which it is located is conducted.

Bulk means the combination of building height, size, and location on a lot.

Caliper means a measurement of the size of a tree equal to the diameter of its trunk measurement four foot above natural grade.

Canopy (building) means a rigid multisided structure covered with fabric, metal or other material and supported by a building at one or more points or extremities and by columns or posts embedded in the ground at other points or extremities.

Canopy (freestanding) means a rigid multisided structure covered with fabric, metal or other material and supported by columns or posts embedded in the ground.

Conditional use means a use or occupancy of a structure, or a use of land, permitted only upon issuance of a conditional use permit and subject to the limitations and conditions specified therein.

Density means the number of dwelling units per acre.

Dwelling means a building or one or more portions thereof, containing one or more dwelling units, but not including habitations provided in nonresidential uses such as lodging uses and commercial campgrounds.

Dwelling, attached means a dwelling joined to another dwelling at one or more sides by a shared wall or walls.

Dwelling, detached means a dwelling entirely surrounded by open space on the same lot.

Dwelling unit means a room or group of rooms providing or intended to provide permanent living quarters for not more than one family.

Extraterritorial area means the area outside of the city limits in which the City of Portage may exercise extraterritorial powers of planning, land division, and/or zoning review.

Flag means any fabric, plastic or similar material containing distinctive colors, patterns, or symbols used as a symbol or emblem of any corporation, nation, organization of nations, state, city, or religious, fraternal, educational or civic organization displayed for noncommercial purposes.

Floor area means the sum of the gross horizontal areas of the floors of a building, including interior balconies, mezzanines, basements, and attached accessory buildings, stairs, escalators, unenclosed and enclosed porches, detached accessory buildings utilized as dead storage, heating and utility rooms, inside off-street parking or loading space. Measurements shall be made from the outside of the exterior walls and to the center of interior walls dividing attached buildings.

Floor area ratio means the ratio calculated by dividing the total floor area of all buildings on a site by the gross site area.

Foot-candle means a unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

Frontage means the length of the property line of any one premise parallel to and along each public right-of-way it borders.

Grade, when used as a reference point in measuring the height of a building, means the average elevation or level of the finished ground at the exterior walls of the main building.

Gross density means the result of dividing the number of dwelling units located on a site by the gross site area.

Gross site area means the total area of a single lot or the sum of multiple lots.

Height, building means 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.

Intensity means the amount of gross floor area or landscaped area on a lot or site compared to the gross site area.

Landscaped area means the area of a site which is planted and continually maintained in vegetation, including grasses, flowers, herbs, garden plants, native or introduced groundcovers, shrubs, bushes, and trees. The landscaped area includes the area located within planted and continually maintained landscaped planters.

Landscape surface ratio means the percentage of the gross site area or lot area which is preserved as

permanently protected landscaped area.

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

Lot means a parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Chapter as pertaining to the district wherein located.

Lot area means the area contained within the property boundaries of a recorded lot.

Lot, corner means a lot which adjoins the point of intersection of two or more street rights-of-way and in which the interior angle formed by the street lines is 135 degrees or less. If the street lines are curved, the angle of intersection shall be measured at the point of intersection of the extensions of the street lines in the directions which they take at the intersections of the street line with the side lot line and with the rear lot line of the lot. If the street line is curved at its point of intersection with the side lot line or rear line, the tangent to the curve at that point shall be considered the direction of the street line. A corner lot has two front yards and must meet the front setback on both yards. The rear setback shall be maintained on the side(s) of the building opposite the street on which the building address is established.

Lot, interior means a lot other than a corner lot.

Lot line, front means A lot line which abuts a public or private street right of way. In the case of a lot which has two or more street frontages, the lot line along the street from which the house is addressed shall be the front lot line. (See also lot line, street side). See diagram on the following page.

Lot line, rear means in the case of rectangular or most trapezoidal shaped lots, that lot line which is parallel to and most distant from the front lot line of the lot. In the case of an irregular, triangular, or gore-shaped lot, a line 20 feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front line shall be considered to be the rear lot line. In the case of lots that have frontage on more than one road or street, the rear lot line shall be established at the time of subdivision or lot creation or shall be assigned by the Zoning Administrator. See diagram on the following page.

Lot line, side means any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a street side lot line. A side lot line separating a lot from another lot is called an interior side lot line. See diagram on the following page.

Lot line, street side means any lot line which abuts a public or private street right of way which is not the front lot line (see also lot line, front). See diagram on the following page.

Lot of record means a lot which has been recorded in the office of the register of deeds prior to the effective this Chapter.

Lot, through means a lot having frontage on two parallel or approximately parallel streets (also “double-frontage”). See diagram on the following page.

Lot width means the maximum horizontal distance between the side lot lines of a lot, measured parallel to the front lot lines and at the rear of the required front yard (see minimum lot width).

Parcel means any legally described piece of land which may be the subject of a development action.

Ribbon driveway means a driveway made of two parallel strips of pavement with stone, grass, or other low growing landscaping in between.

Setback means the shortest distance between the exterior of a building or structure and the nearest point on the referenced lot line, excluding permitted intrusions per section 90-73.

Shared driveway means a driveway jointly owned by the owners of the properties it gives access to.

Shared driveway agreement means a legal document which details the way in which a shared driveway is owned (i.e. owned in common or with reciprocal right of way easements) and maintained.

Standard zoning district means a part or parts of the City for which the regulations of this Chapter governing the use and location of land and building are uniform.

Start of construction means the date the building permit is issued, provided the actual start of activity was within 365 calendar days of the permit date. The actual start of activity means either the first placement of permanent construction of a structure on the site such as the pouring of a slab or footings, the installation of piles, or the construction of columns. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations; nor does it include the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

Substandard lot means a lot that lawfully existed prior to the effective date of this Chapter, but which does not meet the dimensional (i.e. minimum lot size or width) requirements of the standard zoning district in which it is located.

Temporary use means a land use which is present on a property for a limited and specified period of time.

Unnecessary hardship means the circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this Chapter.

Use means the purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.

Use, accessory means a subordinate use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building.

Use, principal means the primary use to which a parcel is devoted and the main purpose for which the premises exists.

Variance means a relaxation of the terms of this Chapter by the Board of Zoning Appeals where the literal enforcement of this Chapter would deny to the property owner a use of his property enjoyed as a right by other property owners within the same zoning district.

Yard means an open space, other than a court, on a lot unoccupied and unobstructed from the group upward except as otherwise provided in this Chapter.

Yard, front means yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, rear means a yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line and a line parallel thereto on the lot.

Yard, side means a yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

Yard, street side, or corner lots means the yard between the front and rear lot lines, extending from the street side lot line to the nearest part of the nearest principal building.

Zoning permit means a permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this chapter are or shall be used in accordance with the provisions of this Chapter.

Section 90-13 to 90-19: Reserved

ARTICLE II: ZONING DISTRICTS

Section 90-20 Purpose

The area located within the jurisdiction of this Chapter is hereby divided into zoning districts of such number as is necessary to achieve compatibility of land uses within each district, to implement the City of Portage comprehensive plan, and to achieve the other purposes of this Zoning Ordinance.

Section 90-21: Standard Zoning Districts

For the purpose of this article, all areas within the City's municipal limits are hereby divided into the following standard zoning districts:

Agricultural Districts

A-1 Agricultural District

Residential Districts

R-T Traditional Neighborhood District

R-1 Single Family Residential District

R-2 Single Family Residential District

R-3 Single Family and Two-Family Residential District

R-4 Small-Scale Multi-Family Residential District

R-5 Large-Scale Multi-Family Residential District

R-MH Mobile Home Residential District

Business Districts

B-1 Neighborhood Business District

B-2 Downtown District

B-3 Interchange Business District

B-4 General Business District

Industrial Districts

M-1 Industrial District

M-2 Heavy Industrial District

M-3 Interchange Industrial District

Section 90-22: Map of Zoning Districts

Zoning districts established by this Chapter are shown on the Official Zoning Map, and together all explanatory materials thereon are hereby made part of this Chapter. The Official Zoning Map shall be properly attested and kept on file along with the text of the Zoning Ordinance in the office of the city clerk. Every five years, the Official Zoning Map shall be examined, reviewed in detail, verified, and approved by the Plan Commission.

Section 90-23: Interpretation of Zoning District Boundaries

The following rules shall be used to determine the precise location of any zoning district boundary shown on the Official Zoning Map of the City of Portage.

- (1) Zoning district boundaries shown as following or approximately following the limits of any city, village, town, or county boundary shall be construed as following such limits.
- (2) Zoning district boundaries shown as following or approximately following streets or railroad lines shall be construed as following the centerline of such streets or railroad lines.
- (3) Zoning district boundaries shown as following or approximately following platted lot lines or other property lines as shown on the City of Portage or Columbia County tax maps shall be construed as following such lines.
- (4) Zoning district boundaries shown as following or approximately following the centerlines of streams, rivers, or other continuously flowing watercourses shall be construed as following the channel centerlines of such watercourses, and, in the event of a natural change in the location of such streams, rivers, or other water courses, the zoning district boundary shall be construed as moving with the channel centerline.
- (5) Zoning district boundaries shown as following or approximately following ridgelines or watershed boundaries shall be construed as following such lines.
- (6) Zoning district boundaries shown as separated from any of the features listed in paragraphs (1) through (5) above, shall be construed to be at such distances therefrom as are shown on the Official Zoning Map.
- (7) Where any uncertainty exists as to the exact location of a zoning district boundary line as shown on the Official Zoning Map, the location of the line shall be determined by the zoning administrator.
- (8) All lots, uses, structures, and site features within one or more overlay zoning districts shall be subject to the use and bulk requirements of all applicable overlay zoning district requirements in addition to those of the underlying zoning district. Before any proposed use, structure, or site alteration is approved, the applicability of each overlay district shall be determined. Where standard and overlay zoning districts conflict, the more restrictive requirements shall apply.

Section 90-24: Description and Purpose of Standard Zoning Districts

The following sections specify the description and purpose of the standard zoning districts established by this Chapter, establish principal and accessory uses permitted by right or as conditional uses, establish bulk, density, and intensity standards, and reference other applicable regulations. Definitions and regulations for land uses are provided in Article III. Section 90-52 includes a Table of Land Uses indicating which land uses are allowed in each zoning district, and whether they are permitted by right, by conditional use, as accessory uses, or as temporary uses.

Section 90-25: A-1 Agricultural District

- (1) Description and Purpose. This district is intended to maintain, preserve, and enhance agricultural lands historically exhibiting high crop yields. Such lands are generally covered by Class I, II, and III soils as rated by the U.S. Department of Agriculture, Soil Conservation Service. District standards are designed to ensure that development that requires urban services does not occur until such services are available. As such, the A-1 Agricultural District either protects agricultural activities or serves as a holding zone for agriculture as an interim land use; future development may be permitted via rezoning to another district at the appropriate time.
- (2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Single Family (35 acre lot)	Single Family (40,000 sq. ft. lot)
Cultivation	Husbandry
On-Site Agricultural Retail	Intensive Agriculture
Commercial Greenhouse	Agricultural Services
Active Outdoor Public Recreation	Community Gardens
Passive Outdoor Public Recreation	Market Gardens
Community Living Arrangement (1-8 residents)	Indoor Institutional
Public Services and Utilities	Outdoor Institutional
	Signal Antenna
	Bed and Breakfast
	Campground
	Commercial Animal Service and Boarding
	Junkyard or Salvage Yard
	Waste Disposal/Composting Facility
	Airport
	Extraction
	Group Developments
	Sexually Oriented Land Use (refer to S-B Overlay District)

- (3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Accessory Yard Structure	Caretaker’s Residence
Private Residential Recreation	Private Residential Kennel
In-Family Suite	Private Residential Stable
Farm Residence	In-Home Daycare (9-15 children)
Home Occupation	Migrant Labor Camp
In-Home Daycare (4-8 children)	Individual Septic Disposal System
Drainage Structure	Home Occupation (involving customer visits)
Solar Energy System (depending on type)	Wind Energy Conversion System
Chicken Coop and Run	Solar Energy System (depending on type)

(4) List of Permitted Temporary Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
General Temporary Outdoor Sales	
On-Site Real Estate Sales Office	
Relocatable Building	
Seasonal Outdoor Sales of Farm Products	
Temporary Portable Storage Container	
Temporary Shelter	

(5) Density, Intensity, and Bulk Regulations.

	Residential Uses	Non-Residential Uses
Maximum Gross Density	0.03 dwelling unit/acre	N/A
Minimum Landscape Surface Ratio	90 percent	90 percent
Maximum Accessory Building Coverage	10 percent	N/A
Minimum Lot Area	35 acres; 40,000 square feet with conditional use permit	40,000 square feet; 20,000 square foot with a conditional use permit
Minimum Lot Width	100 feet	100 feet
Minimum Street Frontage	50 feet	66 feet
Minimum Front or Street Side Setback	25 feet	35 feet
Minimum Front or Street Side Setback to Attached Garage	30 feet	35 feet
Minimum Side Setback	10 feet	50 feet
Minimum Rear Setback	30 feet	50 feet
Minimum Side or Rear Setback to Accessory Structure	3 feet from property line; 5 feet from alley	4 feet from property line and alley
Minimum Paved Surface Setback	5 feet from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way	
Minimum Principal Structure Separation For Multiple Principle Structures on the Same Lot	20 feet	100 feet
Maximum Height of Principal Structure	35 feet	35 feet
Maximum Height of Accessory Structure	45 feet	45 feet
Minimum Off-Street Parking Spaces	4 spaces if located on street with standard local pavement width; 8 spaces if located on street with reduced pavement width	See Article III for specific land use

Section 90-26: R-T Traditional Neighborhood District

- (1) Description and Purpose. This district is intended to permit new and existing development of traditional neighborhoods that consist of single family and two-flat homes and exhibit any combination of the following characteristics: alleys, detached garages, streets laid out in a grid system, buildings oriented toward the street with minimal front setbacks, and front porches on houses.

- (2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Single Family	Two-Family (Duplex or Twin House)
Two-Family (Two-Flats Only)	Community Garden
Active Outdoor Public Recreation	Market Garden
Passive Outdoor Public Recreation	Indoor Institutional
Community Living Arrangement (1-8 residents)	Outdoor Institutional
Public Services and Utilities	Community Living Arrangement (9-15 residents)
	Bed and Breakfast
	Group Developments

- (3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Accessory Yard Structure	Private Residential Kennel
Private Residential Recreation	In-Home Daycare (9-15 children)
In-Family Suite	Home Occupation (involving customer visits)
Home Occupation	Wind Energy Conversion System
In-Home Daycare (4-8 children)	Solar Energy System (depending on type)
On-Site Accessory Parking Lot	
Drainage Structure	
Solar Energy System (depending on type)	
Chicken Coop and Run	

- (4) List of Permitted Temporary Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
On-Site Real Estate Sales Office	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

	Residential Uses	Non-Residential Uses
Maximum Gross Density	6.0 dwelling units/acre	N/A
Minimum Landscape Surface Ratio	30 percent	50 percent
Minimum Lot Area	4,000 square feet	40,000 square feet; 20,000 square feet with a conditional use permit
Minimum Lot Width	40 feet	100 feet
Minimum Street Frontage	40 feet	50 feet
Minimum Front or Street Side Setback	20 feet to house; 12 feet to porch	30 feet
Maximum Front or Street Side Setback	25 feet to house; 15 feet to porch;	N/A
Minimum Side Setback	6 feet	10 feet
Minimum Rear Setback	20 feet	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley	
Minimum Paved Surface Setback	1 foot from side; 0 feet in the case of a shared driveway; 10 feet from right of way	5 feet from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way
Maximum Height of Principal Structure	35 feet	35 feet
Maximum Height of Accessory Structure	15 feet; 30 feet for an upper story dwelling unit	15 feet
Alley Right-of-Way Width	26 feet	
Alley Pavement Width	16 feet with no curb	
Alley Terrace Width	5 feet	
Minimum Off-Street Parking	See Article III for specific land use	

Section 90-27: R-1 Single Family Residential District

- (1) Description and Purpose. This district is intended to permit new and existing single family homes and accessory uses at densities up to 3 dwelling units per acre. This district is intended to provide a residential setting for those residents who want to live in a neighborhood with a suburban character.

- (2) List of Permitted Principal Uses.

Permitted by Right:	Permitted as Conditional Use:
Single Family	Community Garden
Active Outdoor Public Recreation	Market Garden
Passive Outdoor Public Recreation	Indoor Institutional
Community Living Arrangement (1-8 residents)	Outdoor Institutional
Public Services and Utilities	Community Living Arrangement (9-15 residents)
	Bed and Breakfast
	Group Development

- (3) List of Permitted Accessory Uses.

Permitted by Right:	Permitted as Conditional Use:
Accessory Yard Structure	Caretaker's Residence
Private Residential Recreation	Private Residential Kennel
In-Family Suite	In-Home Daycare (9-15 children)
Home Occupation	Home Occupation (involving customer visits)
In-Home Daycare (4-8 children)	Wind Energy Conversion System
On-Site Accessory Parking Lot	Solar Energy System (depending on type)
Drainage Structure	
Solar Energy System (depending on type)	
Chicken Coop and Run	

- (4) List of Permitted Temporary Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
On-Site Real Estate Sales Office	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

	Residential Uses	Non-Residential Uses
Maximum Gross Density	3.0 dwelling units/acre	N/A
Minimum Landscape Surface Ratio	50 percent	50 percent
Minimum Lot Area	10,000 square feet	40,000 square feet; 20,000 square feet with a conditional use permit
Minimum Lot Width	80 feet	100 feet
Minimum Street Frontage	50 feet	50 feet
Minimum Front or Street Side Setback	30 feet; 10 feet to attached garage	30 feet
Minimum Side Setback	10 feet	10 feet
Minimum Rear Setback	40 feet	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line	
Minimum Paved Surface Setback	10 feet from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way	5 feet from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way
Maximum Height of Principal Structure	35 feet	35 feet
Maximum Height of Accessory Structure	20 feet	20 feet
Minimum Off-Street Parking	See Article III for specific land use	

Section 90-28: R-2 Single Family Residential District

(1) Description and Purpose. This district is intended to provide for single family homes and accessory uses at densities of up to 4.5 dwelling units per acre. Similar to the R-1 district, this R-2 district is intended to provide a residential setting for those residents who want to live in a neighborhood with a suburban character with a slightly higher residential density.

(2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted by Conditional Use:
Single Family	Community Garden
Active Outdoor Public Recreation	Market Garden
Passive Outdoor Public Recreation	Indoor Institutional
Community Living Arrangement (1-8 residents)	Outdoor Institutional
Public Services and Utilities	Community Living Arrangement (9-15 residents)
	Bed and Breakfast
	Group Development

(3) List of Permitted Accessory Uses.

Permitted by Right:	Permitted by Conditional Use:
Accessory Yard Structure	Caretaker’s Residence
Private Residential Recreation	Private Residential Kennel
In-Family Suite	Immediate In-Home Daycare (9-15 children)
Home Occupation	Home Occupation (involving customer visits)
In-Home Daycare (4-8 children)	Wind Energy Conversion System
On-Site Accessory Parking Lot	Solar Energy System (depending on type)
Drainage Structure	
Solar Energy System (depending on type)	
Chicken Coop and Run	

(4) List of Permitted Temporary Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
On-Site Real Estate Sales Office	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

	Residential Uses	Non-Residential Uses
Maximum Gross Density	4.5 dwelling units/acre	N/A
Minimum Landscape Surface Ratio	50 percent	50 percent
Minimum Lot Area	8,000 square feet	40,000 square feet; 20,000 square feet with a conditional use permit
Minimum Lot Width	70 feet	100 feet
Minimum Street Frontage	25 feet	50 feet
Minimum Front or Street Side Setback	25 feet	30 feet
Minimum Side Setback	10 feet	10 feet
Minimum Rear Setback	40 feet	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley	
Minimum Paved Surface Setback	1 foot from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way	5 feet from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way
Maximum Height of Principal Structure	35 feet	35 feet
Maximum Height of Accessory Structure	20 feet	20 feet
Minimum Off-Street Parking	See Article III for specific land use	

Section 90-29: R-3 Single Family and Two-Family Residential District

- (1) Description and Purpose. This district is intended to permit a mix of single family and two-family homes at densities up to 6 dwelling units per acre. The land use standards for this district permit single family homes, twin houses, two-flats, and duplexes as permitted by right.

- (2) List of Permitted Principal Land Uses.

Permitted by Right	Permitted by Conditional Use
Single Family	Community Garden
Two-Family	Market Garden
Active Outdoor Public Recreation	Indoor Institutional
Passive Outdoor Public Recreation	Outdoor Institutional
Community Living Arrangement (1-15 residents)	Community Living Arrangement (16+ residents)
Public Services and Utilities	Group Daycare
	Bed and Breakfast
	Group Development

- (3) List of Permitted Accessory Land Uses.

Permitted by Right	Permitted by Conditional Use
Accessory Yard Structure	Private Residential Kennel
Private Residential Recreation	In-Home Daycare (9-15 children)
In-Family Suite	Home Occupation (involving customer visits)
Home Occupation	Wind Energy Conversion System
In-Home Daycare (4-8 children)	Solar Energy System (depending on type)
On-Site Accessory Parking Lot	
Drainage Structure	
Solar Energy System (depending on type)	
Chicken Coop and Run (single-family dwellings only)	

- (4) List of Permitted Temporary Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
On-Site Real Estate Sales Office	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

	Residential Uses	Non-Residential Uses
Maximum Gross Density	6.0 dwelling units/acre	N/A
Minimum Landscape Surface Ratio	50 percent for single family; 30 percent for duplex and twin homes	30 percent
Minimum Lot Area	8,000 square feet for single family; 12,000 square feet for duplexes ; 6,000 square feet for twin houses	40,000 square feet; 20,000 square feet with a conditional use permit
Minimum Lot Width	70 feet for single family; 90 for duplex or twin houses	100 feet
Minimum Street Frontage	25 feet	50 feet
Minimum Front or Street Side Setback	20 feet; 15 feet for open front porches	30 feet
Minimum Side Setback	10 ft; 0 feet along common wall	10 feet
Minimum Rear Setback	40 feet	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley	
Minimum Paved Surface Setback	1 foot from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way	5 feet from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way
Maximum Height of Principal Structure	35 feet	35 feet
Maximum Height of Accessory Structure	15 feet	15 feet
Minimum Off-Street Parking	See Article III for specific land use	

Section 90-30: R-4 Small-Scale Multi-Family Residential District

- (1) Description and Purpose. This district is intended to permit mixed residential development at densities up to 8 dwelling units per acre. Permitted housing types in this district include single family, duplex, twin house, two flats, townhouses, multiplexes, and apartments.

- (2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted by Conditional Use:
Single Family	Townhouse (5-8 unit building)
Two-Family	Multiplex (5-8 unit building)
Townhouse (3 or 4 unit building)	Apartment (5-8 unit building)
Multiplex (3 or 4 unit building)	Community Garden
Apartment (3 or 4 unit building)	Market Garden
Active Outdoor Recreation	Indoor Institutional
Passive Outdoor Recreation	Outdoor Institutional
Community Living Arrangement (1-15 residents)	Community Living Arrangement (16+ residents)
Public Services and Utilities	Institutional Residential
	Group Daycare
	Bed and Breakfast
	Group Development

- (3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted by Conditional Use:
Accessory Yard Structure	In-Home Daycare (9-15 children)
Private Residential Recreation	Home Occupation (involving customer visits)
Home Occupation	Wind Energy Conversion System
In-Home Daycare (4-8 children)	Solar Energy System (depending on type)
On-Site Accessory Parking Lot	
Drainage Structure	
Solar Energy System (depending on type)	

- (4) List of Permitted Temporary Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
On-Site Real Estate Sales Office	
Temporary Portable Storage Container	

- (5) Density, Intensity, and Bulk Regulations. The below listed regulations apply only to townhouse, multiplex, apartment, and institutional residential development. Single family dwellings and two-family dwellings shall comply with the R-3 Residential Zoning District density, intensity, and bulk regulations.

	Residential Uses	Non-Residential Uses
Minimum Zoning District Area	12,000 square feet	
Maximum Gross Density	8.00 dwelling units/acre	N/A
Minimum Landscape Surface Ratio	50 percent	25 percent
Minimum Lot Area	15,000 square feet*	40,000 square feet; 20,000 square feet with a conditional use permit
Minimum Lot Width	90 feet; 20 feet for interior townhouse; 30 feet for townhouse on end of row; 80 feet for multiplex	100 feet
Minimum Street Frontage	35 feet	50 feet
Minimum Front or Street Side Setback	15 feet; 30 feet to attached garage	25 feet; 40 feet for a lot adjacent to a street Officially Mapped as being equal to or exceeding 100 feet
Minimum Side Setback	15 feet; 0 feet along common wall	10 feet
Minimum Rear Setback	50 feet	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley	
Minimum Paved Surface Setback	5 feet from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way	
Maximum Height of Principal Structure	40 feet	40 feet
Maximum Height of Accessory Structure	15 feet	15 feet
Minimum Off-Street Parking	See Article III for specific land use	
*Multi-family structures must meet the following additional requirements: 2,000 square feet of lot area per efficiency unit; 2,500 square feet of lot area per 1-bedroom unit; 3,000 square feet of lot area per 2-bedroom unit.		

Section 90-31: R-5 Large-Scale Multi-Family Residential District

(1) Description and Purpose. This district is intended to permit high density mixed residential development at densities of up to 16 dwelling units per acre. The land use standards for this district permit single family, duplex, twin homes, two-flats, townhouses, multiplexes, apartments, and related land uses by right.

(2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted by Conditional Use:
Single Family	Multiplex (13 to 24 unit building)
Two-Family	Apartment (13 to 24 unit building)
Townhouse (up to 8 unit building)	Community Garden
Multiplex (up to 12 unit building)	Market Garden
Apartment (up to 12 unit building)	Indoor Institutional
Active Outdoor Public Recreation	Outdoor Institutional
Passive Outdoor Public Recreation	Community Living Arrangement (16+ residents)
Community Living Arrangement (1-15 residents)	Institutional Residential
Public Services and Utilities	Group Daycare
	Bed and Breakfast
	Boarding House
	Group Development

(3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted by Conditional Use:
Accessory Yard Structure	In-Home Daycare (9-15 children)
Private Residential Recreation	Home Occupation (involving customer visits)
Home Occupation	Wind Energy Conversion System
In-Home Daycare (4-8 children)	Solar Energy System (depending on type)
On-Site Accessory Parking Lot	
Drainage Structure	
Solar Energy System (depending on type)	

(4) List of Permitted Temporary Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
On-Site Real Estate Sales Office	
Temporary Portable Storage Container	

- (5) Density, Intensity, and Bulk Regulations: The below listed regulations apply only to townhouse, multiplex, apartment, and institutional residential development. Single family and two-family dwellings shall comply with the R-3 Residential Zoning District density, intensity, and bulk regulations.

	Residential Uses	Non-Residential Uses
Minimum Zoning District Area	12,000 square feet	
Maximum Gross Density	16.0 dwelling units/acre	N/A
Maximum Floor Area Ratio	N/A	0.275
Minimum Landscape Surface Ratio	50 percent	25 percent
Minimum Lot Area	1,815 square feet per dwelling unit	40,000 square feet
Minimum Lot Width	90 feet; 20 feet for interior townhouse; 30 feet for townhouse on end of row	100 feet
Minimum Street Frontage	50 feet	50 feet
Minimum Front or Street Side Setback	25 feet; 20 feet for interior townhouse; 30 feet for townhouse on end of row	25 feet, 40 feet for a lot adjacent to a street with an Officially Mapped right-of-way equal to or exceeding 100 feet
Minimum Side Setback	20 feet; 0 feet along common wall	10 feet
Minimum Rear Setback	50 feet	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley	
Minimum Paved Surface Setback	5 feet from side or rear; 0 feet from shared driveway; 10 feet from right-of-way	
Maximum Height of Principal Structure	45 feet	40 feet
Maximum Height of Accessory Structure	15 feet	15 feet
Minimum Off-Street Parking	See Article III for specific land use	

Section 90-32: R-MH Mobile Home Residential District

- (1) Description and Purpose. This district is intended to provide for the location of mobile home parks and mobile home subdivisions in a single-family residential setting. All uses in this district shall be provided with public sanitary sewer and water services.
- (2) Where Mobile Home Districts Permitted. R-MH districts may hereafter be established in accordance with the procedures, requirements, and limitations set forth in this Chapter. Within such district, mobile homes, with such additional supporting uses and occupancies as are permitted herein, may be established subject to the requirements and limitations set forth in these and other regulations.
 - (a) It is the intent of this section to recognize mobile homes constructed prior to October 1, 1974, as distinct and different from units designated as mobile homes within the definitions of this article and to prohibit units not meeting the requirements for mobile homes as defined herein. Units constructed prior to 1974 are prohibited.
 - (b) No person shall park, locate, or place any mobile home outside of a licensed mobile home park in the city, except unoccupied mobile homes may be parked on the lawfully situated premises of a licensed mobile home dealer for the purposes of sale display; the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs; the premises leased or owned by the owner of such mobile home for purposes of sales display for a period not exceeding 120 days, provided no business is carried on therein, or in an accessory private garage, building, or rear yard of the owner of such mobile home, provided no business is carried on therein.

(3) List of Allowable Principal Land Use.

Permitted by Right:	Permitted as Conditional Use:
Mobile Homes	Community Garden
Active Outdoor Public Recreation	Market Garden
Passive Outdoor Public Recreation	Indoor Institutional
Public Services and Utilities	Outdoor Institutional
	Group Development

(4) List of Allowable Accessory Uses.

Permitted by Right:	Permitted as Conditional Use:
Accessory Yard Structure	Wind Energy Conversion System
Private Residential Recreation	Solar Energy System (depending on type)
Home Occupation	
In-Home Daycare (4-8 children)	
Drainage Structure	
Solar Energy System (depending on type)	

(5) List of Allowable Temporary Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
On-Site Real Estate Sales Office	
Relocatable Building	
Temporary Portable Storage Container	
Temporary Shelter	

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- (6) Minimum dimensional requirements for R-MH zoning districts and for individual mobile home communities; minimum number of lots or spaces.
- (a) Where an R-MH district is to be established for the development of a mobile home community, the minimum area shall be ten acres.
 - (b) The minimum number of lots or spaces completed and ready for occupancy before first occupancy is permitted shall be established as 25 percent of total units permitted on zoned site.
 - (c) These limitations shall not apply where expansion of an existing mobile home community is concerned and where such expansion will not increase variation from requirements applying to mobile home communities, as set forth herein.
- (7) In mobile home communities, recreational vehicles shall not be occupied as living quarters and sales lots shall not be permitted, but dwellings may be sold on lots they occupy in residential use.
- (8) No mobile home site shall be rented for a period of less than 30 days.
- (9) Monthly Parking Fee; Limitations on Parking.
- (a) There is hereby imposed on each owner of a nonexempt, occupied mobile home in the city a monthly parking fee as determined in accordance with Wis. Stats. § 66.0435(3) which is hereby adopted by reference and made part of this Chapter as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees shall pay to the treasurer such parking permit fees on or before the 10th day of the month following the month for which such fees are due in accordance with the terms of this Chapter and such regulations as the treasurer may reasonably promulgate.
 1. Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the city clerk and assessor on such homes added to their park or land within five days after arrival of such home on forms furnished by the city clerk in accordance with Wis. Stats. §66.0435(3)(c) and (e).
 2. Occupants or owners of nonexempt mobile homes parked outside of a mobile home park shall remit such fees directly to the treasurer as provided in this section. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied nonexempt mobile home therein and to remit such fees to the treasurer as provided in this section.
 - (b) It shall be unlawful for any person to park any mobile home in the city at any site other than a licensed mobile home park.
- (10) Mobile Home Park Developer's Permit.
- (a) No person shall construct, alter, modify or extend any mobile home park or mobile home park building or facility within the limits of the city without first securing a mobile home park developer's permit from the city. Such permits shall be issued by the zoning administrator upon approval by the Common Council.
 - (b) Applications for mobile home park developer's permits shall be filed with the zoning administrator with sufficient copies for the city clerk to forward one to each of the department of inspection which shall investigate and review said application to determine whether the applicant, the premises on which said park will be located and the proposed design and specifications thereof and all buildings proposed to be constructed thereon will comply with the applicable regulations, ordinances and laws of the state and city and report their findings in writing to the Plan Commission within 60 days. Such reports shall be considered by the Plan Commission and recommended for approval by the Common Council before any permit is issued hereunder. Failure of any officer or body to report within the allotted time shall be deemed a favorable recommendation.

- (c) Applications for mobile home park developer's permit shall be accompanied by a fee to cover the cost of investigation and processing which is in the official city fee schedule on file in the city clerk's office, plus regular building permit fees for all buildings or structures to be erected within the proposed park.
 - (d) Applications shall be made on forms furnished by the zoning administrator.
 - (e) Final engineering plans and specifications complying with the provisions of this article and the zoning regulations and any modifications or conditions imposed by the Common Council shall be submitted to the zoning administrator and checked by the proper municipal officials for compliance before the district is approved.
 - (f) The procedure for creation of an R-MH district shall be as prescribed in section 90-472, except that the standards and conditions in section 90-473 shall also be followed.
- (11) Standard Requirements for Mobile Home Parks, Additions or Extensions. All mobile home parks and modifications of or additions or extensions to existing parks under the R-MH district shall comply with the following:
- (a) Wis. Admin. Code Ch. Comm. 95, as now existing or hereafter amended, is hereby made a part of this chapter and incorporated herein by reference as if fully set forth, except that such regulations shall not be deemed to modify any requirement of this chapter or any other applicable law or ordinance of the state or city.
 - (b) Each mobile home space shall be clearly defined or delineated and shall have a minimum frontage of 50 feet and depth of 100 feet.
 1. Each mobile home unit and any attachments thereto and any accessory structure shall have a street yard of not less than 25 feet and side and rear yards of not less than ten feet.
 2. Each mobile home space shall provide not less than two paved spaces for off-street parking of vehicles.
 3. Movable footing slabs of reinforced concrete or other suitable means of supporting the mobile home shall be provided. Enclosing the foundation is recommended for looks and insulating. Basements are not authorized.
 4. A service slab shall be provided for each mobile home space.
 5. Areas not hard surfaced shall be seeded or sodded to prevent the blowing of sand or dirt. Landscaping is encouraged.
 6. Attachments and/or accessory structures shall be designed and constructed so that they will blend in with and not detract from the appearance of the mobile home units. No such attachments or accessory structures shall be constructed without first securing a building permit from the department of inspection.
 7. Attachments to the mobile home unit, such as a sun porch windbreak, etc., shall not be wider than eight feet or longer than 24 feet.
 8. Accessory structures, such as a carport, garage, storage shed, etc., shall not be wider than 18 feet or longer than 28 feet.
 - (c) No mobile home park shall be laid out, constructed or operated without city water supply and sanitary sewer service. All water or sanitary sewerage facilities in any unit not connected with public water or sewer systems by approved pipe connections shall be sealed and their use is hereby declared unlawful.
 - (d) All mobile home parks shall be furnished with lighting so spaced and equipped with luminaries placed at such heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:
 1. All parts of the park street systems: 0.6 foot candle, with a minimum of 0.1 foot candle.

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2. Potentially hazardous locations, such as major park street intersections and steps or stepped ramps, individually illuminated with a minimum of 0.3 foot candle.
- (e) All mobile home spaces shall abut upon a street.
 1. Public streets shall have a right-of-way width of 66 feet and a dust free surfaced width of not less than 32 feet.
 2. Private streets shall have a right-of-way width of 40 feet and a dust free surfaced width of not less than 24 feet.
 - (f) All mobile home parks shall have a greenbelt or buffer strip not less than 20 feet wide along all boundaries. Unless adequately screened by existing vegetative cover, all mobile home parks shall be provided within such greenbelt or buffer strip with screening of natural growth or screen fence, except where the adjoining property is also a mobile home park. Compliance with this requirement shall be made within five years from the granting of the mobile home park developer's permit. Permanent planting shall be grown and maintained at a height of not less than six feet. Screening or planting requirements may be waived or modified by the governing body if it finds that the exterior architectural appeal and functional plan of the park, when completed, will be materially enhanced by modification or elimination of such screen planting requirements.
 - (g) In all mobile home parks, one or more recreation area shall be provided per the parkland dedication requirements of the City of Portage Subdivision Ordinance. Recreation areas shall be so located as to be free of traffic hazards and convenient to mobile home spaces which they serve.
 - (h) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home space. Entrances to parks shall be designed to minimize congestion and traffic hazards and allow free movement of traffic on adjacent streets.
- (12) Operation of Mobile Home Parks; Responsibilities of Park Management.
- (a) In every mobile home park, there shall be located an office of the attendant or person in charge of said park. A copy of the park license and of this chapter shall be posted therein and the park register shall, at all times, be kept in said office.
 - (b) The attendant or person in charge and the park licensee shall operate the park in compliance with this chapter and regulations and ordinances of the city and state and their agents or officers and shall have the following duties:
 1. Maintain a register of all park occupants, to be open at all times to inspection by state, federal and municipal officers, which shall show:
 - a. Names and addresses of all owners and occupants of each mobile home.
 - b. Number of children of school age.
 - c. State of legal residence.
 - d. Dates of entrance and departure of each mobile home.
 - e. Make, model, year and serial number or license number of each mobile home and towing or other motor vehicles and state, territory or country which issued such licenses.
 - f. Place of employment of each occupant, if any.
 - (c) Notify park occupants of the provisions of this chapter and inform them of their duties and responsibilities and report promptly to the proper authorities any violations of this chapter or any other violations of law which may come to their attention.
 - (d) Report to the health officer all cases of persons or animals affected or suspected of being affected with any dangerous communicable disease.
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- (e) Supervise the placement of each mobile home on its stand which includes securing its stability and installing all utility connections and tie downs.
 - (f) Maintain park grounds, buildings and structures free of insect and rodent harborage and infestation and accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
 - (g) Maintain the park free from growth of noxious weeds.
 - (h) Maintain the park free of litter, rubbish and other flammable materials; provide portable fire extinguishers of a type approved by the fire chief in all locations designated by the fire chief and maintain such extinguishers in good operating condition and cause every area within the park designated as a fire lane by the fire chief to be kept free and clear of obstructions.
 - (i) Check to ensure that every mobile home unit has furnished, and in operation, a substantial, fly tight, watertight, rodent proof container for the deposit of garbage and refuse in accordance with the ordinances of the city. The management shall provide stands for all refuse and garbage containers so designed as to prevent tipping and minimize spillage and container deterioration and facilitate cleaning.
 - (j) Provide for the sanitary and safe removal and disposal of all refuse and garbage at least weekly. Removal and disposal of garbage and refuse shall be in accordance with the laws of the state and the ordinances and regulations of the city, including regulations promulgated by the fire chief.
 - (k) Collect a security deposit equal to three months' parking fee for each occupied nonexempt mobile home within the park and remit such fees and deposits to the treasurer.
- (13) Responsibilities and Duties of Mobile Home Park Occupants.
- (a) Park occupants shall comply with all applicable requirements of this chapter and regulations issued hereunder and shall maintain their mobile home space, its facilities and equipment in good repair and in a clean and sanitary condition.
 - (b) Park occupants shall be responsible for proper placement of their mobile homes on the mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.
 - (c) No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large or to cause any nuisance within the limits of any mobile home park.
 - (d) Each owner or occupant of a nonexempt mobile home within a mobile home park shall remit to the licensee or authorized park management the cash deposit and monthly parking permit fee.
 - (e) It shall be the duty of every occupant of a park to give the park licensee or management, or his agent or employee, access to any part of such park or mobile home premises at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this chapter or any law or ordinance of the state or city or lawful regulation or order adopted hereunder.
 - (f) Mobile homes shall be parked only on the mobile home stands provided and shall be placed thereon in accordance with all requirements of this chapter.
 - (g) No mobile home owner or occupant shall conduct in any unit or any mobile home park any business or engage in any other activity which would not be permitted in single-family residential areas in the city.
 - (h) No person shall discharge any wastewater on the surface of the ground within any mobile home park.
 - (i) No person shall erect or place upon any mobile home space any permanent or temporary structure intended to be used for dwelling purposes or in connection with any mobile home unit except as specifically authorized by this chapter.

- (14) Additional Regulations on Mobile Homes and Mobile Home Parks.
- (a) Wrecked, damaged, or dilapidated mobile homes shall not be kept or stored in a mobile home park or upon any premises in the city. The building inspector or Common Council shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. Such mobile homes are hereby declared to be a public nuisance. Whenever the building inspector or Common Council so determines, he shall notify the licensee or landowner and owner of the mobile home in writing that such public nuisance exists within the park or on lands owned by him giving the findings upon which his determination is based and shall order such home removed from the park or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time, but not less than 30 days.
 - (b) The building inspector, fire chief or their lawful agents or employees are authorized and directed to inspect mobile home parks not less than once in every 12-month period to determine the health, safety and welfare of the occupants of the park and inhabitants of the city as affected thereby and the compliance of structures and activities therein with this chapter and all other applicable laws of the state and ordinances of the city.
 - (c) Fires in mobile home parks shall be made only in stoves and other cooking or heating equipment intended for such purposes. Outside burning is prohibited except by permit and subject to requirements or restrictions of the fire chief.
 - (d) All plumbing, building, electrical, oil or gas distribution, alterations or repairs in the park shall be in accordance with the regulations of applicable laws, ordinances and regulations of the state and municipalities and their authorized agents.
 - (e) No person shall construct, alter or add to any structure, attachment or building in a mobile home park or on a mobile home space without a permit from the building inspector. Construction on, or addition or alteration to the exterior of a mobile home shall be of the same type of construction and materials as the mobile home affected. This subsection shall not apply to addition of awnings, antennas or skirting to mobile homes. Accessory structures on mobile home spaces shall comply with all setback, side yard and rear yard requirements for mobile home units.
 - (f) Compliance with Plumbing, Electrical, and Building Ordinances. All plumbing, electric, electrical, building and other work on or at any mobile home park under this chapter shall be in accordance with the ordinances of the city and the requirements of the state plumbing, electrical and building codes and the regulations of the state board of health. Licenses and permits granted under this chapter grant no right to erect or repair any structure, to do any plumbing work or to do any electric work.
- (15) Limitations on Signs. In connection with mobile home communities within the R-MH District, no sign intended to be read from any public way adjoining the district shall be permitted except:
- (a) No more than one identification sign, not exceeding 20 square feet in area, for each principal entrance.
 - (b) No more than one sign, not exceeding four square feet in area, advertising property for sale, lease or rent, or indicating "Vacancy" or "No Vacancy," may be erected at each principal entrance.
 - (c) In the case of new mobile home communities consisting in whole or in part of mobile home subdivisions or condominiums, one sign, not exceeding 20 square feet in area, may be erected for a period of not more than two years at each principal entrance to advertise the sale of lots or dwellings.
 - (d) No source of illumination for any such signs shall be directly visible from adjoining streets or residential property, and no such signs shall be erected within five feet of any exterior property line.

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- (16) Common Recreational Facilities.
- (a) No less than ten percent of the total area of any mobile home community established under these regulations shall be devoted to common recreational areas and facilities, such as playgrounds, swimming pools, community buildings, ways for pedestrians and cyclists away from streets and play areas for small children for other recreational areas in block interiors. At least one principal recreation and community area shall contain not less than five percent of the total area of the community.
 - (b) To be countable as common recreational area, interior-block ways for pedestrians or cyclists shall form part of a system leading to principal destinations. Such ways may also be used for installations of utilities.
 - (c) Common recreational area shall not include streets, parking areas, floodplains, wetlands, or steep slopes, and shall be closed to automotive traffic except for maintenance and service vehicles, and shall be improved and maintained for the uses intended.
- (17) Standards for General Site Planning for Mobile Home Communities. The following guides, standards and requirements shall apply in site planning for mobile home communities:
- (a) Principal vehicular access points. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic. No lot within the community shall have direct vehicular access to a street bordering the development.
 - (b) Access for pedestrians and cyclists. Access for pedestrians and cyclists entering or leaving the community shall be by safe and convenient routes. Such ways need not be adjacent to or limited to the vicinity of vehicular access points. Where there are crossings of such ways and vehicular routes at edges of planned developments, such crossings shall be safety located, marked and controlled and where such ways are exposed to substantial vehicular traffic at edges of communities, safeguards may be required to prevent crossings except at designated points. Bicycle paths, if provided, shall be so related to the pedestrian way system that street crossings are combined.
 - (c) Protection of visibility. Automotive traffic, cyclists and pedestrians. At intersections of any streets, public or private, the provisions of Article VII shall apply and are hereby adopted by reference. Where there is pedestrian or bicycle access from within the community to a street at its edges by paths or across yards or other open space without a barrier to prevent access to the street, no material impediment to visibility more than 2 ½ feet above ground level shall be created or maintained within 25 feet of said street unless at least 25 feet from said access measured at right angles to the path.
 - (d) Pedestrians and Bicyclists. Ways for pedestrians and/or cyclists in exterior yards. In any exterior yard, required or other, ways for pedestrian and/or cyclists may be permitted, if appropriately located, fenced or landscaped to prevent potential hazards arising from vehicular traffic on adjacent streets or other hazards and annoyances to users or to occupants of adjoining property. When otherwise in accord with the requirements concerning such ways set forth above, approved ways in such locations shall be counted as common recreation facilities and may also be used for utilities easements.
 - (e) Internal relationships. The site plan shall provide for safe, efficient, convenient and harmonious groupings of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features. In particular:
 - 1. Streets, drives and parking and service areas. Streets, drives and parking and service areas shall provide safe and convenient access to dwellings and community facilities and for

service and emergency vehicles, but streets shall not be so laid out as to encourage outside traffic to traverse the community, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the community into small blocks. In general, block size shall be the maximum consistent with use, the shape of the site and the convenience and safety of the occupants.

2. Vehicular access to streets. Vehicular access to streets from off-street parking areas may be directed from dwellings if the street or portion of the street serves 50 units or less. Determination of units served shall be based on normal routes anticipated for traffic. Along streets or portions of streets serving more than 50 dwelling units, or constituting major routes to or around central facilities, access from parking and service areas shall be so combined, limited, located, designed and controlled as to channel traffic conveniently, safely and in a manner that minimizes marginal traffic friction, and direct vehicular access from individual dwellings shall generally be prohibited.
3. Ways for pedestrians and cyclists; use by emergency, maintenance or service vehicles.
 - a. Walkways shall form a logical, safe and convenient system for pedestrian access to all dwellings, project facilities and principal off-street pedestrian destinations. Maximum walking distance in the open between dwelling units and related parking spaces, delivery areas and trash and garbage storage areas intended for use of occupants shall not exceed 100 feet.
 - b. Walkways to be used by substantial numbers of children as play areas or routes to school, bus stops or other destinations shall be so located and safeguarded as to minimize contacts with normal automotive traffic. If an internal walkway system is provided, away from streets, bicycle paths shall be incorporated in the walkway system. Street crossings shall be held to a minimum on such walkways and shall be located and designated to provide safety and shall be appropriately marked and otherwise safeguarded. Ways for pedestrians and cyclists, appropriately located, designed and constructed may be combined with other easements and used by emergency, maintenance or service vehicle but shall not be used by other automotive traffic.

Section 90-33: B-1 Neighborhood Business District

- (1) Description and Purpose. This district permits both residential development and neighborhood-scale commercial land uses that are compatible with adjacent residential uses and consistent with the neighborhood character.

- (2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Single Family	Two-Family (Two-Flat Only)
Active Outdoor Public Recreation	Community Garden
Passive Outdoor Public Recreation	Market Garden
Public Services and Utilities	Indoor Institutional
Office	Outdoor Institutional
Indoor Sales or Service	Community Living Arrangement (1-15 residents)
Personal or Professional Service	Institutional Residential
Indoor Maintenance Service	Group Daycare
	Artisan Studio
	Indoor Commercial Entertainment
	Outdoor Commercial Entertainment
	Drive-Through Sales or Service
	Outdoor Display
	Bed and Breakfast
	Boarding House
	Group Development

- (3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Accessory Yard Structure	Upper Story Dwelling Unit
Private Residential Recreation	Private Residential Kennel
In-Family Suite	In-Home Daycare (9-15 children)
Home Occupation	Drive-Through Sales or Service
In-Home Daycare	Incidental Light Industrial
Company Recreation	Incidental Outdoor Display
On-Site Accessory Parking Lot	Home Occupation (involving customer visits)
Drainage Structure	Wind Energy Conversion System
Solar Energy System (depending on type)	Solar Energy System (depending on type)

- (4) List of Permitted Temporary Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
General Temporary Outdoor Sales	
On-Site Real Estate Sales Office	
Relocatable Building	
Seasonal Outdoor Sales of Farm Products	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

	Residential Uses	Non-Residential Uses
Maximum Gross Density	7.0 dwelling units/acre	N/A
Maximum Building Size	N/A	5,000 square feet (one-story); 10,000 square feet (two-story); 15,000 square feet (three-story)
Maximum Floor Area Ratio	N/A	0.4 (may be exceeded through use of structured parking)
Minimum Landscape Surface Ratio	50 percent	30 percent
Minimum Lot Area	5,000 square feet	10,000 square feet
Minimum Lot Width	80 feet	100 feet
Minimum Street Frontage	50 feet	50 feet
Minimum Front or Street Side Setback	20 feet; 15 feet for open front porches	30 feet
Minimum Side Setback	10 feet; 0 feet along common wall	10 feet
Minimum Rear Setback	30 feet	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley	
Minimum Paved Surface Setback	1 foot from side or rear; 0 feet in the case of a shared driveway; 10 feet from right of way	5 feet from side or rear; 0 feet in the case of a shared driveway; 10 feet from right-of-way
Maximum Height of Principal Structure	30 feet	35 feet
Maximum Height of Accessory Structure	15 feet	
Minimum Off-Street Parking	See Article III for specific land use	

(6) Architectural and Operational Requirements: Under this approach, the B-1 district shall not be vested until the approved project has been completed. Structures and site development shall comply with the architectural and operational requirements for the B-1 district listed below.

Regulations Applicable to Non-Residential Land Uses	
Maximum Zoning District Area	4 acres
Minimum Zoning District Separation	500 feet
Parking Limitations	No outdoor parking in required setbacks for principal buildings
Architectural Requirements	Foundation planting; residential roof materials; minimum 15 percent window coverage; and acceptable exterior materials, including wood, cement board, vinyl siding, brick, decorative block, stone, and other materials approved by the Plan Commission.
Operating Hours	No earlier than 7:00 a.m. or later than 9:00 p.m. unless otherwise extended by a granting of a conditional use permit
Additional Requirements	Provision of a neighborhood-oriented amenity, per Plan Commission direction (i.e., outdoor seating area, public art, etc.)

Section 90-34: B-2 Downtown District

(1) Description and Purpose. This district is intended to permit a broad range of land uses with a true “downtown” character. This district allows high intensity development to provide incentives for infill development, redevelopment, and the continued economic viability of the existing downtown.

(2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Single Family	Community Garden
Two-Family	Market Garden
Townhouse	Indoor Institutional
Multiplex	Outdoor Institutional
Apartment	Community Living Arrangement (1-15 residents)
Active Outdoor Public Recreation	Institutional Residential
Passive Outdoor Public Recreation	Group Daycare
Public Services and Utilities	Artisan Studio
Office	Outdoor Commercial Entertainment
Indoor Sales or Service	Drive-Through Sales or Service
Personal or Professional Service	Outdoor Display
Indoor Maintenance Service	Bed and Breakfast
Indoor Commercial Entertainment	Commercial Indoor Lodging
Off-Site Parking Lot	Boarding House
	Large Development
	Group Development

(3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Accessory Yard Structure	In-Home Daycare (9-15 children)
Private Residential Recreation	Drive-Through Sales or Service
Upper Story Dwelling Unit	Incidental Light Industrial
Home Occupation	Incidental Outdoor Display
In-Home Daycare (4-8 children)	Home Occupation (involving customer visits)
Company Cafeteria	Wind Energy Conversion System
Company Recreation	Solar Energy System (depending on type)
On-Site Accessory Parking Lot	
Drainage Structure	
Solar Energy System (depending on type)	

(4) List of Permitted Temporary Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
General Temporary Outdoor Sales	
On-Site Real Estate Sales Office	
Relocatable Building	
Seasonal Outdoor Sales of Farm Products	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

Minimum Number of Floors	2
Minimum Landscape Surface Ratio	0 percent
Maximum Floor Area Ratio	4.0 (may be exceeded through use of structured parking)
Minimum Lot Area	1,000 square feet
Minimum Lot Width	20 feet
Minimum Street Frontage	20 feet
Minimum Front or Street Side Setback	0 feet or average of directly adjacent building or buildings along same street frontage*
Minimum Side Setback	0 feet*
Minimum Rear Setback	0 feet*; 10 feet to nonresidential property
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley
Minimum Paved Surface Setback	0 feet*
Maximum Height of Principal Structure	45 feet
Minimum Height of Principal Structure	20 feet (minimum 2 stories)
Minimum Off-Street Parking	See Article III for specific land use
*Maximum permitted setback of 0 feet, except where a larger setback is permitted by the Plan Commission as an essential component of site design.	

Section 90-35: B-3 Interchange Business District

- (1) Description and Purpose. This district permits commercial development that is compatible with and achieves the desired character for highway corridor areas. This district is intended as the principal zoning district for new commercial development which occurs after the adoption of this Chapter. The standards of this district are designed to provide a clear distinction from the B-4 district in terms of a lower permitted intensity of development and greater required green space areas.

- (2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Active Outdoor Public Recreation	Community Garden
Passive Outdoor Public Recreation	Market Garden
Public Services and Utilities	Indoor Institutional
Office	Outdoor Institutional
Indoor Sales or Service	Institutional Residential
Personal or Professional Service	Group Daycare
Indoor Maintenance Service	Artisan Studio
Indoor Commercial Entertainment	Outdoor Commercial Entertainment
Commercial Indoor Lodging	Drive-Through Sales or Service
Off-Site Parking Lot	Outdoor Display
	Bed and Breakfast
	Boarding House
	Commercial Animal Service and Boarding
	Vehicle Sales
	Vehicle Repair and Maintenance
	Airport
	Large Development
	Group Development

- (3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Company Cafeteria	Upper Story Dwelling Unit
Company Recreation	Incidental Light Industrial
Drive-Through Sales or Service	Incidental Outdoor Display
On-Site Accessory Parking Lot	Wind Energy Conversion System
Drainage Structure	Solar Energy System (depending on type)
Solar Energy System (depending on type)	

- (4) List of Permitted Temporary Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
General Temporary Outdoor Sales	
On-Site Real Estate Sales Office	
Relocatable Building	
Seasonal Outdoor Sales of Farm Products	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

Minimum Landscape Surface Ratio	25 percent
Maximum Floor Area Ratio	0.50 (may be exceeded with structured parking)
Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet
Minimum Street Frontage	50 feet
Minimum Front or Street Side Setback	20 feet
Minimum Side Setback	10 feet; 0 feet on zero lot line side; 40 feet for lot adjacent to a street Officially Mapped as being equal to or exceeding 100 feet
Minimum Rear Setback	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley
Minimum Paved Surface Setback	5 feet from side or rear; 10 feet from right of way
Minimum Building Separation For Multiple Principle Structures on the Same Lot	20 feet; 0 feet where property line divides attached buildings; 40 feet for lot adjacent to a street Officially Mapped as being equal to or exceeding 100 feet
Maximum Height of Principal Structure	45 feet
Minimum Off-Street Parking	See Article III for specific land use

Section 90-36: B-4 General Business District

- (1) Description and Purpose. This district is intended to permit large and small scale commercial development. The standards of this district are distinct from the B-3 Interchange Business District and are intended to promote the redevelopment of the city’s older commercial developments.

- (2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Active Outdoor Public Recreation	Commercial Greenhouse
Passive Outdoor Public Recreation	Community Garden
Public Services and Utilities	Market Garden
Office	Indoor Institutional
Indoor Sales or Service	Outdoor Institutional
Personal or Professional Service	Institutional Residential
Indoor Maintenance Service	Group Daycare
Indoor Commercial Entertainment	Artisan Studio
Drive-Through Sales or Service	Outdoor Commercial Entertainment
Off-Site Parking Lot	Outdoor Display
	Bed and Breakfast
	Commercial Indoor Lodging
	Boarding House
	Commercial Animal Service and Boarding
	Vehicle Sales
	Vehicle Repair and Maintenance
	Personal Storage Facility
	Large Development
	Group Development

- (3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Company Cafeteria	Upper Story Dwelling Unit
Company Recreation	Incidental Light Industrial
On-Site Accessory Parking Lot	Incidental Outdoor Display
Drainage Structure	Wind Energy Conversion System
Drive-Through Sales or Service	Solar Energy System (depending on type)
Solar Energy System (depending on type)	

- (4) List of Permitted Temporary Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
General Temporary Outdoor Sales	
On-Site Real Estate Sales Office	
Relocatable Building	
Seasonal Outdoor Sales of Farm Products	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

Minimum Landscape Surface Ratio	10 percent
Maximum Floor Area Ratio	1.0 (may be exceeded with structured parking)
Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet
Minimum Street Frontage	50 feet
Minimum Front or Street Side Setback	20 feet
Minimum Side Setback	10 feet; 0 feet on zero lot line side; 40 feet for lot adjacent to a street Officially Mapped as being equal to or exceeding 100 feet
Minimum Rear Setback	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley
Minimum Paved Surface Setback	5 feet from side or rear; 10 feet from right-of-way
Minimum Building Separation For Multiple Principle Structures on the Same Lot	20 feet; 0 feet where property line divides attached buildings; 40 feet for lot adjacent to a street Officially Mapped as being equal to or exceeding 100 feet
Maximum Principal Structure Height	45 feet
Minimum Off-Street Parking	See Article III for specific land use

Section 90-37: M-1 Industrial Zoning District

- (1) Description and Purpose. This district is intended to provide a location for urban intensity light industrial land uses such as assembly operations, storage, and warehousing facilities, offices, and light manufacturing which are protected from potential nuisances associated with certain development permitted within the M-2 Heavy Industrial District. To ensure a minimum of disruption to residential development, development within this district shall take access from a collector or arterial street.

- (2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Active Outdoor Public Recreation	Agricultural Services
Passive Outdoor Public Recreation	Community Garden
Public Services and Utilities	Market Garden
Office	Indoor Institutional
Personal or Professional Service	Outdoor Institutional
Indoor Maintenance Service	Signal Antenna
Indoor Storage or Wholesaling	Indoor Sales or Service
Off-Site Parking Lot	Group Daycare
Light Industrial	Artisan Studio
	Outdoor Commercial Entertainment
	Outdoor Maintenance Service
	Vehicle Repair and Maintenance
	Outdoor Storage or Wholesaling
	Personal Storage Facility
	Recycling Center
	Distribution Center
	Freight Terminal
	Group Development

- (3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Company Cafeteria	Wind Energy Conversion System
Company Recreation	Solar Energy System (depending on type)
Incidental Indoor Sales	
On-Site Accessory Parking Structure	
Drainage Structure	
Solar Energy System (depending on type)	

- (4) List of Permitted Temporary Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
General Temporary Outdoor Sales	
On-Site Real Estate Sales Office	
Relocatable Building	
Seasonal Outdoor Sales of Farm Products	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

Minimum Landscape Surface Ratio	10 percent
Maximum Floor Area Ratio	1.0
Maximum Building Size	N/A
Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet
Minimum Street Frontage	50 feet
Minimum Front or Street Side Setback	25 feet
Minimum Side Setback	20 feet
Minimum Rear Setback	30 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley
Minimum Paved Surface Setback	5 feet from side or rear; 10 feet from right of way
Minimum Building Separation For Multiple Principle Structures on the Same Lot	20 feet
Maximum Principal Structure Height	45 feet
Minimum Off-Street Parking	See Article III for specific land use

Section 90-38: M-2 Heavy Industrial Zoning District

- (1) Description and Purpose. This district is intended to permit industrial and office development at an intensity which provides ample incentive for infill development and redevelopment of existing industrial areas. This district is designed to permit a wide variety of industrial uses, including certain 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, development within this district shall take access from a collector or arterial street. It must be emphasized that this is not a district where virtually any land use is permitted, as all uses shall comply with the minimum performance standards presented in Article VII.

- (2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Active Outdoor Public Recreation	Agricultural Services
Passive Outdoor Public Recreation	Community Garden
Public Services and Utilities	Market Garden
Office	Signal Antenna
Indoor Maintenance Service	Artisan Studio
Indoor Storage or Wholesaling	Outdoor Maintenance Service
Off-Site Parking Lot	Vehicle Repair and Maintenance
Light Industrial	Outdoor Storage or Wholesaling
	Junkyard or Salvage Yard
	Waste Disposal/Composting Facility
	Recycling Center
	Distribution Center
	Freight Terminal
	Heavy Industrial
	Group Development

- (3) List of Allowable Accessory Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Company Cafeteria	Wind Energy Conversion System
Company Recreation	Solar Energy System (depending on type)
Incidental Indoor Sales	
On-Site Accessory Parking Lot	
Drainage Structure	
Solar Energy System (depending on type)	

- (4) List of Permitted Temporary Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
General Temporary Outdoor Sales	
On-Site Real Estate Sales Office	
Relocatable Building	
Seasonal Outdoor Sales of Farm Products	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

Minimum Landscape Surface Ratio	10 percent
Maximum Floor Area Ratio	1.0
Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet
Minimum Street Frontage	50 feet
Minimum Front or Street Side Setback	10 feet
Minimum Side Setback	10 feet
Minimum Rear Setback	30 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley
Minimum Paved Surface Setback	5 feet from side or rear; 10 feet from right of way
Minimum Building Separation For Multiple Principle Structures on the Same Lot	40 feet
Maximum Principal Structure Height	60 feet
Minimum Off-Street Parking	See Article III for specific land use

Section 90-39: M-3 Interchange Industrial District

- (1) Description and Purpose. This district is intended to permit high-quality industrial and office development focused toward the highway and interstate highway in a business park setting. Beyond a relatively high minimum landscape surface ratio, the primary distinguishing feature of this district is that it is geared to indoor industrial activities which are not typically associated with high levels of noise, soot, odors, and other potential nuisances for adjoining properties. To ensure a minimum of disruption to residential development, development within this district shall take access from a collector or arterial street.
- (2) List of Permitted Principal Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Active Outdoor Public Recreation	Agricultural Service
Passive Outdoor Public Recreation	Community Garden
Public Services and Utilities	Market Garden
Office	Indoor Institutional
Personal or Professional Service	Signal Antenna
Indoor Maintenance Service	Indoor Sales or Service
Indoor Storage or Wholesaling	Group Daycare
Off-Site Parking Lot	Artisan Studio
Light Industrial	Indoor Commercial Entertainment
	Outdoor Commercial Entertainment
	Drive-Through Sales or Service
	Distribution Center
	Group Development

- (3) List of Permitted Accessory Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Company Cafeteria	Company Recreation
Incidental Indoor Sales	Drive-Through Sales or Service
On-Site Accessory Parking Lot	Wind Energy Conversion System
Drainage Structure	Solar Energy System (depending on type)
Solar Energy System (depending on type)	

- (4) List of Permitted Temporary Land Uses.

Permitted by Right:	Permitted as Conditional Use:
Selective Cutting	Clear Cutting
Filling	
Outdoor Assembly	
Contractor's Project Office	
Contractor's On-Site Equipment Storage	
General Temporary Outdoor Sales	
On-Site Real Estate Sales Office	
Relocatable Building	
Seasonal Outdoor Sales of Farm Products	
Temporary Portable Storage Container	

(5) Density, Intensity, and Bulk Regulations.

Minimum Landscape Surface Ratio	25 percent
Maximum Floor Area Ratio	1.0
Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet
Minimum Street Frontage	50 feet
Minimum Front or Street Side Setback	20 feet
Minimum Side Setback	20 feet; 10 feet to adjacent residential
Minimum Rear Setback	20 feet
Minimum Side or Rear Setback to Accessory Structure	4 feet from property line and alley
Minimum Paved Surface Setback	5 feet from side or rear; 10 feet from right of way
Minimum Building Separation For Multiple Principle Structures on the Same Lot	20 feet
Maximum Building Height	45 feet
Minimum Number of Off-Street Parking Spaces	See Article III for specific land use

Sections 90-40 through 90-49: Reserved

ARTICLE III: LAND USE REGULATIONS

Section 90-50: Purpose

The purpose of this article is to provide detailed descriptions and regulations for land uses established in Article II of this Chapter.

Section 90-51: Regulation of Allowable Uses

Permitted land uses for each zoning district are listed in Article II and summarized in the Table of Land Uses in section 90-52, below. Even if a land use may be indicated as permitted by right or requiring a conditional use permit in a particular district, such a land use may not necessarily be permitted or permissible on a property unless it can be located or implemented on it in full compliance with all of the applicable standards and regulations of this article, or unless an appropriate variance has been granted.

- (1) **Principal Land Uses Permitted by Right.** Principal land uses listed as permitted by right are permitted per the land use requirements of this article; per the density, intensity, and bulk regulations of the specific zoning district in which they are located; per any additional requirements imposed by applicable overlay zoning districts; per all other applicable requirements of this Chapter; and per any and all other applicable city, county, state, and federal regulations with jurisdiction over the property.
- (2) **Principal Land Uses Permitted as Conditional Uses.** Principal land uses permitted only with a conditional use permit may be permitted subject to all requirements applicable to uses permitted by right as listed in (1), above, plus any additional requirements applicable to that particular land use imposed as part of the conditional use permit process established in section 90-472.
- (3) **Accessory Land Uses.** Permitted by right accessory land uses are allowed subject to the requirements and exemptions applicable to principal land uses permitted by right in (1), above. Accessory land uses allowed only with a conditional use permit are subject to all the requirements and exemptions applicable to principal land uses requiring a conditional use permit as listed in (2) above. Additional regulations applicable to accessory land uses include the following:
 - (a) Accessory uses or structures shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
 - (b) No accessory structure shall be constructed on any lot prior to establishment of an allowable principal structure, unless otherwise stated in this Chapter.
 - (c) With the exception of drainage structures, accessory structures shall not be located between a principal building and a street frontage on the same lot, nor within any required front yard.
 - (d) In no instance shall an accessory structure, cellar, basement, tent, or recreational trailer be used as a residence.
 - (e) Placement restrictions for residential districts. An accessory use or structure in a residential district may be established subject to the following regulation:
 1. Accessory buildings. No accessory building shall occupy any portion of the required front yard, and no accessory building shall occupy more than 30 percent of the required rear yard. Any accessory building, use or structure shall conform to the applicable regulations of the district in which it is located, except that when an accessory building is located forward of the rear building line of the principal building it shall satisfy the same side yard requirements as the principal building. An accessory building shall not be nearer than 10 feet to the principal structure unless the applicable building code regulations in regard to one hour fire-resistive construction are complied with. In no event can the accessory uses or structures be forward of the front line of the principal structure.
 - (f) Use restrictions for residential district. Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit.

- (g) Reversed corner lots. When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three feet to the side line of the adjacent structure.
 - (h) Lawn accessories. Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three feet to an abutting property line other than a street line.
 - (i) Retaining walls. Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six feet in height, and a terrace of at least three feet in width shall be provided between any series of such walls.
- (4) Temporary Land Uses. Temporary uses are those uses that have the potential to create undesirable impacts on nearby properties if allowed to develop under the general requirements of this Chapter. Therefore, temporary uses are permitted on a temporary basis subject to all the requirements applicable to uses permitted by right as listed in (1) above.
- (5) Classification of Unlisted Uses. Any use not specifically listed as a permitted use or a conditional use in the districts established in Article II or the Table of Land Uses shall be considered prohibited except as may be otherwise specifically approved hereinafter. In case of question as to the classification of an unlisted use, the question shall require an interpretation per section 90-479.

Section 90-52: Table of Land Uses

														Type of Land Use	
A-1 Agricultural	R-T Traditional Neighborhood	R-1 Single Family	R-2 Single Family	R-3 Single Family/Two-Family	R-4 Small-Scale Multifamily	R-5 Large-Scale Multifamily	R-MH Mobile Home	B-1 Neighborhood Business	B-2 Downtown	B-3 Interchange Business	B-4 General Business	M-1 Industrial	M-2 Heavy Industrial	M-3 Interchange Industrial	
Residential Land Uses															
p/c	P	P	P	P	P	P		P	P						Single Family
	p/c			P	P	P		C	P						Two-Family
					p/c	P			P						Townhouse
					p/c	p/c			P						Multiplex
					p/c	p/c			P						Apartment
							P								Mobile Home
Agricultural Uses															
P															Cultivation
P															On-Site Agricultural Retail
C															Husbandry
C															Intensive Agricultural
C												C	C	C	Agricultural Service
P											C				Commercial Greenhouse
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Community Garden
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Market Garden
Institutional Uses															
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Active Outdoor Public Recreation
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Passive Outdoor Public Recreation
C	C	C	C	C	C	C	C	C	C	C	C	C		C	Indoor Institutional
C	C	C	C	C	C	C	C	C	C	C	C	C			Outdoor Institutional
P	p/c	p/c	p/c	p/c	p/c	p/c		C	C						Community Living Arrangement
					C	C		C	C	C	C				Institutional Residential
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Public Service and Utilities
C												C	C	C	Signal Antenna
Commercial Uses															
								P	P	P	P	P	P	P	Office
								P	P	P	P	C		C	Indoor Sales or Service
								P	P	P	P	P		P	Personal or Professional Service
								P	P	P	P	P	P	P	Indoor Maintenance Service
				C	C	C		C	C	C	C	C		C	Group Daycare
								C	C	C	C	C	C	C	Artisan Studio
								C	P	P	P			C	Indoor Commercial Entertainment
								C	C	C	C	C		C	Outdoor Commercial Entertainment
								C	C	C	P			C	Drive-Through Sales or Service

														Type of Land Use	
														P = permitted by right C = conditional use T = temporary use	
A-1 Agricultural	R-T Traditional Neighborhood	R-1 Single Family	R-2 Single Family	R-3 Single Family/Two-Family	R-4 Small-Scale Multifamily	R-5 Large-Scale Multifamily	R-MH Mobile Home	B-1 Neighborhood Business	B-2 Downtown	B-3 Interchange Business	B-4 General Business	M-1 Industrial	M-2 Heavy Industrial	M-3 Interchange Industrial	
								C	C	C	C				Outdoor Display
												C	C		Outdoor Maintenance Service
C	C	C	C	C	C	C		C	C	C	C				Bed and Breakfast
									C	P	C				Commercial Indoor Lodging
						C		C	C	C	C				Boarding House
C															Campground
C										C	C				Commercial Animal Service and Boarding
										C	C				Vehicle Sales
										C	C	C	C		Vehicle Repair and Maintenance
Storage or Disposal Uses															
												P	P	P	Indoor Storage or Wholesaling
												C	C		Outdoor Storage or Wholesaling
											C	C			Personal Storage Facility
C													C		Junkyard or Salvage Yard
C													C		Waste Disposal/Composting Facility
												C	C		Recycling Center
Transportation Uses															
C										C					Airport
												C	C	C	Distribution Center
												C	C		Freight Terminal
									P	P	P	P	P	P	Off-Site Parking Lot
Industrial Uses															
												P	P	P	Light Industrial
													C		Heavy Industrial
C															Extraction
Accessory Uses															
P	P	P	P	P	P	P	P	P	P						Accessory Yard Structure
P	P	P	P	P	P	P	P	P	P						Private Residential Recreation
								C	P	C	C				Upper Story Dwelling
C		C	C												Caretaker's Residence
P	P	P	P	P				P							In-Family Suite
P															Farm Residence
C	C	C	C	C				C							Private Residential Kennel
C															Private Residential Stable
p/c	p/c	p/c	p/c	p/c	p/c	p/c	p/c	p/c	p/c						Home Occupation
P	P	P	P	P	P	P	P	P	P						In-Home Daycare (4-8 children)

														Type of Land Use	
A-1 Agricultural	R-T Traditional Neighborhood	R-1 Single Family	R-2 Single Family	R-3 Single Family/Two-Family	R-4 Small-Scale Multifamily	R-5 Large-Scale Multifamily	R-MH Mobile Home	B-1 Neighborhood Business	B-2 Downtown	B-3 Interchange Business	B-4 General Business	M-1 Industrial	M-2 Heavy Industrial	M-3 Interchange Industrial	P = permitted by right C = conditional use T = temporary use
C	C	C	C	C	C	C		C	C						In-Home Daycare (9-15 children)
									P	P	P	P	P	P	Company Cafeteria
									P	P	P	P	P	C	Company Recreation
												P	P	P	Incidental Indoor Sales
								C	C	C	C				Incidental Light Industrial
								C	C	C	C				Incidental Outdoor Display
C															Migrant Labor Camp
	P	P	P	P	P	P		P	P	P	P	P	P	P	On-Site Accessory Parking Lot
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Drainage Structure
C															Individual Septic Disposal System
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Wind Energy Conversion System
P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	Solar Energy System
P	P	P	P	P											Chicken Raising
Temporary Uses															
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Clear Cutting
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	Selective Cutting
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	Filling
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	Outdoor Assembly
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	Contractor's Project Office
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	Contractor's On-Site Equip. Storage
T								T	T	T	T	T	T	T	General Temporary Outdoor Sales
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	On-Site Real Estate Sales Office
T							T	T	T	T	T	T	T	T	Relocatable Building
T								T	T	T	T	T	T	T	Seasonal Outdoor Sale of Farm Products
T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	Temporary Portable Storage Cont.
T							T								Temporary Shelter
Large and Group Developments															
									C	C	C				Large Development
C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Group Development

Section 90-53: Reserved

Section 90-54: Detailed Land Use Descriptions and Regulations

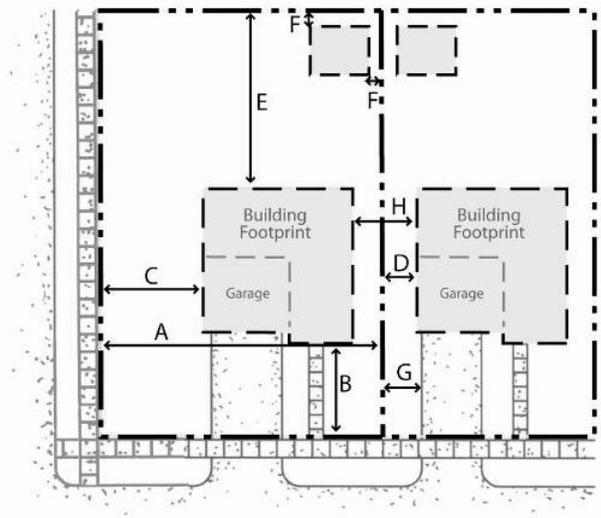
The land use categories employed by this Chapter are defined in this section. Land uses which are not listed in this Chapter are not necessarily excluded from locating within any given zoning district. Section 90-479 empowers the Zoning Administrator to make interpretations on matters regarding specific land use proposals which are not addressed by this Chapter.

Section 90-55: Residential Land Uses

- (1) Single Family. A single family dwelling unit consists of a fully detached single family residence designed to be occupied by not more than one family. This land use type has no roof, wall, or floor in common with any other dwelling unit. The dwelling unit must be a site built structure built in compliance with the State of Wisconsin Uniform Dwelling Code (UDC), or may be a manufactured dwelling (modular home) as permitted by the UDC or a manufactured home as permitted by the HUD code. Regulations for single family uses include the following:
 - (a) The minimum gross floor area shall be 700 square feet, exclusive of an attached garage, carport, or open deck.
 - (b) The dwelling must be attached to a finished, permanent foundation, such as a poured concrete slab or basement meeting UDC requirements.
 - (c) The dwelling unit roof shall have a pitch of at least 3 feet in rise for every 12 feet in run, except by conditional use permit.
 - (d) This dwelling unit type may not be split into two or more dwelling units, except for in-family suites meeting the requirements of this article.
 - (e) Refer to the Building Code for the State of Wisconsin for specific information related to the minimum dwelling unit size and related requirements.
 - (f) Minimum required parking: Two spaces.
 - (g) This following figure is intended to provide a graphic depiction of the setback and dimensional requirements for single family land uses. Specific requirements for single family uses can be found in Article II under the density, intensity, and bulk requirements for each residential zoning district.

Key to Figure

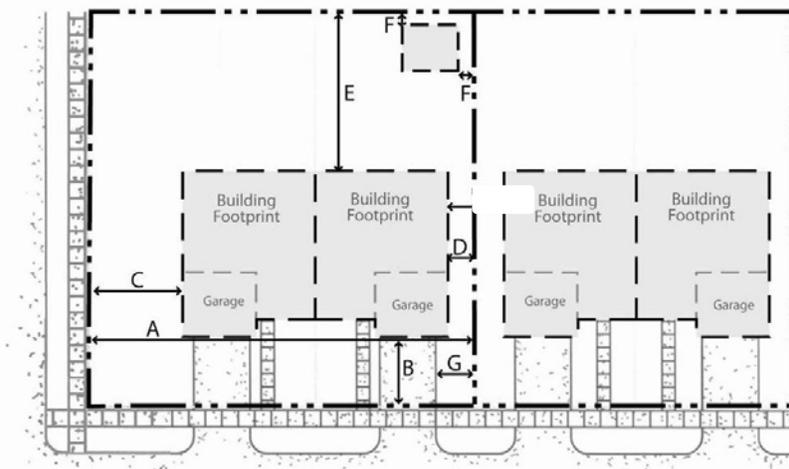
- A Minimum lot width (at building minimum setback line)
- B Street setback (lot line to principal building or attached garage)
- C Corner lot (street side) setback (lot line to principal building or attached garage)
- D Side setback (lot line to principal building or attached garage)
- E Rear setback (lot line to principal building or attached garage)
- F Accessory building side and rear setback (lot line to accessory building)
- G Minimum pavement setbacks (lot line to pavement excluding driveways entrances, etc.)



- (2) Two-Family. This dwelling unit type consists of a single structure with two separate residences, each having a private individual access, and no shared internal access. Two-family units can be constructed as attached side-by-side units (duplex or twin home) each with a ground floor and roof, or as a two-story structure (two-flat) with one unit above the other. Where side-by-side, each dwelling unit may share the same lot (duplex) or be located on a separate lot (twin home) per the applicable standards that follow. Regulations for two-family uses include the following:
- (a) The structure must be in compliance with the State of Wisconsin Uniform Dwelling Code (UDC).
 - (b) A building code required fire rated wall must separate the two dwelling units from the lowest level to flush against the underside of the roof.
 - (c) Individual sanitary sewer and public water laterals and utility meets required for each dwelling unit.
 - (d) Refer to the Building Code for the State of Wisconsin for specific information related to the minimum dwelling unit size and related requirements.
 - (e) Minimum required parking: Two spaces per residence.
 - (f) This following figure is intended to provide a graphic depiction of the setback and dimensional requirements for a duplex land uses. Specific requirements for duplexes and other two-family dwellings can be found in Article II under the density, intensity, and bulk requirements for each residential zoning district.

Key to Figure

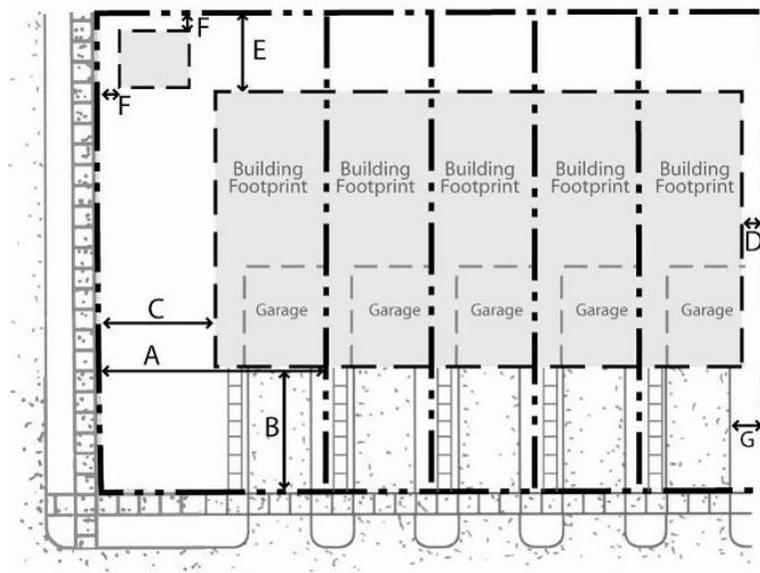
- A Minimum lot width (at building minimum setback line)
- B Street setback (lot line to principal building or attached garage):
- C Corner lot (street side) setback (lot line to principal building or attached garage)
- D Side setback (lot line to principal building or attached garage)
- E Rear setback (lot line to principal building or attached garage)
- F Accessory building side and rear setback (lot line to accessory building)
- G Minimum pavement setbacks (lot line to pavement excluding driveways entrances, etc.)



- (3) Townhouse. A single family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall. Regulations for townhouse uses include the following:
- (a) A building code required fire rated wall separating living areas from the lowest level through the roof is required between each dwelling unit.
 - (b) Individual sanitary sewer and public water laterals are required between each dwelling unit.
 - (c) No more than 6 and no less than 3 townhouse dwelling units may be attached per group.
 - (d) Townhouses may not be split into additional residences.
 - (e) Refer to the Building Code for the State of Wisconsin for specific information related to the minimum dwelling unit size and related requirements.
 - (f) Minimum required parking: Two spaces per residence.
 - (g) This following figure is intended to provide a graphic depiction of the setback and dimensional requirements for townhouse land uses. Specific requirements for townhouses can be found in Article II under the density, intensity, and bulk requirements for each residential zoning district.

Key to Figure

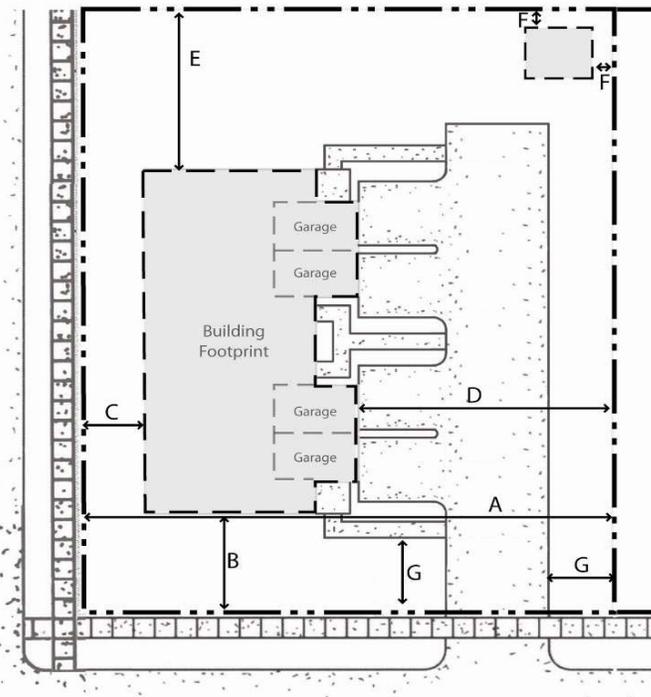
- A Minimum lot width (at building minimum setback line)
- B Street setback (lot line to principal building or attached garage):
- C Corner lot (street side) setback (lot line to principal building or attached garage)
- D Side setback (lot line to principal building or attached garage)
- E Rear setback (lot line to principal building or attached garage)
- F Accessory building side and rear setback (lot line to accessory building)
- G Minimum pavement setbacks (lot line to pavement excluding driveways entrances, etc.)



- (4) Multiplex. This dwelling unit type consists of an attached, multi-family residence which has a private, individual exterior entrance. Regulations for multiplex uses include the following:
- (a) A building code required fire rated wall separating living areas from the lowest level through the roof is required between each dwelling unit.
 - (b) No more than 8 and no less than 3 multiplex dwelling units may be attached per group.
 - (c) All multiplex units within a development shall be located a minimum of 30 feet from the boundary of the development.
 - (d) Refer to the Building Code for the State of Wisconsin for specific information related to the minimum dwelling unit size and related requirements.
 - (e) Minimum required parking: One space per residence.
 - (f) The following figure is intended to provide a graphic depiction of the setback and dimensional requirements for multiplex land uses. Specific requirements for multiplexes can be found in Article II under the density, intensity, and bulk requirements for each residential zoning district.

Key to Figure

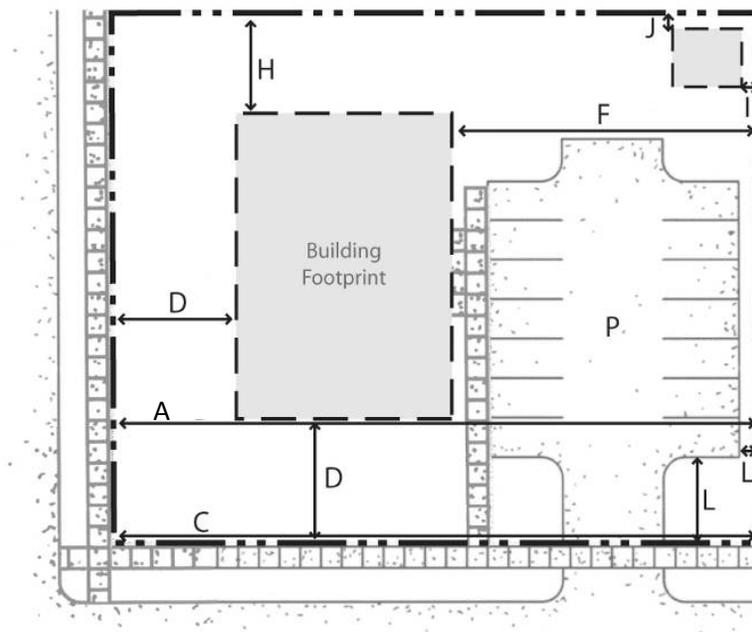
- A Minimum lot width (at building minimum setback line)
- B Street setback (lot line to principal building or attached garage):
- C Corner lot (street side) setback (lot line to principal building or attached garage)
- D Side setback (lot line to principal building or attached garage)
- E Rear setback (lot line to principal building or attached garage)
- F Accessory building side and rear setback (lot line to accessory building)
- G Minimum pavement setbacks (lot line to pavement excluding driveways entrances, etc.)



- (5) Apartment. This dwelling unit type consists of an attached, multi-family residence which takes access from a shared entrance or hallway. Regulations for apartment uses include the following:
 - (a) A building code required fire rated wall separating living areas from the lowest level to the underside of the roof is required between each dwelling unit.
 - (b) No less than 3 dwelling units may be located in a building.
 - (c) As part of the conditional use requirement for group developments, any development comprised of one or more buildings which contain 4 or more dwelling units shall provide additional site design features such as: underground parking, architectural elements, landscaping, and/or on-site recreational facilities.
 - (d) Refer to the Building Code for the State of Wisconsin for specific information related to the minimum dwelling unit size and related requirements.
 - (e) Minimum required parking: One space per residence.
 - (f) This following figure is intended to provide a graphic depiction of the setback and dimensional requirements for apartment land uses. Specific requirements for apartments can be found in Article II under the density, intensity, and bulk requirements for each residential zoning district.

Key to Figure

- A Minimum lot width (at building minimum setback line)
- C Minimum street frontage
- D Corner lot (street side) setback (lot line to principal building or attached garage)
- F Side setback (lot line to principal building or attached garage)
- H Rear setback (lot line to principal building or attached garage)
- J Accessory building side and rear setback (lot line to accessory building)
- L Minimum pavement setbacks (lot line to pavement excluding driveways entrances, etc.)
- P Minimum required parking



- (6) Mobile Home. A dwelling unit type consisting of a fully detached, single family residence, which has not received a Federal Manufactured Housing Certificate. Regulations for mobile home uses include the following:
- (a) No Mobile Home may be split into two or more residences.
 - (b) Within 60 days of placement on the site, the owner shall remove the axle and install foundation siding. Foundation siding means a fire and weather resistant, pre-finished material surrounding the entire perimeter of a home and completely enclosing a space between the exterior wall of such home and the ground. Foundation siding shall be properly vented, harmonious, and compatible with the house. Areas enclosed by such foundation siding shall be maintained free of rodents and fire hazards.
 - (c) Storage under mobile homes is prohibited.
 - (d) Mobile homes shall adhere to all additional regulations listed in section 90-32.
 - (e) Minimum required parking: Two spaces per Mobile Home.

Section 90-56: Agricultural Land Uses

- (1) Cultivation. Cultivation includes all operations primarily oriented to the on-site, outdoor raising of plants for commercial purposes. This land use includes trees which are raised as a crop to be replaced with more trees after harvesting, such as in nursery or Christmas tree operations. Regulations for cultivation uses include the following:
- (a) On buildable lots in non-agricultural zoning districts which are platted in final form and served by improved streets and utilities, cultivation is not permitted except as a conditional use or legal non-conforming use.
 - (b) Once discontinued for a period of 12 months, cultivation uses may only be re-established in the A-1 Agricultural District or with the granting of a conditional use permit and approval of a plan of operation. The plan of operation shall list any chemicals that are proposed to be used and describe the proposed time of operation any and all farming activities involving mechanized equipment, including the earlier and latest times during the day and likely months.
 - (c) Minimum required parking: None.
- (2) On-site Agricultural Retail. This land use is associated with the sale of agricultural products grown exclusively on-site. The sale of products grown or otherwise produced off-site shall not be permitted within on-site agricultural retail operations and such activity constitutes retail sales as a commercial land use. Packaging and equipment used to store, display, package, or carry products for the convenience of the operation or its customers (such as egg cartons, baskets, containers, and bags) shall be produced off-site. Regulations for on-site agricultural retail uses include the following:
- (a) Structures or groups of structures used for on-site agricultural retail shall not exceed 500 square feet in floor area or 12 feet in height.
 - (b) Signage shall be limited to one on-site sign which shall not exceed 30 square feet in area.
 - (c) Such land use shall be served by no more than one driveway. Said driveway shall require a valid driveway permit.
 - (d) Said structure and fencing shall be located a minimum of 300 feet from any residentially zoned property.
 - (e) Once discontinued for a period of 12 months, on-site agricultural retail uses may only be re-established in the A-1 Agricultural District or with the granting of a conditional use permit.
 - (f) Minimum required parking: One space per employee on the largest work shift, four spaces for customers, and one space for every 200 square feet of product display area.

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- (3) Husbandry. Operations primarily oriented to the on-site raising and/or use of animals at an intensity of one animal unit or less per acre, including apiaries and dairying operations. Regulations for husbandry uses include the following:
- (a) Any building housing animals shall be located a minimum of 300 feet from any residentially zoned property, and 100 feet from all other lot lines.
 - (b) All outdoor animal containments (pastures, pens, and similar areas) shall be located a minimum of 10 feet from any residentially zoned property.
 - (c) Once discontinued for a period of 12 months, husbandry uses may only be re-established in the A-1 Agricultural District or with the granting of a conditional use permit.
 - (d) Minimum required parking: One space per employee on the largest work shift.
- (4) Intensive Agriculture. Operations primarily oriented to the on-site raising and/or use of animals at an intensity equal to or exceeding one animal unit per acre and/or agricultural activities requiring large investments in structures. Examples of such land uses include feed lots, hog farms, poultry operations, fish farms, and certain other operations meeting this criterion. Regulations for intensive agricultural uses include the following:
- (a) Such land uses shall not be located in or adjacent to an existing or platted residential subdivision.
 - (b) Such land uses shall be completely surrounded by a landscaped buffer approved by the Plan Commission with a minimum intensity of 1.00.
 - (c) All buildings, structures, outdoor storage areas, and outdoor animal containments (pastures, pens and similar areas) shall be located a minimum of 300 feet from all residentially zoned property and 100 feet from all other lot lines.
 - (d) Such land uses shall be located in an area which is planned to remain commercially viable for agricultural land uses.
 - (e) Once discontinued for a period of 12 months, intensive agricultural uses may only be re-established in the A-1 Agricultural District or with the granting of a conditional use permit except.
 - (f) Minimum required parking: One space per employee on the largest work shift.
- (5) Agricultural Service. Agricultural service land uses include all operations pertaining to the sale, handling, transport, packaging, storage, or disposal of agricultural equipment, products, by-products, or materials primarily used by agricultural operations. Examples of such land uses include agricultural implement sales, storage, or repair operations; feed and seed stores; agricultural chemical dealers and/or storage facilities; animal feed storage facilities; commercial dairies; food processing facilities; canning and other packaging facilities; and agricultural waste disposal facilities, except composting uses. Regulations for agricultural service uses include the following:
- (a) Such land uses shall not be located in or adjacent to an existing or platted residential subdivision.
 - (b) All buildings, structures, outdoor storage areas, and outdoor animal containments (pastures, pens and similar areas) shall be located a minimum of 100 feet from all lot lines.
 - (c) If within the A-1 Agricultural District, shall be located in an area which is planned to remain commercially viable for agricultural land uses.
 - (d) Once discontinued for a period of 12 months, intensive agricultural uses may only be re-established in the A-1 or M-1 districts, or with the granting of a conditional use permit.
 - (e) Minimum required parking: N/A.
- (6) Commercial Greenhouse. Retail businesses whose principal activity is the selling of flowers, shrubbery, vegetables, and trees grown on site and having outside storage and display. Regulations for commercial greenhouse uses include the following:
- (a) Such land uses shall not be located in an existing or platted residential subdivision.

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- (b) All buildings, structures, and outdoor storage areas shall be located a minimum of 100 feet from all residentially zoned property.
 - (c) Minimum required parking: One space per 300 square feet of gross floor area located within a permanent structure on the site plus one space per 1,000 square feet of gross floor area for all area within greenhouse structures.
- (7) Community Garden. An area for cultivation and related activities divided into one or more plots to be cultivated by more than one operator or member. These areas may be on public or private lands. Regulations for community gardens include the following:
- (a) All activity areas and structures shall comply with the required setbacks and height regulations for principal structures within the zoning district.
 - (b) Submittal of a site plan to the zoning administrator is required. The site plan submittal shall include the property owner, established sponsoring organization, and garden manager. The site plan shall also demonstrate consideration for and indicate the locations of structures, storage, access for deliveries and pickups, water availability, shaded rest area, and availability of public parking.
 - (c) The following structures are permitted: tool sheds, shade pavilions, barns, rest-room facilities with composting toilets, and planting preparation houses, benches, bike racks, raised/accessible planting beds, compost bins, picnic tables, seasonal farm stands, fences, garden art, rain barrel systems, beehives, and children's play areas.
 - (d) Signs shall be limited to identification, information, and directional signs, including sponsorship information where the sponsorship information is clearly secondary to other permitted information on any particular sign and shall not exceed a total aggregate area of 48 square feet.
 - (e) Fences shall comply with the regulations in section 90-121, except that chicken wire, woven wire, and related garden fencing shall be permitted without restriction around and within cultivated areas.
 - (f) Minimum required parking: N/A.
- (8) Market Garden. An area for cultivation and related activities divided into one or more plots to be cultivated by more than one operator or member. These areas may be on public or private lands, with on-site sales of crops grown on-site. Regulations for market gardens include the following:
- (a) All activity areas and structures shall comply with the required setbacks and height regulations for principal structures within the zoning district.
 - (b) Submittal of a site plan to the zoning administrator is required. The site plan submittal shall include the property owner, established sponsoring organization, and garden manager. The site plan shall also demonstrate consideration for and indicate the locations of structures, storage, access for deliveries and pickups, water availability, shaded rest area, and availability of public parking.
 - (c) The following structures are permitted: tool sheds, shade pavilions, barns, rest-room facilities with composting toilets, and planting preparation houses, benches, bike racks, raised/accessible planting beds, compost bins, picnic tables, seasonal farm stands, fences, garden art, rain barrel systems, beehives, and children's play areas.
 - (d) Seasonal farm stands shall be removed from the premises or stored inside a building on the premises during that time of the year when the garden is not open for public use.
 - (e) Signs shall be limited to identification, information, and directional signs, including sponsorship information where the sponsorship information is clearly secondary to other permitted information on any particular sign and shall not exceed a total aggregate area of 48 square feet.

- (f) Fences shall comply with the regulations in section 90-121, except that chicken wire, woven wire, and related garden fencing shall be permitted without restriction around and within cultivated areas.
- (g) Minimum required parking: N/A.

Section 90-57: Institutional Land Uses

- (1) Active Outdoor Public Recreation. Outdoor recreational uses located on public property (including school district property) which involves active recreational activities. Such land uses include play courts (i.e. tennis and basketball courts), playfields (i.e. ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, fitness courses, public golf courses, and similar land uses. Regulations for active outdoor public recreation land uses include the following:
 - (a) Facilities using night lighting and adjacent to residentially zoned property shall install a landscaped buffer with a minimum opacity of 0.60.
 - (b) All structures and active recreational areas shall be located a minimum of 50 feet from any residentially zoned property.
 - (c) Facilities which serve a regional or community-wide function shall provide off-street passenger loading area if the majority of the users will be children.
 - (d) Minimum required parking: One space per four expected patrons at maximum capacity for any use requiring over five spaces.
- (2) Passive Outdoor Public Recreation. Recreational land uses located on public property which involve passive recreational activities, such as arboretums, natural areas, wildlife areas, hiking trails, bike trails, cross country ski trails, horse trails, open grassed areas not associated with any particular active recreational land use (see (1), above), picnic areas, picnic shelters, gardens, fishing areas, and similar land uses. Regulations for a passive outdoor public recreation land uses include the following:
 - (a) Minimum required parking: One space per four expected patrons at maximum capacity for any use requiring over five spaces.
- (3) Indoor Institutional. All indoor public and not for profit recreational facilities (i.e. gyms, swimming pools, libraries, museums, and community centers), funeral homes, schools, churches, nonprofit clubs, nonprofit fraternal organizations, convention centers, hospitals, jails, prisons, and similar land uses. Regulations for indoor institutional land uses include the following:
 - (a) An off-street passenger loading area shall be provided if the majority of the users will be children (as in the case of a school, church, library, or similar land use).
 - (b) All structures shall be located a minimum of 50 feet from any residentially zoned property.
 - (c) Minimum required parking: Generally, one space per three expected patrons at maximum capacity. However, see additional specific requirements below:
 1. Church: One space per five seats at the maximum capacity.
 2. Community or recreation center: One space per 300 square feet of gross floor area, or one space per four patrons to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.
 3. Funeral home: One space per three patron seats at the maximum capacity, plus one space per employee on the largest work shift.
 4. Hospital: One space per two patient beds, plus one space per staff doctor and one space per two employees on the largest work shift.
 5. Library or museum: One space per 300 square feet of gross floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest work shift.

6. Elementary and junior high: One space per two employees.
 7. Senior high: One space per two employees, plus 30 percent of maximum capacity.
 8. College or trade school: One space per staff member on the largest work shift, plus one space per two students of the largest class attendance period.
- (4) Outdoor Institutional. Privately held outdoor institutional uses, such as cemeteries, country clubs, golf courses, and similar land uses. Regulations for outdoor institutional land uses include the following:
- (a) An off-street passenger loading area shall be provided if a significant proportion of the users will be children.
 - (b) All structures and actively used outdoor recreational areas shall be located a minimum of 50 feet from any residentially zoned property.
 - (c) Facilities using night lighting and adjacent to residentially zoned property shall install a landscaped buffer with a minimum opacity of 0.60.
 - (d) Minimum required parking: Generally, one space per three expected patrons at maximum capacity; otherwise, the following parking requirements apply:
 1. Cemetery: One space per employee, plus one space per three patrons to the maximum capacity of all indoor assembly areas.
 2. Golf course: Thirty-six spaces per nine holes, plus one space per employee on the largest work shift, plus 50 percent of spaces otherwise required for any accessory uses (e.g., bars, restaurants).
 3. Swimming pool: One space per 30 percent of capacity in persons.
 4. Tennis court: Three spaces per court.
- (5) Community Living Arrangement. Defined by statutes as places where 5 or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board but that include no more than 3 hours of nursing care per week per resident. Regulations for community living arrangements include the following:
- (a) Community living arrangement land uses include all facilities provided for in Wisconsin Statutes 46.03(22), including child welfare agencies, group homes for children, foster homes, treatment foster homes, adult family homes, and community based residential facilities. Community living arrangements do not include in-home or group daycare centers (see separate listings); nursing homes (an institutional residential land use); general hospitals, special hospitals, prisons, or jails (all indoor institutional land uses). Community living arrangement facilities are regulated depending upon their capacity as provided for in Wisconsin Statutes 62.23(7)(i), provided any such regulations do not violate federal or state housing or anti-discrimination laws.
 - (b) No community living arrangement shall be established within 2,500 feet of any other such facility regardless of its capacity unless Planning Commission and Common Council agree to a reduction in spacing.
 - (c) The applicant shall demonstrate that the total capacity of all community living arrangements (of all capacities) in the city shall not exceed one percent of the city's population (unless specifically authorized by the Common Council following a public hearing).
 - (d) Foster homes housing four or fewer children and licensed under Wisconsin Statutes 48.62 shall not be subject to (a), above; and shall not be subject to, or count toward, the total arrived at in (b), above.
 - (e) Minimum required parking: Three spaces.
- (6) Institutional Residential. A form of residential development designed to accommodate institutional residential land uses, such as senior housing, retirement homes, assisted living facility, nursing homes,

hospices, group homes, convents, monasteries, dormitories, nursing homes, convalescent homes, limited care facilities, rehabilitation centers, and similar land uses not considered to be community living arrangements under the provisions of Wisconsin Statutes 62.23. Regulations for institutional residential uses include the following:

- (a) No individual lots are required, although the development shall contain a minimum of 800 square feet of gross site area for each occupant of the development.
 - (b) A minimum of 30 percent of the development's gross site area shall be held as permanently protected green space.
 - (c) Project shall provide an off-street passenger loading area at a minimum of one location within the development.
 - (d) Minimum required parking:
 1. Senior housing or retirement housing: One half space per dwelling unit.
 2. Assisted living facility or limited care facility: One space per two dwelling units.
 3. Monastery, convent or dormitory: One space per six residents, plus one space per employee on the largest work shift, plus one space per five chapel seats if the public may attend.
 4. Nursing home or hospice: One space per four patient beds, plus one space per two employees on the largest work shift, plus one space per doctor.
- (7) Public Services and Utilities. All city, county, state, and federal facilities (except those otherwise treated in this section), emergency service facilities (i.e. fire departments and rescue operations), wastewater treatment plants, public and/or private utility substations, water towers, utility and public service related distribution facilities, and similar land uses. Regulations for public services and utilities include the following:
- (a) Outdoor storage areas shall be located a minimum of 50 feet from any residentially zoned property.
 - (b) All outdoor storage areas adjoining a residentially zoned property shall install a landscaped buffer with a minimum opacity of 0.60.
 - (c) All structures shall be located a minimum of 20 feet from any residentially zoned property.
 - (d) The exterior of all buildings shall be compatible with the exteriors of surrounding buildings.
 - (e) Minimum required parking: One space per employee on the largest work shift, plus one space per company vehicle normally stored or parked on the premises, plus one space per 500 square feet of gross square feet of office area.
- (8) Signal Antenna.
- (a) This section regulating the placement of signal antennas is adopted to:
 1. Provide uniform regulation of all signal antenna devices;
 2. Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
 3. Protect the public from injury from antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the antenna; and
 4. Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.
 - (b) Building Permit Required. No owner shall, within the city, build, construct, use or place any type of signal tower until a permit shall have first been obtained from the Zoning Administrator.
 - (c) Definitions. For purposes of this section, the following definitions shall apply:

1. Signal antenna means any outdoor apparatus capable of receiving and/or sending communications. This definition includes all types of signal antennas, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and shortwave radio antennas, and cellular antenna rays regardless of the method of mounting.
 2. Owner means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one owner shall be considered an owner.
- (d) Application. Application for all nonresidential signal antenna permit shall be made in writing to the department of public works. With such application, there shall be submitted a fee as set forth in the official city fee schedule on file in the city clerk's office and a sufficient set of mounting plans and specifications, including a general plot plan showing the location of the proposed signal antenna with respect to streets, lot lines and buildings. If such application meets all requirements of this section, the application shall be approved by the plan commission.
- (e) Installation standards. Signal antennas installed in any zoning district within the city shall comply with the following provisions:
1. Number of units. Not more than one satellite earth station less than or equal to 24 inches in diameter may be allowed per individual recorded lot except additional stations may be permitted upon application for a variance in nonresidential zones.
 2. Location and setbacks. All earth stations shall comply with the setback requirements for primary structures as specified in the zoning district where the earth station is located.
 3. Size and height. The diameter of a residential signal antenna shall not exceed 24 inches and/or exceed height requirements in the applicable zoning district. All nonresidential signal antennas shall be of a size and height approved by the plan commission.
 4. Wind pressure. All signal antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of 90 miles per hour.
 5. Electrical installations. Electrical installations in connection with signal antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code (Wis. Admin. Code ch. Comm. 16) and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal antenna is to be used by two or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal antennas shall be grounded against direct lightning strikes.
 6. Temporary placement. No portable or trailer-mounted signal antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding ten days in a calendar year. However, such trial placement shall be in accordance with all provisions of this section. Failure to comply shall result in a citation being issued for violation of this section. Any person making such temporary placement shall first give written notice to the department of public works of the date when such placement shall begin and end. There shall be no permit fee for temporary placement.
 7. Advertising. No form of advertising or identification, sign or mural is allowed on the signal antenna other than the customary manufacturer's identification plates.

8. Interference with broadcasting. Signal antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electro-magnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
 9. Compliance with federal regulations. The installation and use of every signal antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 (47 USC 521 et seq.) and regulations adopted there under.
 10. Aesthetic considerations. Signal antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level. The color of any satellite dish shall be such that it blends into its surroundings and shall be approved by the department of public works as part of the application.
- (f) Variances. Requests for variances from the standards established by this section may be made to the board of appeals pursuant to section 90-64
- (g) Enforcement.
1. It shall be unlawful to construct, use, build or locate any signal antenna in violation of any provisions of this section. In the event of any violation, the common council or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this section.
 2. Any person, firm or corporation who fails to comply with the provisions of this section shall, upon conviction, be subject to the general penalty found in section 1-15.

Section 90-58: Commercial Land Uses

- (1) Office. Indoor land uses where the primary function is the handling of information or administrative services. Such land uses do not typically provide services directly to customers on a walk-in or on-appointment basis. Regulations for offices include the following:
 - (a) Minimum required parking: One space per 300 square feet of gross floor area.
- (2) Indoor Sales or Service. Display and sales or rental of 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. Display of products outside of an enclosed building is considered "incidental outdoor display" (see section 90-62(15)). A land use which contains both indoor sales and outdoor sales exceeding 15 percent of the total sales area of the building(s) on the property shall be considered as "outdoor display" (see section 90-58(10)). Regulations for indoor sales or service uses include the following:
 - (a) Minimum required parking: One space per 300 square feet of gross floor area.
- (3) Personal or Professional Service. Indoor land uses where the primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples include but are not limited to insurance or financial services, realty offices, hospitals, medical offices and clinics, veterinary clinics, barber shops, beauty shops, and related land uses. Regulations for personal or professional service uses include the following:
 - (a) Minimum required parking: One space per 300 square feet of gross floor area.
- (4) Indoor Maintenance Service. Land uses where maintenance services (including repair) are performed and contain all operations (except loading) entirely within an enclosed building. Because of outdoor vehicle storage requirements, vehicle repair and maintenance is considered a vehicle repair and maintenance land use. Regulations for indoor maintenance service uses include the following:
 - (a) Minimum required parking: One space per 300 square feet of gross floor area.

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- (5) **Group Daycare.** Group daycare centers are land uses in which qualified persons provide childcare services, such as daycare centers and nursery schools. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business, or civic organization. In such instances, group daycare centers are not considered an accessory uses and therefore require review as a separate land use. Regulations for group daycare uses include the following:
- (a) Group daycare centers shall not be located within a residential building.
 - (b) Facility shall provide a landscaped buffer with a minimum opacity of 0.50 along all property borders abutting residentially zoned property.
 - (c) Property owner's permission is required as part of the conditional use permit application.
 - (d) Minimum required parking: One space per five students, plus one space for each employee on the largest work shift.
- (6) **Artisan Studio.** A building or portion thereof used for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leather craft, hand-woven articles, and related items, as either a principal use or accessory use. Regulations for artisan studios include the following:
- (a) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all property borders abutting residentially zoned property.
 - (b) Minimum required parking: One space per 300 square feet of gross floor area. Adequate on-site parking is required for all customer and employee vehicles.
- (7) **Indoor Commercial Entertainment.** Land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.), bowling alleys, arcades, roller rinks, and pool halls. Regulations for indoor commercial entertainment uses include the following:
- (a) If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property.
 - (b) Facility shall provide a landscaped buffer with minimum opacity of 0.60 along all borders of the property abutting residentially zoned property.
 - (c) Minimum required parking: One space per every three patron seats or lockers (whichever is greater); or one space per three persons at the maximum capacity of the establishment (whichever is greater).
- (8) **Outdoor Commercial Entertainment.** Land uses which provide entertainment services partially or wholly outside of an enclosed building. Such activities often have the potential to be associated with nuisances related to noise, lighting, dust, trash, and late operating hours. Examples of such land uses include outdoor commercial swimming pools, driving ranges, miniature golf facilities, amusement parks, drive-in theaters, go-cart tracks, and racetracks. Regulations for outdoor commercial entertainment uses include the following:
- (a) Activity areas shall not be located closer than 300 feet to a residentially zoned property.
 - (b) Facility shall provide a landscaped buffer with minimum opacity of 0.80 along all borders of the property abutting residentially zoned property.
 - (c) Activity areas (including drive-in movie screens) shall not be visible from any residentially zoned property.
 - (d) Minimum required parking: One space for every three persons at the maximum capacity of the establishment.

- (9) Drive-Through Sales or Service. 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). Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples include drive-in, drive-up, and drive-through facilities, vehicular fuel stations, and all forms of car washes. If performed in conjunction with a principal land use (e.g., a convenience store, restaurant, or bank), drive-through sales or service land uses shall be considered an accessory use. Regulations for drive-through sales or service uses include the following:
- (a) Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access to the facility adjacent to the drive-through lane(s).
 - (b) The drive-through facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts.
 - (c) In no instance shall a drive-through facility be permitted to operate which endangers the public safety, even if such land use has been permitted under the provisions of this section.
 - (d) The setback of any overhead canopy or similar structure shall be a minimum of 10 feet from all street rights-of-way lines, a minimum of 20 feet from all residentially zoned property lines, and shall be a minimum of 5 feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed 20 feet per the measurement of roof height.
 - (e) All vehicular areas of the facility shall provide a surface paved with concrete or bituminous material which is designed to meet the requirements of a minimum 4 ton axle load.
 - (f) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all property borders abutting residentially zoned property.
 - (g) Interior curbs shall be used to separate driving areas from exterior fixtures such as fuel pumps, vacuums, menu boards, canopy supports, and landscaped islands. Said curbs shall be a minimum of 6 inches high and be of a non-mountable design. No curb protecting an exterior fixture shall be located closer than 25 feet to all property lines.
 - (h) Any text or logo larger than one square foot per side on an overhead canopy or other accessory structure shall be considered a freestanding sign subject to regulation under Article IX of this Chapter.
 - (i) Minimum required parking: Refer to the parking requirements of the other land use activities on the site (i.e. indoor sales and service for a gas station/convenience store, or office for a bank). Each drive-up lane shall have a minimum stacking length of 100 feet behind the pass through window and 40 feet beyond the pass through window. This requirement may be adjusted by the Plan Commission through the conditional use process.
- (10) Outdoor Display. Display and sales or rental of merchandise or equipment outside of an enclosed building. Examples include manufactured and mobile housing sales, monument sales, outdoor garden center, and outdoor recreation equipment sales. Such land uses do not include vehicles sales (see section 90-58(17)) the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard (see section 90-59(4)). If a land use displays for sale or rent only a limited amount of product outside of an enclosed building, such use may instead be considered incidental to indoor sales under section 90-62(13). Regulations for outdoor display uses include the following:
- (a) The area of outdoor sales shall be calculated as the area which would be enclosed by a required physical separation installed and continually maintained in the most efficient manner which completely encloses all materials displayed outdoors.
 - (b) The display of items shall not be permitted in required landscaped areas, bufferyards, or setback areas for the principal structure.

- (c) In no event shall the display of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by (i), below. If the number of provided parking stalls on the property is already less than the requirement, such display area shall not further reduce the number of parking stalls already present.
 - (d) Display areas shall be separated from any circulation area by a minimum of ten feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, line of planters, or by a clearly marked paved area.
 - (e) Signs, screening, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either on-site or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.
 - (f) Outdoor display shall be permitted during the entire calendar year, however, if goods are removed from the display area all support fixtures used to display the goods shall be removed within ten calendar days of the goods' removal.
 - (g) Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed for this land use.
 - (h) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all borders of the display area abutting residentially zoned property.
 - (i) Minimum required parking: One space per 300 square feet of gross floor area.
- (11) Outdoor Maintenance Service. Land uses where maintenance services, including repair, are performed and have all or any portion of their operations located outside of an enclosed building. Regulations for outdoor maintenance service uses include the following:
- (a) All outdoor activity areas shall be completely enclosed by a minimum 6 feet high fence. Such enclosure shall be located a minimum of 50 feet from any residentially zoned property
 - (b) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all borders of the display area abutting residentially zoned property.
 - (c) Minimum required parking: One space per 300 square feet of gross floor area, or one space per each employee on the largest shift, whichever is less.
- (12) Bed and Breakfast. Places of lodging that provide rooms for rent, are the owner's personal residence, and are occupied by the owner at the time of rental. Regulations for bed and breakfast uses include the following:
- (a) If alcoholic beverages of any kind are to be served on the premises, the owner of the establishment shall first obtain the appropriate license in accordance with city and state regulations.
 - (b) Each such establishment shall be inspected annually to verify that the land use continues to meet all applicable regulations. A fee for such annual inspection shall be imposed by the City.
 - (c) One sign, with a maximum area of 20 square feet, shall be permitted on the property.
 - (d) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all property borders abutting residentially zoned property.
 - (e) No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from such premises.
 - (f) Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room. Each sleeping room used for the bed and breakfast operation shall have a separate operational smoke detector alarm.
 - (g) One lavatory and bathing facility shall be required for every ten occupants, in addition to the owner/occupants personal facilities.

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- (h) The dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator/owner and said operator/owner shall live on the premises when the bed and breakfast operation is active.
 - (i) Only the meal of breakfast shall be served to overnight guests.
 - (j) Each operator shall keep a list of names of all persons staying at the bed and breakfast operation. This list shall be kept on file for a period of one year. Such list shall be available for inspection by city officials at any time.
 - (k) The maximum stay for any occupants of bed and breakfast operations shall be 14 days.
 - (l) It shall be unlawful for any persons to operate a bed and breakfast establishment as defined and permitted in the Municipal Code of the City of Portage without first having obtained a conditional use permit.
 - (m) **Application Requirements.** Applicants for a license to operate a bed and breakfast shall submit a floor plan of the single-family dwelling unit illustrating that the proposed operation will comply with this chapter and other applicable city codes and ordinances.
 - (n) **Consideration of Issuance.** After application duly filed with the clerk for a license under this chapter, plan commission review and recommendation for a conditional use permit, the city shall hold a public hearing and determine whether any further license shall be issued based upon the public convenience and necessity of the people in the city. In the plan commission's determination of the number of bed and breakfast operations required to provide for such public convenience and necessity, the plan commission shall consider the effect upon residential neighborhoods, conditions of existing holders of licenses, and the necessity of issuance of additional licenses for public service.
 - (o) **Public Nuisance Violations.** Bed and breakfast operations shall not be permitted whenever the operation endangers, or offends, or interferes with the safety or rights of others so as to constitute a nuisance.
 - (p) **Suspension, Revocation and Renewal.** Any license issued under the provisions of this chapter may be revoked by the plan commission for good cause shown after investigation and opportunity to the holder of such license to be heard in opposition thereto; in such investigation the compliance or noncompliance with the state law and local ordinances, the conduct of the licensee in regard to the public, and other consideration shall be weighed in determination of such issue.
 - (q) **Minimum required parking:** One space per each bedroom in addition to requirements for principal residents.
- (13) **Commercial Indoor Lodging.** Facilities that provide overnight housing in individual rooms or suites with each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurant, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore do not require review as a separate land use. Regulations for commercial indoor lodging uses include the following:
- (a) If located on the same side of a building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of a residentially zoned property.
 - (b) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all property borders abutting residentially zoned property.
 - (c) **Minimum required parking:** One space per bedroom, plus one space for each employee on the largest work shift.
- (14) **Boarding House.** Any residential use with shared bathroom, living, and/or kitchen facilities. Regulations for boarding houses include the following:

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- (a) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all property borders abutting residentially zoned property.
 - (b) Shall provide a minimum of one on-site parking space for each room for rent.
 - (c) Shall be located in an area of transition from residential land uses to non-residential land uses.
 - (d) Minimum required parking: One space per room for rent, plus one space per each employee on the largest work shift.
- (15) Campground. Campgrounds include any facilities designed for overnight accommodation of persons in tents, travel trailers, or other mobile or portable shelters or vehicles. Regulations for campgrounds include the following:
- (a) Facility shall provide a landscaped buffer with a minimum opacity of 0.70 along all property borders abutting residentially zoned property.
 - (b) Minimum required parking: One and one-half spaces per campsite.
- (16) Commercial Animal Service and Boarding. Facilities where animal services and boarding is provided, such as veterinary clinics, pet grooming, kennels, and stables. Exercise yards, fields, training areas, and trails associated with such land uses are considered accessory to such land uses and do not require separate consideration. Regulations for commercial animal service and boarding uses include the following:
- (a) Each animal shall be provided with an indoor containment area.
 - (b) The minimum permitted size of horse or similar animal stall shall be 100 square feet.
 - (c) Special events such as shows, exhibitions, and contests shall only be permitted when a temporary use permit has been secured.
 - (d) Minimum required parking: One space per every 1,000 square feet of gross floor area.
- (17) Vehicle Sales. The display and sale or rental of vehicles outside of an enclosed building. Such land uses also include a repair shop associated with the vehicle display lot and sales building. Such land uses do not include the storage or display of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard (see section 90-59(4)). If a land use displays only a limited amount of for sale or rent vehicles outside of an enclosed building, such use may instead be considered incidental to indoor sales under section 90-62(13)). Regulations for vehicle sales include the following:
- (a) The area of outdoor vehicle sales shall be calculated as the area which would be enclosed by a required physical separation installed and continually maintained in the most efficient manner which completely encloses all vehicles displayed outdoors.
 - (b) The display of vehicles shall not be permitted in required landscaped areas, bufferyards, or within setback areas for the principal structure.
 - (c) Display areas shall be separated from any circulation area by a minimum of ten feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, line of planters, or by a clearly marked paved area.
 - (d) Signs, screening, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either on-site or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.
 - (e) Vehicle sales shall be permitted during the entire calendar year; however, if goods are removed from the display area all support fixtures used to display the goods shall be removed within ten calendar days of the goods' removal.
 - (f) Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed for this land use.
 - (g) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all borders of the display area abutting residentially zoned property.
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- (h) In no event shall the display of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions (j), below. If the number of provided parking stalls on the property is already less than the requirement, such display area shall not further reduce the number of parking stalls already present.
 - (i) Minimum required parking: One space per 300 square feet of gross floor area.
- (18) Vehicle Repair and Maintenance. Vehicle repair and maintenance services, independent of vehicles sales (see section 90-58(17)), include all land uses which perform maintenance services (including repair) to motorized vehicles and contain all operations (except vehicle storage) entirely within an enclosed building. Regulations for vehicle repair and maintenance uses include the following:
- (a) Storage of abandoned vehicles is prohibited.
 - (b) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all property borders abutting residentially zoned property.
 - (c) Minimum required parking: One space per 300 square feet of gross floor area. Adequate on-site parking is required for all customer and employee vehicles.

Section 90-59: Storage or Disposal Land Uses

- (1) Indoor Storage and Wholesaling. Land uses primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. With the exception of loading and parking facilities, such land uses are contained entirely within an enclosed building. Examples of this land use include conventional warehouse facilities, long-term indoor storage facilities, and joint warehouse and storage facilities. Regulations for indoor storage and wholesaling uses include the following:
- (a) Minimum required parking: One space per 2,000 square feet of gross floor area.
- (2) Outdoor Storage or Wholesaling. Land uses primarily oriented to the receiving, holding, and shipping of packaged materials for a single business or a single group of businesses. Such a land use, in which any activity beyond loading and parking is located outdoors, is considered an outdoor storage and wholesaling land use. Examples of this land use include contractors' storage yards, equipment yards, lumber yards, coal yards, landscaping materials yard, construction materials yards, and shipping materials yards. Such land uses do not include the storage of inoperative vehicles or equipment, or other materials typically associated with a junkyard or salvage yard. Regulations for outdoor storage and wholesaling uses include the following:
- (a) All outdoor storage areas shall be completely enclosed by any permitted combination of buildings, structures, walls, and fencing. Such walls and fencing shall be a minimum of 8 feet in height and shall be designed to completely screen all stored materials from view from non-industrialized areas at an elevation of 5 feet above the grade of all adjacent properties and rights-of-way. Said walls or fencing have a minimum opacity of 0.80.
 - (b) The storage of items shall not be permitted in required landscaping areas.
 - (c) Storage areas shall be separated from any vehicular parking or circulation area by a minimum of 10 feet. This separation shall be clearly delimited by a physical separation such as a greenway, curb, fence, line of planters, or by a clearly marked paved area.
 - (d) Materials being stored shall not interfere in any manner with either on-site or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.
 - (e) Inoperative vehicles or equipment, or other items typically stored in a junkyard or salvage yard, shall not be stored under the provisions of this land use.
 - (f) Facility shall provide a landscaped buffer with a minimum opacity of 0.60 along all property borders abutting residentially zoned property.

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- (g) All outdoor storage areas shall be located no closer to a residentially zoned property than the required minimum setback for buildings on the subject property.
 - (h) In no event shall the storage of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement established by the provisions (i), below. If the number of provided parking stalls on the property is already less than the requirement, such storage area shall not further reduce the number of parking stalls already present.
 - (i) Minimum required parking: One space for every 10,000 square feet of gross storage area, plus one space per each employee on the largest work shift.
- (3) Personal Storage Facility. Personal storage facilities (also known as “mini-warehouses”) are land uses oriented to the indoor storage of items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. Regulations for personal storage facilities include the following:
- (a) Facility shall be designed so as to minimize adverse visual impacts on nearby developments. The color, exterior materials, and orientation of proposed buildings and structures shall complement surrounding development.
 - (b) Facility shall provide a landscaped buffer with a minimum opacity of 0.80 along all property borders abutting residentially zoned property.
 - (c) No electrical power shall be run to the storage facilities, except for exterior lighting.
 - (d) Minimum required parking: One space for each employee on the largest work shift.
- (4) Junkyard or Salvage Yard. Outdoor facilities used for a salvaging operation, including but not limited to the above-ground storage and/or sale of waste paper, rags, scrap metal, and any other discarded materials intended for sale and/or the collection, dismantlement, or salvage of two or more unlicensed and/or inoperative vehicles. Regulations for junkyard or salvage yard uses include the following:
- (a) Facility shall provide a landscaped buffer with a minimum opacity of 1.00 along all property borders abutting residentially zoned property.
 - (b) All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from roads and 50 feet from all lot lines.
 - (c) In no instance shall activity areas be located within a required frontage landscaping areas.
 - (d) Shall not involve the storage, handling, or collection of hazardous materials.
 - (e) Minimum required parking: One space for every 20,000 square feet of gross storage area, plus one space for each employee on the largest work shift.
- (5) Waste Disposal/Composting Facility. Waste disposal facilities are any areas used for the collection and disposal of solid wastes and recyclable materials including those defined by Wisconsin Statutes 289.01(33). Composting facilities are any land uses devoted to the collection, storage, processing, and or disposal of vegetation. Regulations for waste disposal or composting facilities include the following:
- (a) Such land uses shall comply with all county, state, and federal regulations.
 - (b) Facility shall provide a landscaped buffer with a minimum opacity of 1.00 along all borders of the property.
 - (c) All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.
 - (d) Composting operations shall not involve on-site holding, storage or disposal of food scraps, other vermin-attracting materials, or hazardous wastes defined by State Statutes.
 - (e) Operations shall not involve the on-site holding, storage, or disposal of hazardous materials in any manner.
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- (f) Required site plans shall include detailed site restoration plans, which shall include at minimum, detailed grading and re-vegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110 percent of the costs determined to be associated with said restoration (as determined by a third party selected by the city), shall be filed with the city by the petitioner (subject to approval by the zoning administrator), and shall be held by the city for the purpose of ensuring that the site is restored to its proposed condition. (The requirement for said surety is waived for facilities owned by public agencies.)
 - (g) Minimum required parking: One space for each employee on the largest work shift.
- (6) Recycling Center. Facilities designed to be a collection point where only recyclable items are sorted and/or temporarily stored prior to shipment for reuse and/or processing into new products. Examples of recyclable materials include newspapers, magazines, books, metal, glass, electronics, aluminum, etc. Regulations for recycling centers include the following:
- (a) Shall comply with all county, state and federal regulations, including the issuance of a Department of Natural Resources permit under State Statutes.
 - (b) All buildings, structures, and activity areas on composting operation sites shall be located a minimum of 50 feet from all lot lines.
 - (c) Facility shall provide a landscaped buffer with a minimum opacity of 1.00 along all borders of the property.
 - (d) Operations shall not involve the on-site holding, storage, or disposal of hazardous materials in any manner.
 - (e) Required site plans shall include detailed site restoration plans, which shall include at minimum, detailed grading and re-vegetation plans, and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110 percent of the costs determined to be associated with said restoration (as determined by a third party selected by the city), shall be filed with the city by the petitioner (subject to approval by the zoning administrator), and shall be held by the city for the purpose of ensuring that the site is restored to its proposed condition. (The requirement for said surety is waived for facilities owned by public agencies.)
 - (f) Minimum required parking: One space for each employee on the largest work shift.

Section 90-60: Transportation Land Uses

- (1) Airport. Transportation facilities providing takeoff, landing, servicing, storage and other services to any type of air transportation, including ultralight aircraft, hang gliders, parasails, and related equipment. Regulations for airports include the following:
 - (a) All buildings, structures, outdoor airplane or helicopter storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines.
 - (b) Facility shall provide a landscaped buffer with a minimum opacity of 1.00 along all borders of the property not otherwise completely screened from activity areas by buildings or structures.
 - (c) Minimum required parking: One space per each employee on the largest work shift, plus one space per every five passengers based on average daily ridership.
- (2) Distribution Center. Facilities oriented to the short-term indoor storage and possible repackaging and reshipment of materials involving the activities and products of a single user. Retail outlets associated with this use shall be considered accessory uses per section 90-62(13). Regulations for distribution centers include the following:
 - (a) Facility shall provide a landscaped buffer with a minimum opacity of 1.00 along all property borders abutting residentially zoned property.

- (b) All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines abutting residentially zoned property.
 - (c) In no instance shall activity areas be located within a required frontage landscaping areas.
 - (d) Minimum required parking: One space per each employee on the largest work shift.
- (3) Freight Terminal. Land and buildings representing either end of one or more truck carrier line(s) which may have some or all of the following facilities: yards, docks, management offices, storage sheds, buildings, and/or outdoor storage areas, freight stations, and truck maintenance and repair facilities, principally serving several or many businesses and always requiring trans-shipment. Regulations for freight terminals include the following:
- (a) Facility shall provide a landscaped buffer with a minimum opacity of 1.00 along all property borders abutting residentially zoned property.
 - (b) All buildings, structures, outdoor storage areas, and any other activity areas shall be located a minimum of 100 feet from all lot lines abutting residentially zoned property.
 - (c) In no instance shall activity areas be located within a required frontage landscaping areas.
 - (d) Minimum required parking: One space per each employee on the largest work shift.
- (4) Off-Site Parking Lot. Off-site parking lots are any areas used for the temporary parking of vehicles which are fully registered, licensed and operative. Regulations for off-site parking lots include the following:
- (a) Access and vehicular circulation shall be designed so as to discourage cut-through traffic.

Section 90-61: Industrial Land Uses

- (1) Light Industrial. Industrial facilities at which all operations (with the exception of loading operations) are conducted entirely within an enclosed building; are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; do not pose a significant safety hazard (such as danger of explosion); and comply with all of the performance standards listed for potential nuisances in Article VII. Light industrial land uses may conduct retail sales activity as an accessory use provided that the requirements of section 90-62(13). Regulations for light industrial uses include the following:
- (a) All activities, except loading and unloading, shall be conducted entirely within the confines of a building.
 - (b) Minimum required parking: One space per each employee on the largest work shift.
- (2) Heavy Industrial. Industrial facilities which do not comply with one or more of the following criteria: are conducted entirely within an enclosed building; are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line; and do not pose a significant safety hazard (such as danger of explosion). More specifically, heavy industrial land uses are industrial land uses which may be wholly or partially located outside of an enclosed building; may have the potential to create certain nuisances which are detectable at the property line; and may involve materials which pose a significant safety hazard. However, in no instance shall a heavy industrial land use exceed the performance standards listed in Article VII. Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers) including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials. Regulations for heavy industrial uses include the following:

- (a) Facility shall provide a landscaped buffer with a minimum opacity of 1.00 along all borders of the property other than permanent open space abutting properties which are not zoned M-2 Heavy Industrial.
 - (b) All outdoor activity areas shall be located a minimum of 100 feet from residentially zoned property.
 - (c) No materials shall be stacked or otherwise stored so as to be visible over landscaping screening elements.
 - (d) Minimum required parking: One space per each employee on the largest work shift.
- (3) Non-Metallic Extraction. Land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities. Regulations for non-metallic extraction uses include the following:
- (a) Shall receive approval from the county prior to action by the City of Portage and shall comply with all county, state, and federal regulations.
 - (b) Facility shall provide a landscaped buffer with a minimum opacity of 1.00 along all borders of the property other than permanent open space.
 - (c) All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines.
 - (d) Required site plans shall include detailed site restoration plans, which shall include, at minimum, detailed grading and re-vegetation plans and a detailed written statement indicating the timetable for such restoration. A surety bond, in an amount equivalent to 110 percent of the costs determined to be associated with said restoration (as determined by a third party selected by the city), shall be filed with the city by the petitioner (subject to approval by the zoning administrator), and shall be held by the city for the purpose of ensuring that the site is restored to its proposed condition. (The requirement for said surety is waived for publicly-owned extraction facilities).
 - (e) Minimum required parking: One space per each employee on the largest work shift.

Section 90-62: Accessory Land Uses

- (1) Accessory Yard Structure. Accessory yard structures include detached private residential garages, carports primarily use to shelter parked passenger vehicles, and utility sheds used to store residential maintenance equipment of the subject property. Regulations for accessory yard structures include the following:
- (a) One attached or detached garage and one accessory yard structure shall be permitted by right.
 - (b) The combined gross floor area of garages, carports, and utility sheds shall not exceed the gross floor area of the principal structure on the lot.
 - (c) For garages in embankments in front yards, where the mean natural grade of a front yard is more than 8 feet above the curb level, a private garage may be erected within the front yard, provided as follows:
 - 1. That such private garage shall be located not less than five feet from the front lot line;
 - 2. That the floor level of such private garage shall be not more than one foot above the curb level; and
 - 3. That at least one-half the height of such private garage shall be below the mean grade of the front yard.
 - (d) A conditional use permit is required for:
 - 1. A combination of accessory structures exceeding a total of 1,000 square feet.
 - 2. More than two accessory structures.

3. A street-loaded garage within the R-T Residential District (alley-loaded garages are permitted by right).
- (2) Private Residential Recreation. This land use includes all active outdoor recreational facilities located on a private residential lot which are not otherwise listed herein. Common examples of these accessory uses include swing sets, tree houses, basketball courts, tennis courts, swimming pools, and recreation-type equipment. Regulations for private residential recreation uses include the following:
 - (a) Exterior lighting of structure or facility shall be equal to or less than 0.5 foot candles.
 - (b) Tree houses and similar platforms shall not exceed a platform height of 8 feet and shall be setback twice their elevation from any property line.
- (3) Upper story dwelling unit. Upper story dwelling units are dwelling units which are located directly above the ground floor of a building used for an office, commercial, or institutional land use. Residential uses will be permitted on the ground floor of a building used for an office, commercial, or institutional land use, but may not be within the first 24 feet of the ground floor measured from the front of the building. Regulations for upper story dwelling units include the following:
 - (a) The gross floor area devoted to commercial apartments shall be counted toward the floor area of a nonresidential development.
 - (b) Minimum required parking: Except in the downtown zoning district, a minimum of one off-street parking space shall be provided for each bedroom within a commercial apartment. Parking spaces provided by nonresidential land uses on the site may be counted for this requirement with the approval of the zoning administrator.
- (4) Caretaker's residence. This land use includes any residential unit which provides permanent housing for a caretaker of the subject property in either an attached or detached configuration. Regulations for caretaker's residence include the following:
 - (a) Shall provide housing only for on-site caretaker and family.
- (5) In-Family Suite. The in-family suite is an area within a dwelling unit that may contain a separate kitchen, dining, bathroom, laundry, living, sleeping, and recreation areas, including exterior porches, patios, and decks. In addition to the required internal physical connection, separate outdoor access or separate access to the garage may be provided. However, external stairs serving as the primary access to the in-family suite are prohibited. Regulations for in-family suites include the following:
 - (a) The dwelling unit and the in-family suite shall together appear as a single-family dwelling. A separate walled garage area or driveway is not permitted.
 - (b) A separate address for the in-family suite is not permitted.
 - (c) A separate utility connection or meters are not permitted.
 - (d) A physical all-weather connection between the main living area and the in-family suite must be present. This required connection may not occur through an attic, basement, garage, porch, or other non-living area. A door may be used to separate the in-family suite from the rest of the dwelling unit, but may not be locking, except that a locking door may be used for the bedroom and bathroom doors of the in-family suite.
 - (e) The in-family suites may not be occupied by a non-family member.
 - (f) In-family suites should be considered and regulated as part of a single-family dwelling unit.
 - (g) When an application is submitted for a building permit to accommodate what is explicitly listed as, or could possibly serve as, an in-family suite, the building plan shall be marked as "not a separate dwelling unit or apartment," and a signed letter from the applicant stating agreement with this condition shall be filed.
- (6) Farm Residence. A farm residence is a single-family detached dwelling unit located on the same property as any of the principal agricultural land uses listed in section 90-56.

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- (7) Private Residential Kennel. A maximum of any combination of four dogs and/or cats (over five months of age) are permitted by right for any one residential unit. Any residence housing more dogs and/or cats in any combination shall be considered a private residential kennel and is subject to regulations included in section 6-54 of the Municipal Code.
- (8) Private Residential Stable. A private residential stable is a structure facilitating the keeping of horses (or similar animals) on the same site as a residential dwelling. Regulations for private residential stables include the following:
- (a) A minimum lot area of 175,000 square feet (4 acres) is required for a private residential stable.
 - (b) A maximum of one horse per two acres of fully enclosed (by fencing and/or structures) area is permitted.
 - (c) Outdoor containments for animals shall be located a minimum of 25 feet from any residentially zoned property.
 - (d) The minimum permitted size of horse or similar animal stall shall be 100 square feet.
- (9) Home Occupation. It is the intent of this section to provide a means to accommodate a small home-based family or professional business without the necessity of a rezoning from a residential to a business district. Approval of an expansion of a home occupation at a future time beyond the limitations of this section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary. Home occupations are economic activities performed within any single-family detached residence which comply with the following requirements. Examples include personal and professional services and handicrafts which comply with all of the following requirements:
- (a) The use is to be clearly incidental to residential use.
 - (b) The area used to conduct the home occupation shall not exceed 25 percent of the improved square footage, excluding the garage, and the occupation shall be conducted within the principal building, except for sales of home grown produce grown on site.
 - (c) Any home occupation shall be carried on only by a member of the immediate family residing on the premises.
 - (d) Any home occupation involving customer visits to the premises shall require a conditional use permit.
 - (e) No activity, materials, goods or equipment incidental to the home occupation shall be externally visible, except for home grown produce grown on site.
 - (f) No home occupation shall endanger the public health and safety and shall not interfere with other parcels in the neighborhood.
 - (g) No food articles shall be sold or offered for sale on the premises except for home grown produce grown on site.
 - (h) No mechanical or electrical equipment shall be installed or maintained other than such as customarily incidental to domestic use.
 - (i) Only one sign for professional services shall be allowed. Such sign shall not be illuminated and shall not exceed three square feet.
- (10) In-Home Daycare (4-8 Children). Occupied residences in which a qualified person or persons provide childcare for 4 to 8 children. The care of less than four children is not subject to the regulations of this Chapter. State Law Reference: §66.1017(1)(a), Wisconsin Statutes.
- (11) In-Home Daycare (9-15 Children). Occupied residences in which a qualified person or persons provide childcare for 9 to 15 children. State Law Reference: §48.65, Wisconsin Statutes.

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- (12) **Company Cafeteria.** A food service operation which provides food only to company employees and their guests, meets state food service requirements, and is located on the same property as a principal land use engaged in an operation other than food service.
 - (13) **Company Recreation.** Any active or passive recreational facility located on the same site as a principal land use, and which is reserved solely for the use of company employees and their guests. Regulations for company recreation uses include the following:
 - (a) All structures and actively used outdoor areas shall be located a minimum of 50 feet from any residentially zoned property.
 - (b) Outdoor recreation facilities using night lighting and adjoining a residentially zoned property shall install and continually maintain a landscaped buffer with a minimum opacity of 0.60. Facilities using night lighting shall require a conditional use permit.
 - (14) **Incidental Indoor Sales.** These land uses include any retail sales activity conducted exclusively indoors which is incidental to a principal land use such as warehousing, wholesaling, or any light industrial land use on the same site. Regulations for incidental indoor sales uses include the following:
 - (a) Adequate parking, per the requirements of sections 90-58(2) shall be provided for customers. Said parking shall be in addition to that required for customary storage or light industrial activities.
 - (b) The total area devoted to sales activity shall not exceed 25 percent of the total area of the buildings on the property. Areas devoted to artisan studio uses such as custom ceramics, glass, wood, paper, fabric, and similar crafts may exceed 5,000 square feet with the granting of a conditional use permit for such use.
 - (c) Shall provide restroom facilities directly accessible from retail sales area.
 - (d) Retail sales area shall be physically separated by a wall from other activity areas.
 - (15) **Incidental Light Industrial.** Any light industrial activity conducted exclusively indoors which is incidental to a principal land use such as indoor sales or service, on the same site. Regulations for incidental light industrial uses include the following:
 - (a) The total area devoted to light industrial activity shall not exceed 15 percent of the total area of the buildings on the property, or 5,000 square feet, whichever is less.
 - (b) Production area shall be physically separated by a wall from other activity areas and shall be soundproofed to the level required by section 90-124 of this Chapter for all adjacent properties.
 - (16) **Incidental Outdoor Display.** The sale and display of merchandise or equipment outside of an enclosed building and is incidental to a principal commercial or industrial land use. Regulations for incidental outdoor display uses include the following:
 - (a) Outdoor display of merchandise or equipment shall not exceed 12 days.
 - (b) Display area shall not exceed 25 percent of gross floor area of principal building on the site.
 - (17) **Migrant Labor Camp.** Migrant labor camps include any facility subject to the regulation of Wisconsin Statutes 103.90(3)(a). Regulations for migrant labor camps include the following:
 - (a) Shall be surrounded by a landscaped buffer with a minimum opacity of 0.60 along all property lines adjacent to all properties in residential, office, or business zoning districts.
 - (b) Migrant labor camp shall be an accessory use to an active principal use and under the same ownership.
 - (18) **On-Site Accessory Parking Lot.** On-site parking lots are any areas located on the same site as the principal land use which are used for the temporary parking of vehicles which are fully registered, licensed, and operative. Regulations for on-site accessory parking lots include the following:
 - (a) Access and vehicular circulation shall be designed so as to discourage cut-through traffic.
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- (19) **Drainage Structure.** These include all improvements including, but not limited to swales, ditches, culverts, drains, tiles, gutters, levees, basins, detention or retention facilities, impoundments, and dams intended to effect the direction, rate and/or volume of stormwater runoff, snow melt, and/or channelized flows across, within and/or away from a site. Regulations for drainage structures include the following:
- (a) All drainage improvements shall comply with the city's stormwater regulations listed in Article VIII of the Municipal Code.
- (20) **Individual Septic Disposal System.** This land use includes any state-enabled, county-approved septic disposal system. Regulations for individual septic disposal systems include the following:
- (a) Minimum lot size of 0.5 acres.
- (21) **Wind Energy Conversion System (WECS).** A machine or mechanism that converts the kinetic energy in the wind into a usable form of electrical or mechanical energy, such as a wind turbine or windmill. Regulations for WECS include the following:
- (a) The WECS shall be located such that the furthest extension of the apparatus does not cross any site or property line.
 - (b) If the WECS is not maintained in operational condition for a period of one year and poses a potential safety hazard, the owner or operator shall take expeditious action to remedy the situation. The city reserves the authority to abate any hazardous situation and to pass the cost of such abatement onto the owner or operator of the system. If the city determines that the wind energy conversion system has been abandoned and poses a safety hazard, the system shall be removed within 45 days of written notice to the owner or operator of the system.
 - (c) WECS shall be set back from all property lines at a distance that is greater than or equal to the maximum height of the WECS structure.
 - (d) No WECS shall be constructed on any lot prior to establishment of an allowable principal structure, unless otherwise stated in this Chapter.
- (22) **Solar Energy System.** An energy system which converts solar energy to usable thermal, mechanical, chemical, or electrical energy. Regulations for solar energy systems include the following:
- (a) Roof top solar energy systems are permitted by right in all zoning districts as accessory structures.
 - (b) Building-mounted and free standing solar energy systems that meet the setbacks for accessory structures are permitted by right in all zoning districts. Building-mounted and free standing solar energy systems that do not meet the setbacks for accessory structures are permitted as conditional uses in all zoning districts.
 - (c) Solar energy systems are limited to the height restriction for principal buildings of the district in which they are located.
 - (d) Free standing solar energy systems shall comply with the height limits for accessory structures. Building-mounted solar energy systems shall comply with the height limits for primary structures.
 - (e) No person in control of property shall allow a tree or shrub to be placed or grow so as to cast a shadow between the hours of 9:00 a.m. and 3:00 p.m. Central Daylight Saving Time, upon a solar collector energy system capable of generating more than 1,000,000 British thermal units per year, and which supplies a part of the energy requirements for improvements on the property where the solar energy system is permanently located. The provisions of this subsection shall not require the removal of existing vegetation.
 - (f) The requirements of Wisconsin Statutes, including but not limited to 66.0401 and 66.0403, shall apply to all solar energy systems.

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- (24) Chicken coop and run. Refer to Section 6-122.
- (a) No chicken coop or run shall be located closer than fifteen (15) feet to any lot line, unless neighbor approval requirements are met.
 - (b) No chicken coop shall be located in the front or side yard of a parcel, whether outside the setback or not.
 - (c) Chicken coops shall not be included in the number of permitted accessory structures on a lot.
 - (d) Chickens shall not be permitted in any other structure on the lot, including garages, basements and attics.

Section 90-63: Temporary Land Uses

- (1) Clear Cutting. The one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction (including by fire) of trees in an area (or combined areas) of more than 30 percent of the woodlands on a property (or up to 100 percent for developments approved prior to the effective date of this Chapter). Any owner of property who intentionally clear cuts any area of his/her property or who intentionally solicits or causes another to intentionally clear cut any area of his/her property without first having secured a conditional use permit for such activity shall be subject to a forfeiture for such wrongful conduct and shall be required to implement the mitigation standards required for the destruction of woodlands solely at his/her expense, including costs associated with site inspection to confirm the satisfaction of mitigation requirements. Areas having been clear cut unintentionally as a result of fire shall not subject the owner of the property to forfeiture for such non-approved clear cutting activity, but shall require the satisfaction of mitigation requirements at the owner's expense, including cost associated with site inspection to confirm the satisfaction of mitigation requirements.
- (a) Clear cutting requires a conditional use permit.
 - (b) Applicant shall demonstrate that clear cutting will improve the level of environmental protection on the subject property.
 - (c) Areas of the subject property which are clear cut beyond the limitations established above shall be replanted.
 - (d) Clear cutting shall not be permitted within required landscaped areas or within an area within the C-1 Resource Conservation Overlay District.
- (2) Selective Cutting. The one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction of trees (including by fire) where the extent of such activity is limited to an area (or combined areas) of less than or equal to 30 percent of the woodlands on the property (or up to 100 percent for developments approved prior to the effective date of this Chapter). Selective cutting activity shall be limited to areas located within development pads which are designated on recorded plats or certified survey maps. The destruction of trees in an area in excess of this amount of the woodlands on the property shall be considered clear cutting (see (1), above).
- (3) Filling. Filling includes any activity involving the modification of the earth's surface above that in its undisturbed state. Regulations for filling activities include the following:
- (a) Shall not exceed over 4,000 square feet in area or 500 cubic yards of fill
 - (b) Shall not create drainage onto other properties.
 - (c) Shall not impede on-site drainage.
 - (d) Shall comply with provisions of the Chapter 70, Subdivisions.
- (4) Outdoor Assembly. Includes any organized outdoor assembly of more than 100 persons, such as an outdoor wedding or tent meetings. Regulations for outdoor assembly uses include the following:
- (a) Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.

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- (b) Adequate parking, drinking water, and toilet facilities shall be provided, and shall be described in the application.
 - (c) Adequate provisions for crowd control shall be made and shall be described within the application.
 - (d) Shall comply with standards and regulations listed in the City of Portage Nuisance Ordinance in Chapter 26, Article III.
 - (e) Shall comply with standards and procedures applicable to all temporary uses.
- (5) Contractor's Project Office. Any structure containing an on-site construction management office for an active construction project, including those used for electricians and plumbers. Regulations for contractor's project offices include the following:
- (a) Facility(ies) shall be removed within 10 days of issuance of occupancy permit.
 - (b) Shall not be used for sales activity.
 - (c) Projects requiring land use to be in place for more than 2 years shall require a conditional use permit.
 - (d) Shall comply with standards and procedures applicable to all temporary uses.
- (6) Contractor's On-Site Equipment Storage. Any structure or outdoor storage area designed for the on-site storage of construction equipment and/or materials for an active construction project. Regulations for contractor's on-site equipment storage uses include the following:
- (a) Facility(ies) shall be removed within ten days of issuance of occupancy permit.
 - (b) Projects requiring land use to be in place for more than 2 years shall require a conditional use permit.
 - (c) Shall comply with standards and procedures applicable to all temporary uses.
- (7) General Temporary Outdoor Sales. The display of any items outside the confines of a building which is not otherwise permitted as a permitted or conditional use or a special event otherwise regulated by the Municipal Code. Examples of this land use include but are not limited to: seasonal garden shops, tent sales, Christmas tree sales, bratwurst stands, and up to three garage sales per year. Regulations for general temporary outdoor sales include the following:
- (a) The user shall provide a layout of the activities to the zoning administrator for approval prior to any activity.
- (8) On-Site Real Estate Sales Office. On-site real estate sales offices include any building that serves as an on-site sales office for a development project. Regulations for on-site real estate offices include the following:
- (a) Structure shall not exceed 5,000 square feet in gross floor area.
 - (b) Facility shall be removed or converted to a permitted land use within 10 days of the completion of sales activity.
 - (c) Projects requiring land use to be in place for more than 365 days shall require a conditional use permit.
 - (d) Shall comply with standards and procedures applicable to all temporary uses.
- (9) Relocatable Building. Any manufactured building which serves as a temporary building for less than 6 months. Regulations for relocatable buildings include the following:
- (a) Shall conform to all setback regulations.
 - (b) Shall conform to all building code regulations.
 - (c) Shall comply with standards and procedures applicable to all temporary uses.

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- (10) Seasonal Outdoor Sales of Farm Products. Seasonal outdoor sales of farm products include any outdoor display of farm products not otherwise regulated by the Municipal Code. Regulations for seasonal outdoor sales of farm products include the following:
- (a) Display shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
 - (b) Adequate parking shall be provided.
 - (c) If subject property is located adjacent to a residential area, sales and display activities shall be limited to daylight hours.
 - (d) Shall comply with standards and procedures applicable to all temporary uses.
- (11) Temporary Portable Storage Container. A portable storage container designed and used primarily for temporary storage of household goods and other such materials for use on a limited basis on residential property. Regulations for temporary portable storage containers include the following:
- (a) Container shall not exceed outside dimensions of 16 feet in length, 8 feet in width, and 9 feet in height.
 - (b) The container shall be permitted on the property for up to 14 days associated with each change of occupancy as defined by a recorded change in property ownership or valid lease.
 - (c) The temporary portable storage container cannot encroach on the public right-of-way, neighboring property, sidewalk, or be placed in the street. The unit must be sited on asphalt, concrete, gravel, or hard paved surface.
 - (d) For all multi-family uses, including multiplex, apartments, and townhouses, use of temporary portable storage containers shall require review and approval by the zoning administrator. The applicant shall provide written permission from the land owner to place the temporary portable storage container on the property in accordance with the regulations listed in this section.
 - (e) Shall comply with standards and procedures applicable to all temporary uses.
- (12) Temporary Shelter. These shelters are typically supported by poles, have a fabric roof and/or sides and are usually used to cover automobiles, boats, recreational vehicles, or fire wood on a temporary or permanent basis. These structures are not designed for the snow loading that can occur during the winter months.

Section 90-64: Group and Large Developments

- (1) Purpose. The purpose of this section is to establish standards that ensure group developments and large developments are properly located and are compatible with the surrounding area and the overall community character of the City of Portage.
- (2) Definitions.
- (a) Group Development. Any development located on one lot and comprised of any single instance or any combination of the following development types:
 - 1. One or more principal multi-family residential buildings with a total of 5 or more residential units on the same lot.
 - 2. Two or more principal structures on the same lot, whether currently serving a single use or more than one use.
 - 3. A mixed-use structure containing both nonresidential uses and residential uses.
 - 4. A single principal structure housing two or more leased or owned tenant spaces.
 - 5. Any addition of principal buildings that increases the total number of principal structures on the same lot to two or more.
 - (b) Large Development. Any development containing any single structure or combination of structures on one or more contiguous lots or building sites on which the total combined gross floor area of all development exceeds 40,000 square feet.

- (3) Common Examples.
- (a) Common examples of *group developments* include apartment or condominium complexes, commercial centers, shopping centers, office centers, and multi-tenant industrial buildings. Single-tenant business or office buildings, one-tenant industrial buildings, 4-unit apartment buildings and all Planned Developments are *not* considered group developments even though such developments may contain lots under common ownership.
 - (b) Common examples of *large developments* include single-tenant institutional, business, or mixed use buildings in excess of 40,000 gross square feet, such as retail stores, restaurants, daycares, schools, or churches.
 - (c) Common examples of developments that are both *group developments* and *large developments* include multi-tenant, non-residential buildings that are in excess of 40,000 gross square feet, and any multi-building developments in which the combined total of all structures on a site, regardless of diverse ownership, use, or tenancy, combine to exceed 40,000 gross square feet.
- (4) Review and Approval.
- (a) All group developments and/or large developments shall be subject to the site plan review and approval process. In addition to the application requirements listed in section 90-474, the applicant shall demonstrate how the proposed development relates to each of the following criteria:
 - 1. Is consistent with the recommendations and advances the objectives of adopted city planning documents.
 - 2. Complements the design and layout of nearby buildings and developments.
 - 3. Enhances, rather than detracts from, the desired character of the city.
 - (b) All group developments and large developments require a conditional use permit (see section 90-472 for review and approval procedure) regardless of whether individual use(s) within the development are permitted by right within the applicable district, except where such developments are approved as Planned Developments per sections 90-96 and 90-475
 - (c) Any land use that is either a permitted-by-right land use or a use allowed by conditional use permit within the applicable zoning district may be included within a group development and/or large development.
 - (d) Land uses permitted by right in the applicable zoning district shall be permitted by right within an approved group and/or large development, subject to the provisions of this section, unless otherwise restricted by the conditions of approval imposed during the conditional use approval for the group development and/or large development as a whole.
 - (e) Land uses allowed by conditional use permit within the applicable zoning district shall be allowed within the group development and/or large development only with conditional use approval for that specific use.
 - (f) The detailed land use regulations in Article III that pertain to each proposed land use shall apply within a group development and/or large development, as will all other applicable provisions of this Chapter.
 - (g) Following initial issuance of a conditional use permit for the group development and/or large development as a whole, the subsequent addition of structures, additions to structures, and expansions of parking or storage areas in the group development and/or large development shall require an amendment to the approved conditional use permit regardless of individual land use(s).
 - (h) Subsequent changes to individual land uses within a group development and/or large development listed as permitted-by-right uses within the applicable zoning district are allowed

- without amendment to the group development and/or large development conditional use permit, unless said conditional use permit placed restrictions on change of use.
- (i) Subsequent changes to individual land uses that are allowed only with a conditional use permit may be allowed only under a subsequent conditional use permit for the specific use, regardless of whether said use entails modifications to the building and/or site layout in the group development and/or large development.
- (5) General Layout and Future Divisibility.
- (a) All group developments and/or large developments shall comply with the applicable requirements of this Chapter, including, but not limited to: density, intensity, bulk requirements; site design and performance standards; landscaping requirements; and signage requirements.
 - (b) All development located within a group development and/or large development shall be located so as to comply with the setbacks of structures and buildings from lot lines to facilitate future subdivision if such action is so desired.
- (6) Standards Applicable to All Group Developments and to All Large Developments.
- (a) Building Placement and Site Layout. Where buildings are proposed to be distant from a public street, the overall development design shall include smaller buildings closer to the street. Placement and orientation must facilitate appropriate land use transitions and appropriate traffic flow to adjoining roads and neighboring commercial areas and neighborhoods.
 - (b) Building Materials. Exterior building materials shall be of comparable aesthetic quality on all sides. Building materials such as glass, brick, tinted and decorative concrete block, wood, stucco, and exterior insulation and finish systems may be used, as determined appropriate by the Plan Commission. Decorative architectural metal with concealed fasteners or decorative tilt-up concrete panels may be approved if incorporated into the overall design of the building.
 - (c) Building Design. The building exterior shall complement other buildings in the vicinity, and shall be of a design determined appropriate by the Plan Commission, including the following:
 - 1. The building shall employ varying setbacks, heights, roof treatments, doorways, window openings, and other structural or decorative elements to reduce apparent size and scale of the building.
 - 2. A minimum of 20 percent of the structure's façades that are visible from a public street shall employ actual protrusions or recesses with a depth of at least six feet. No uninterrupted façade shall extend more than 100 feet.
 - 3. A minimum of 20 percent of all of the combined linear roof eave or parapet lines of the structure shall employ differences in height, with such differences being six feet or more as measured eave to eave or parapet to parapet.
 - 4. Roofs with particular slopes may be required by the city to complement existing buildings or otherwise establish a particular aesthetic objective.
 - 5. Ground floor facades that face public streets shall have arcades (a series of outdoor spaces located under a roof or overhang and supported by columns or arches), display windows, entry areas, awnings, or other such features along no less than 50 percent of their horizontal length. The integration of windows into building design is required, and shall be transparent, clear glass (not tinted) between three to eight feet above the walkway along any façades facing a public street. The use of blinds shall be acceptable where there is a desire for opacity.
 - 6. Building facades shall include a repeating pattern that includes no less than three of the following elements:
 - a. Color change.
 - b. Texture change.

- c. Material modular change.
 - d. Expression of architectural or structural bay through a change in plane no less than 24 inches in width, such as an offset, reveal, or projecting rib.
 - e. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than 30 feet, either horizontally or vertically.
- (d) Screening.
1. All ground-mounted and wall-mounted mechanical equipment, refuse containers, and any permitted outdoor storage shall be fully concealed from on-site and off-site ground level views, with materials identical to those used on the building exterior.
 2. All rooftop mechanical equipment shall be screened by parapets, upper stories, or other areas of exterior walls or roofs so as to not be visible from public streets adjacent or within 1,000 feet of the subject property. Fences or similar rooftop screening devices may not be used to meet this requirement.
 3. Loading docks shall be completely screened from surrounding roads and properties. Said screening may be accomplished through loading areas internal to buildings, screen walls that match the building exterior in materials and design, fully opaque landscaping at time of planting, or combinations of the above.
 4. Gates and fencing may be used for security and access, but not for screening, and they shall be of high aesthetic quality. Decorative metal picket fencing and screening is acceptable. Chain link, wire mesh, or wood fencing is not permitted. Decorative, heavy-duty wood gates may be used.
- (e) Parking.
1. Parking lot design shall employ interior, curbed landscaped islands at all parking aisle ends.
 2. Landscaped islands shall be provided within each parking aisle spaced at intervals no greater than one island per every 20 spaces in that aisle. Islands at the ends of aisles shall count toward meeting this requirement. Each required landscaped island shall be a minimum of 360 square feet in landscaped area.
 3. Landscaped and curbed medians, a minimum of 10 feet in width from back-of-curb to back-of-curb, shall be used to create distinct parking areas of no more than 120 parking stalls.
- (f) Bicycle and Pedestrian Facilities.
1. The entire development shall provide for safe pedestrian and bicycle access to all uses within the development, connections to existing and planned public pedestrian and bicycle facilities, and connections to adjacent properties.
 2. Pedestrian walkways shall be provided from all building entrances to existing or planned public sidewalks or pedestrian/bike facilities. The minimum width for sidewalks adjacent to buildings shall be 10 feet; and the minimum width for sidewalks elsewhere in the development shall be 5 feet.
 3. Sidewalks other than street sidewalks or building aprons shall have adjoining landscaping along at least 50 percent of their length. Such landscape shall be consistent with the landscaping used for the street frontages.
 4. Crosswalks shall be distinguished from driving surfaces to enhance pedestrian safety by using different pavement materials, pavement color, pavement textures, and signage.
 5. The development shall provide secure, integrated bicycle parking at a rate of one bicycle rack space for every 50 vehicle parking spaces.
 6. The development shall provide exterior pedestrian furniture in appropriate locations at a minimum rate of one seat for every 20,000 square feet of gross floor area. Seating in food

service areas, or other areas where food or merchandise purchasing activities occur shall not count toward this requirement. A minimum of four seats shall be located within the store, with a clear view through exit doors to a passenger pick-up or drop-off area.

- (g) **Outdoor Display Areas.** Exterior display areas shall be permitted only where clearly depicted on the approved site plan. All exterior display areas shall be separated from motor vehicle routes by a physical barrier visible to drivers and pedestrians, and by a minimum of 10 feet. Display areas on building aprons must maintain a minimum walkway width of 10 feet between the display items and any vehicle drives.
 - (h) **Outdoor Storage Uses and Areas.** Exterior storage structures or uses, including the parking or storage of vehicles, trailers, equipment, containers, crates, pallets, merchandise, materials, fork lifts, trash, recyclables, and all other items shall be permitted only where clearly depicted and labeled on the approved site plan.
 - (i) **Central Areas and Features.** Each development exceeding 80,000 square feet in total gross floor area shall provide central area(s) or feature(s) such as a patio/seating area, pedestrian plaza with benches, outdoor playground area, water feature, and/or other such deliberately designated areas or focal points that adequately enhance the development or community. All such areas shall be openly accessible to the public, connected to the public and private sidewalk system, designed with materials compatible with the building and remainder of the site, and shall be maintained over the life of the building project.
 - (j) **Landscaping.** On-site landscaping shall be provided at time of building occupancy and maintained per Article VIII.
 - (k) **Lighting.** On-site exterior lighting shall meet the standards in section 90-119.
 - (l) **Signage.** The plan for exterior signage shall provide for modest, coordinated, and complementary exterior sign locations, configurations, and color throughout the development, including outlots. All freestanding signage within the development shall complement on-building signage. Monument style ground signs are required, and shall not exceed a height of 8 feet. Consolidated signs for multiple users may be required instead of multiple individual signs. The city may require the use of muted corporate colors on signage if proposed colors are not compatible with the city's design objectives for the area. The use of logos, slogans, symbols, patterns, striping and other markings, and colors associated with a franchise or chain is permitted, but shall be considered as contributing to the number and area of permitted signs.
 - (m) **Noise.** Noise associated with activities at the site shall not create a nuisance to nearby properties.
 - (n) **Stormwater Management and Erosion Control.**
 - 1. Post-development runoff rates shall not exceed pre-settlement rates.
 - 2. Existing natural features shall be integrated into the site design as a site and community amenity.
 - 3. Maintenance of any storm water detention or conveyance features are solely borne by the developer/owner unless dedicated to and accepted by the city.
 - 4. Adherence to all applicable provisions of Chapter 10, Articles VII and VIII of the Municipal Code shall occur.
- (7) **Additional Rules Applicable to All Large Developments.**
- (a) A Large Development Questionnaire shall be completed and provided along with the conditional use permit application in the format included at the end of this section.
 - (b) **Compatibility Report.** The applicant shall provide a compatibility report, submitted with the petition for a conditional use permit, demonstrating adequate evidence that the proposed building and overall development project will be compatible with the comprehensive plan and any detailed neighborhood or special area plan adopted by the city for the site area.

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- (c) **Traffic Impact Analysis.** The city may require that a traffic impact analysis be completed in accordance with the most current revision of the Traffic Impact Analysis Guidelines published by the Wisconsin Department of Transportation. Such Traffic Impact Analysis shall require the following components:
1. A demonstration that vehicle access shall be designed to accommodate peak on-site traffic volumes without disrupting traffic on public streets or impairing pedestrian safety. This shall be accomplished through adequate parking lot design and capacity; access drive entry throat length; design, location, and number of traffic control devices; and sidewalks.
 2. Where the traffic impact analysis indicates that a project may cause off-site public roads, intersections, or interchanges to function below a level of service (LOS) C, the city may deny the application, require a size reduction in the proposed development, and/or require the developer to construct and/or pay for required off-site improvements to achieve a LOS C for a planning horizon of a minimum of 10 years assuming full build-out of the development.
 3. The city has the option to require a trip generation study.
- (d) **Economic and Fiscal Analysis.** The city may require completion of an economic and fiscal impact analysis containing the following items:
1. Estimate to what extent the proposed project would reduce the proposed market area's economic base by eliminating existing businesses.
 2. Compare and evaluate the projected costs and benefits to the community resulting from the project, including:
 - a. Projected costs arising from increased demand for and required improvements to public services and infrastructure.
 - b. Value of improvements to public services and infrastructure to be provided by the project.
 - c. Projected tax revenues to the city to be generated by the project in the first 5 years of business.
 - d. Projected impact of the project in the first 5 years on land values (both residential and nonresidential) and potential loss or increase in tax revenues to the City of Portage.
- (e) **Detailed Neighborhood Plan.** For a development exceeding 80,000 square feet in total gross floor area of all combined buildings within the development, the city may require that a detailed neighborhood plan be submitted and approved by the Plan Commission and Common Council. The detailed neighborhood plan shall be prepared for all areas within 1,500 feet of the subject property, as measured from the outer perimeter of the subject property or group of properties proposed for development, and any other nearby lands as determined by the Plan Commission to be part of the defined neighborhood. The detailed neighborhood plan shall contain the following specific elements at a scale of not less than 1" = 400':
1. Land use with specific zoning districts and/or land uses.
 2. Transitional treatments such as berms and/or landscaping between areas with differing land uses or character.
 3. Complete transportation network, including pedestrian and bicycle facilities and transit routes and stops, where applicable.
 4. Conceptual stormwater management facilities.
 5. Proposed public facility sites, including parks, schools, conservation areas, public safety facilities and public utility facilities.

6. Proposed community character themes, including building materials, landscaping, streetscaping, and signage.
 7. Demonstrate that the proposed detailed neighborhood plan is in harmony with the land use, multi-modal transportation, utility, stormwater management, community character provisions of the comprehensive plan.
- (f) Policy on Vacation of Existing Sites. Where any large development in excess of 40,000 square feet of floor area is vacated because the commercial use (sale of goods or merchandise at the building) conducted thereon is being relocated to a different building, the party that vacated the site shall not impose limits on the type of reuse of the vacated site through conditions of sale or lease.
- (g) Additional Requirements. All large developments are subject to the following additional requirements:
1. The developer shall enter into a development agreement with the city, which shall include the payment of all utilities including but not limited to stormwater, sanitary sewer, and street infrastructure. Off-site improvements may also be required as part of the development agreement.
 2. Absolute building area cap. No individual building shall exceed a total of 155,000 square feet in gross floor area. This cap may not be exceeded by the granting of a planned development permit.
 3. All buildings on outlots shall be of architectural quality comparable to the primary structure, as determined by the Plan Commission.

Large Development Questionnaire		
Applicant		
Name:		
Address:		
Phone Number:		
Date:		
Project Contacts		
Property Owner:		
Property Owner Representative:		
Developer:		
Developer Representative:		
Prime Contractor Representative:		
Civil Engineering Representative:		
Architectural Representative:		
Land Planner Representative:		
Landscape Arch. Representative:		
Exterior Lighting Representative:		
Existing Site Conditions		
Total Site Area (inclusive of all areas within parcel boundary):	_____ acres	_____ sq. ft.
Environmental Corridor Components:	_____ acres	_____ sq. ft.
Surface Water	_____ acres	_____ sq. ft.
Wetlands (including ____ foot buffer)	_____ acres	_____ sq. ft.
100-Year Floodplain	_____ acres	_____ sq. ft.
Steep Slopes (equal to or greater than 12 percent)	_____ acres	_____ sq. ft.

Upland Woodlands (per Environmental Corridor criteria)	_____ acres	_____ sq. ft.
Adopted Plans and Policies		
Describe how the proposed development is compatible with the following:		
City of Portage Comprehensive plan:		
Future Land Use Map		
Transportation Plan Map		
Community Facilities Plan Map		
Community Character Plan Map		
Goals, Policies and Objectives		
Agricultural and Natural Resources		
Economic Development		
Other Provisions of Comp. Plan		
City of Portage Park and Open Space Plan:		
City of Portage Intergovernmental Agreements:		
Columbia County Comprehensive plan:		
Columbia County Park and Open Space Plan:		
Columbia County Transportation Plan:		

State of Wisconsin DOT Plans and Policies:	
State of Wisconsin DNR Plans and Policies:	
Other Pertinent Plans and Policies as Indicated by City:	

Proposed Development
General Description of Proposed Development and Land Use Mix:

Modifications to Existing Site Conditions:			
Total Site	Acres Converted	Acres Not Converted	Total
Surface Water Areas			
Wetland Areas			
Floodplain Areas			
Steep Slopes (12 percent or more)			
Woodland Areas			
Agricultural Areas			
Open Space Areas			
Existing Building Areas			
Existing Paved Areas			
Existing Landscaped Areas			

General Development Details:		
Total Site Area:	_____square feet	_____acres
Area of Building Footprint:	_____square feet	_____acres (1)
Area of Paving:	_____square feet	_____acres (1)
Area of Pervious Paving	_____square feet	_____acres (2)
Area of Lawn & Landscaping	_____square feet	_____acres (3)
Area of Stormwater Management:	_____square feet	_____acres (1)
Area of Impervious Surface (all 1s)	_____square feet	_____acres
Area of Semi-Pervious Surface (all 2s)	_____square feet	_____acres
Area of Pervious Surface (all 3s)	_____square feet	_____acres
Total Floor Area:	_____square feet	
First Floor Area:	_____square feet	
Second Floor Area:	_____square feet	
Upper Floor Areas:	_____square feet	
Useable Basement Area:	_____square feet	

Table C: Economic and Fiscal Impact Analysis Requirements

For the project, estimate the following:
Number of full-time (40 hrs/wk) and part time (less than 40 hrs/wk) jobs created:
The impact of the project on the overall local job market at year one and year five:
Estimate the amount of local labor to be used in the construction of the project and in employment. Local is defined as city or county residents or businesses:
Include an analysis indicating the market proposed for the project and the area from which patrons will be attracted:
Evaluate the impact of the proposed project on commercial and/or retail vacancy rates in the proposed market area:
Estimate to what extent the proposed project would reduce the proposed market area's economic base by eliminating existing businesses:
Compare and evaluate the projected costs and benefits to the community resulting from the project including:
Projected costs arising from increased demand for and required improvements to public services and infrastructure:
Value of improvements to public services and infrastructure to be provided by the project:
Projected tax revenues to the city to be generated by the project in the first five years:
Projected impact of the project in the first five years on land values (both residential and commercial) and potential loss or increase in tax revenues to the City of Portage:
Projected lifespan of building:

Section 90-65 through 90-69: Reserved

ARTICLE IV: BULK REGULATIONS

Section 90-70: Purpose

This article regulates the location and bulk of buildings and other structures in order to protect the public health, safety, and general welfare and to enhance the desired community character of the City of Portage.

Section 90-71: Bulk Standards

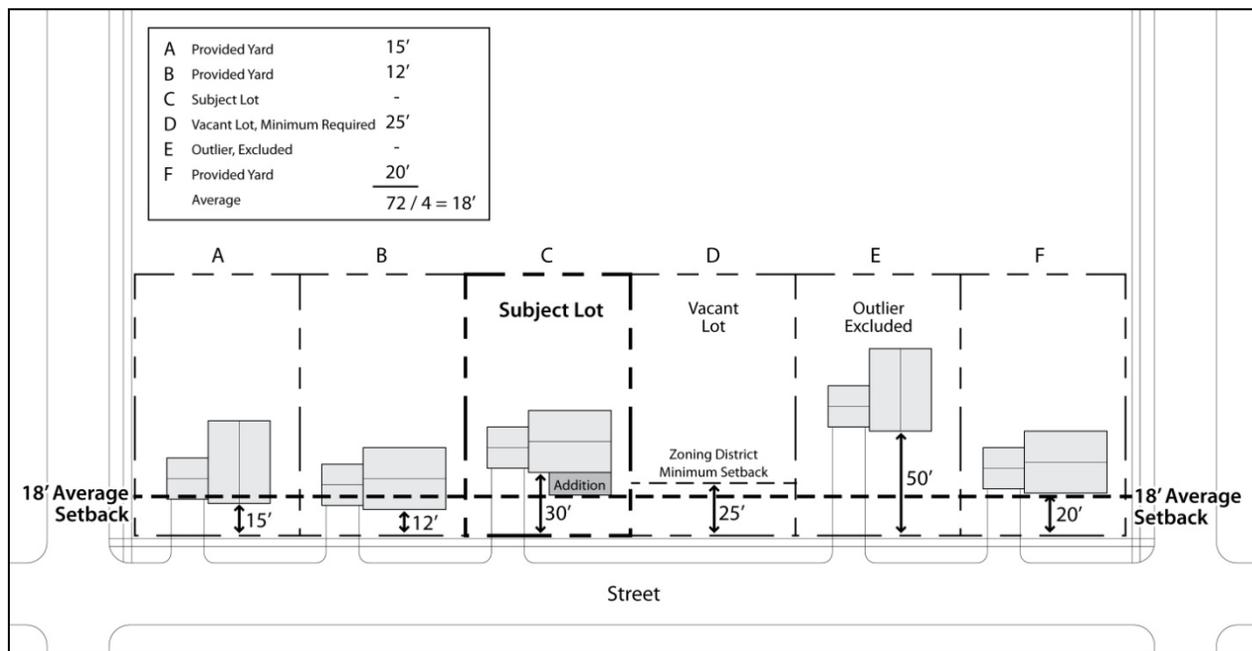
All developments shall comply with the standards listed for each zoning district in Article II.

Section 90-72: Yard Setback Adjustments

- (1) Limitations on Yard Reductions or Joint Use.
 - (a) No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as to not meet the provisions required by this Chapter. If an existing yard is less than the minimum required, it shall not be reduced further, except where exempted by the provisions of this section.
 - (b) No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.
 - (c) No required yard or other space allocated to a structure or parcel of land shall be used to satisfy the minimum yard or lot area requirements for another structure or parcel.

- (2) Front Yard or Street Side Setback Adjustments.
 - (a) Building Additions. Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
 - (b) Average Street Yards.
 - 1. The required street yards may be decreased in any residential or business districts to the average of the existing street yards of the abutting structures on each side but in no case less than 15 feet in any residential district.
 - 2. In the R-T, R-1, R-2, R-3, R-4, R-5, R-MH, and B-1 districts, a front yard setback may be reduced to the average of the setbacks of the adjoining lots that are on both sides of the subject lot. The following rules apply in calculating the average setback (see Figure 90-72a):
 - a. Only the setbacks on 5 or fewer adjoining lots which are on the same side of the street as the subject lot may be used.
 - b. Where a lot is vacant, the minimum setback of the zoning district will be applied by the Zoning Administrator.
 - c. Outliers shall be excluded in calculating the average setback as determined by the Zoning Administrator.

Figure 90-72(2): Calculating the Setback Average

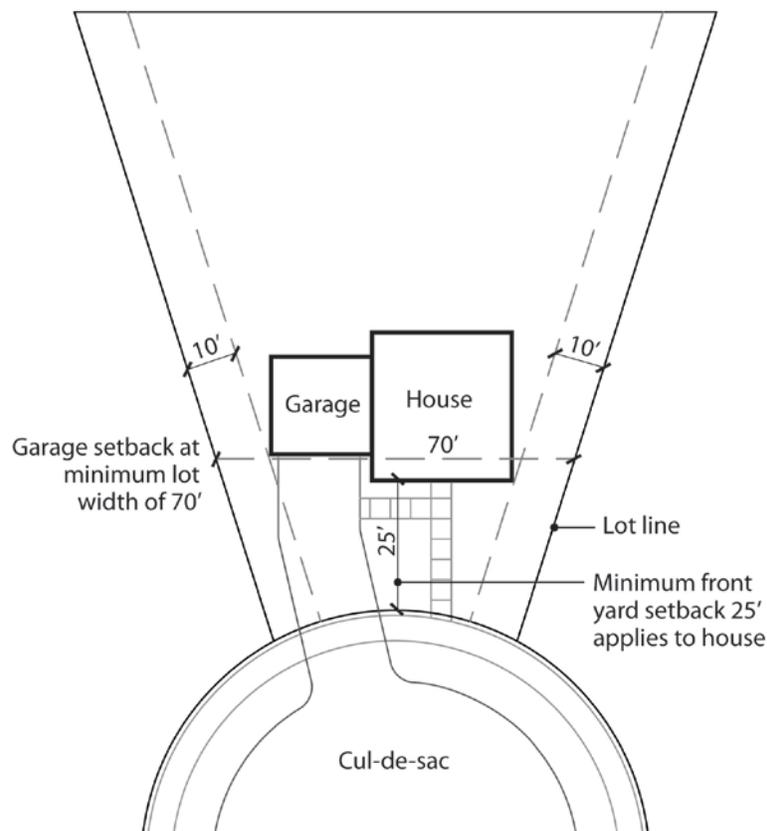


- (3) Building Setback Adjustment on Cul de Sac Lots. It is the objective of the City that buildings on cul de sacs be set back from the right-of-way at a consistent distance. This concern is particularly present where too-narrow lots force a substantially deeper minimum front yard setback. The following regulations address this concern:
 - (a) Proposed New Lots on Cul de Sacs. For cul de sac lots platted after the effective date of this Chapter, each cul de sac lot shall provide the minimum lot width at the minimum front yard setback. Where such a requirement is not met, one or more of the proposed cul de sac lots may have to be eliminated to meet this requirement.

- (b) Existing Narrow Lots on Cul de Sacs. For cul de sac lots existing prior to the effective date of this Chapter which do not meet the minimum lot width at the minimum front yard setback, the following adjustment is permitted:
1. The principal structure may be placed at of the minimum front yard setback if the following conditions are met (see Figure 90-72b):
 - a. The habitable area of the principal structure (and/or porch) may be set back at or more interior of the minimum required front yard setback without meeting the minimum lot width requirement.
 - b. The garage must be set back at or more interior the minimum required front yard setback as determined by the minimum lot width requirement.
 - c. The minimum lot width, minimum side yard setback, and minimum pavement setback of the subject district shall be met.

This approach is a way to provide for a uniform front yard setback around the cul de sac, provide more usable rear yards, and result in a more pleasing street appearance not dominated by forward-thrust garages.

Figure 90-72(3): Existing Cul de Sac Lot Width Adjustment



- (4) Side and Rear Yard Setback Adjustments for Bufferyards. In instances where the required bufferyard width (per Article VIII) exceeds the minimum required setback width, the minimum required bufferyard width shall prevail. Absolutely no intrusions of a building, structure, or paved area are permitted within the required bufferyard. [NOTE – delete section if landscaping regulations are not]

Section 90-73: Obstructions and Intrusions into Required Yards

The minimum setback requirements of each zoning district shall establish the minimum required yards for all uses, except those exempted by the provisions of this section.

- (1) Obstructions. Every part of the required area of a yard shall be open to the sky unobstructed, except for accessory buildings and the ordinary projections of sills, cornices and ornamental features.
- (2) Intrusions. The following intrusions into required yards are permitted:
 - (a) Fire escapes which do not extend more than 5 feet into the required yard.
 - (b) An open terrace, deck, or uncovered porch may extend into the required setback for the front yard and/or rear yard a distance of 6 feet provided the floor is not higher than 4 feet above grade.
 - (c) Stairs, steps, or stoops 4 feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley.
 - (d) Awnings and canopies may extend into the required yard a distance not to exceed 4 feet.
 - (e) Chimneys, provided they do not extend more than 2 feet into a required yard.
 - (f) Recreational equipment.
 - (g) Clothes lines and other similar laundry drying equipment.
 - (h) Overhanging eaves and gutters projecting into the yard for a distance not exceeding 40 percent of the required yard width or 3 feet or whichever is less.
 - (i) Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.
 - (j) Chimneys, flues, sills, pilasters, lintels, ornamental features, cornices, eaves, bay windows, and gutters for residential buildings, provided they do not extend more than 2 feet into the required yard.
 - (k) Fences may locate on the property line. Permitted fence types shall comply with the provisions of section 90-121.

Section 90-74: Exceptions to Maximum Height Regulations

The maximum height regulations stipulated in Article II may be exceeded, but such modification shall be in accord with the following:

- (1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this Chapter.
- (2) Special structures, such as elevator penthouses, gas tanks, grain elevators, scenery lots, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are exempt from the height limitations of this Chapter.
- (3) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter.
- (4) Communication structures, such as radio and television transmission and relay towers, aerials and observation towers, shall not exceed in height three times their distance from the nearest lot line.
- (5) Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.
- (6) Agricultural structures such as barns and silos shall not exceed in height twice their distance from the nearest lot line.

- (7) Any building or structure not otherwise accounted for by (1) through (6) above may exceed maximum height regulations with the granting of a conditional use permit that specifically states the maximum permitted height of the proposed building or structure.

Sections 90-75 through 90-79: Reserved

ARTICLE V: NONCONFORMING SITUATIONS

Section 90-80: Purpose

The purpose of this article is to establish regulations for nonconforming uses, substandard lots, nonconforming structures, and nonconforming sites created legally prior to the effective date of this Chapter.

Section 90-81: Nonconforming Uses

A nonconforming use is an active or actual use of land or structures, or both; legally established prior to the effective date of this Chapter or subsequent applicable amendment thereto which has continued the same use to the present, and which would not be permitted under the current terms of this Chapter.

- (1) Continuance of a Nonconforming Use.
 - (a) Any nonconforming use lawfully existing upon the effective date of this Chapter or any amendment to it may be continued at the size and in a manner of operation existing upon such date, except as specified in this section.
 - (b) Any prior legal use made nonconforming by this Chapter, by an amendment to it, or by a modification to the Official Zoning Map, may be granted full legal conforming status by the issuance of a conditional use permit, subject to the standards and procedures prescribed by section 90-472.
- (2) Uses Made Nonconforming by this Chapter.
 - (a) A use now regulated as a conditional use which was approved as a legal land use, either permitted by right or as a conditional use, prior to the effective date of this Chapter, shall be considered a legal, conforming land use so long as any previously approved conditions of use and site plan are followed. Any modification of the previously approved conditions of use or site plan shall require application and consideration under the requirements of sections 90-181 and/or 90-183.
- (3) Modification of a Nonconforming Use.
 - (a) A nonconforming use shall not be altered by expansion, enlargement, extension, or reconstruction, unless a conditional use permit is granted for such alteration.
 - (b) A nonconforming use shall not be changed to another nonconforming use, unless the successor nonconforming use has been granted full legal nonconforming status per (1)a., above.
 - (c) A nonconforming nonresidential use not served by public sanitary sewer and/or public water may be permitted to expand without being served by public sanitary sewer and/or public water if either or both facilities are not available within 1,000 feet of the subject property, and a conditional use permit is granted for such expansion.
- (4) Discontinuance. When any nonconforming use of any structure or land is discontinued for a period of 12 consecutive months, or is changed into a conforming use, any future use of said structure or land shall be in complete conformity with the provisions of this Chapter.

Section 90-82: Nonconforming or Substandard Lots

- (1) Blanket Conforming Status.
 - (a) Blanket conforming status of any and all requirements of this Chapter is hereby automatically granted to all nonconforming or substandard lots in their configuration existing or as finally approved as of the effective date of this Chapter. This subsection ensures that lots approved and created prior to the adoption of this Chapter do not encounter difficulty because the lots would otherwise be considered nonconforming or substandard.
 - (b) After the effective date of this Chapter, no existing lot area shall be reduced so as to create a lot of less than the required size or so that the existing setbacks, lot area, or minimum width would be reduced below that required by the regulations for the district in which such lot is located.

(2) Residential Substandard Lots.

- (a) If an existing lot of record in a residential zoning district does not meet the area, width, and frontage requirements of the zoning district in which it is located, the lot may be utilized for a detached single family dwelling, provided that all of the district requirements are complied with insofar as is practical but shall not be less than the following:

Minimum Lot Width	30 feet
Minimum Lot Area	4,000 square feet
Minimum Building Area	1,000 square feet
Maximum Building Height	30 feet
Minimum Front or Street Setback	25 feet; On corner lots, the second street setback shall be not less than 10 feet
Minimum Rear Setback	25 feet
Minimum Side Setback	16 percent of the frontage, but not less than 5 feet.

- (b) If an existing lot of record in a multi-family residential zoning district (i.e. R-4 and R-5), does not meet the area, width, and frontage requirements of the zoning district in which it is located, the lot may be utilized for a multifamily structure and its accessory structures provided the following setback requirements, provided that all other requirements set forth in the R-4 or R-5 district are complied with:

Minimum Front or Street	10 feet; On corner lots, the side street yard shall not be less than 10 feet
Minimum Rear Setback	10 feet
Minimum Side Setback	10 feet

Section 90-83: Nonconforming Structures

- (1) Blanket Conforming Status. Blanket conforming status of any and all requirements of this Chapter is hereby automatically granted to all nonconforming structures lawfully existing upon the effective date of this Chapter. Such structures may be permitted to continue in the size and in a manner of operation existing upon such date, except as provided in this section.
- (2) Structure Made Nonconforming by this Chapter. Any structure lawfully erected prior to the effective date of this Chapter, but that does not meet the requirements of this Chapter, such as but not limited to height, setback, access provisions, shall be considered a legal, conforming structure so long as any previously approved conditions of approval are followed.
- (3) Modification.
- (a) Any lawful nonconforming structure may be altered by extension, enlargement, or reconstruction, provided that said alteration complies with the requirements of the zoning district in which it is located.
- (b) The nonconforming feature of said structure shall not be allowed to become more nonconforming by alteration except under one of more of the following situations:
1. As when required to do so by law or order.
 2. To comply with the provisions of this Chapter.
 3. With approval of a conditional use permit by the Plan Commission for the purpose of making required structural alterations to maintain the structural integrity of the building.
 4. With the approval of a variance by the Board of Zoning Appeals.

- (c) Nonconforming residential structures may be altered provided such alteration does not increase the number of dwelling units or the bulk of the building. Notwithstanding the foregoing, a conforming garage may be added if none previously existed.
- (d) When any lawful nonconforming structure in any district is modified so as to be in conformance with the provisions of this Chapter, any future modification of said structure shall also be in conformance with the provisions of this Chapter.
- (4) Restoration. A damaged or destroyed nonconforming structure may be restored to the size, location, and use that it had immediately before the damage or destruction occurred, without any limits on the costs of the repair, reconstruction, or improvement if the nonconforming structure was damaged by fire, flood, wind, explosion, earthquake, war, riot, unlawful act, or Act of God on or after the effective date of this Chapter.
- (5) Unsafe Structures. Nothing in this Chapter shall preclude the building inspector or any other city official from initiating remedial or enforcement actions when a lawful nonconforming structure is declared unsafe or presents a danger the public health, safety, or welfare.
- (6) Ordinary Maintenance. Ordinary maintenance and repairs of a nonconforming structure, including remodeling, shall be permitted, as well as necessary nonstructural repairs and alterations which do not extend, enlarge, or intensify the nonconforming structure. Ordinary maintenance repairs and remodeling include internal and external painting, decorating, paneling, the addition of acoustical ceilings, the installation of heating, electricity, plumbing, and the replacement of doors, windows, and other non-structural components.
- (7) Timing of Building Permit. Any structure for which a building permit has been lawfully granted prior to the effective date of this Chapter or an amendment to it which will become nonconforming under the provisions of this Chapter or that amendment thereto, may be completed in accordance with approved plans, provided construction is started within 365 calendar days after issuance of the permit and construction is completed within 730 calendar days (2 years) after the start of construction. If all such conditions are met, the structure shall thereafter be a legal nonconforming structure.

Section 90-84: Nonconforming Sites

- (1) Purpose. This section is intended to prevent the creation of nonconforming sites related to the building and site design requirements of this Chapter. These site design components may include one or more of the following:
 - (a) Site design or building materials requirements.
 - (b) Parking, loading, access drive and other paved area design requirements.
 - (c) Landscaping or bufferyard requirements.
 - (d) Fencing requirements.
 - (e) Lighting requirements.
- (2) Blanket Conforming Status. Blanket conforming status for any and all requirements of this Chapter is hereby automatically granted to all development sites in their configuration existing or as finally approved as of the effective date of this Chapter. This subsection ensures that sites approved prior to the adoption of this Chapter do not encounter difficulty because they would otherwise be considered nonconforming.
- (3) Modification.
 - (a) Alterations, such as enlargements, expansions, or extensions that would result in creation of one or more nonconformities, increase the degree of the existing nonconformity(ies), or render a nonconforming site incapable of being brought into full or greater compliance with the requirements of this Chapter shall not be permitted unless a variance is granted by the Board of Zoning Appeals under section 90-478.

- (b) On lots where the site configuration is sufficient to comply with the site design requirements of this Chapter (such as minimum paved surface setback and minimum landscape surface ratio), no alteration (i.e., enlargement, expansion, or extension of a use or structure) shall be permitted if it makes compliance with site regulations of this Chapter impossible, even if said alteration would otherwise be permissible.
- (4) Required Compliance of Nonconforming Sites.
- (a) On lots where the site configuration is adequate to enable full compliance with all site design requirements of this Chapter, full or partial compliance, as determined by the Plan Commission, shall be required at the time of any installation of property improvement requiring and having received site plan approval.
 - (b) On lots where the site configuration is insufficient to enable full compliance with all site design requirements but nevertheless provides space to reduce the degree of one or more nonconformities, the Plan Commission shall make a determination as to the manner and degree to which nonconformities shall be brought into conformance.

Section 90-85 through 90-89: Reserved

ARTICLE VI: OVERLAY ZONING DISTRICTS

Section 90-90: Purpose

The purpose of this article is to establish overlay zoning districts wherein certain additional requirements are superimposed on the underlying standard zoning districts set forth in Article II of this Chapter. Each overlay district is intended to address a special land use circumstance beyond those addressed by the underlying standard zoning district.

Section 90-91: How to Use This Article

A given property may lie within one or more overlay zoning district based on its geographic location. The provisions of this article are intended to be consulted before issuance of any building permit, site plan approval, conditional use permit, zoning permit, zoning change, or land division to ensure the intended use meets all of the requirements of any applicable overlay district, in addition to the underlying standard zoning. For each overlay district established in this article, a definition of the resource or geographic area is provided, followed by the specific purposes of the protective regulations governing the resource or geographic location, the method of delineating the boundaries of the overlay district, and the mandatory development regulations.

Section 90-92: Overlay Zoning Districts

For the purpose of this Chapter, the following overlay zoning districts are hereby established.

Floodplain Zoning (see Article IX)

Shoreland-Wetland Zoning (see Section 90-93)

PD Planned Development Overlay District (see Section 90-94)

Historic Preservation (see Section 90-95)

C-1 Resource Conservation Overlay District (see Section 90-96)

M-W Municipal Well Recharge Area Overlay District (see Section 90-97)

S-B Sexually Oriented Business Overlay District (see Section 90-98)

Section 90-93: Shoreland Wetland Zoning

- (1) Statutory Authorization. This article is adopted pursuant to the authorization in Wis. Stats. §§62.23, 62.231, 87.30 and 144.26.
- (2) Findings of Fact.
 - (a) Generally. Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the city would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The legislature of the state has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.
 - (b) Purpose. To promote the public health, safety, convenience and general welfare, this article has been established to:
 1. Further the maintenance of safe and healthful conditions;
 2. Prevent and control water pollution by filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters and to maintain stormwater and floodwater capacity;
 3. Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat;
 4. Prohibit certain uses detrimental to the shoreland-wetland area; and

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5. Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.
- (3) Title of the Article. The title of this article shall be the shoreland-wetland zoning ordinance/article for the city.
- (4) Compliance. The use of wetlands and the alteration of wetlands within the shoreland area of the city shall be in full compliance with the terms of this article and other applicable local, state or federal regulations. (However, see section 90-81 for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this article.
- (5) Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, town and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. §13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when Wis. Stats. §30.12(4)(a) applies.
- (6) Abrogation and Greater Restrictions.
- (a) This article supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. §§62.23 or 87.30, which relate to shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this article, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this article imposes greater restrictions, the provisions of this article shall prevail.
- (7) Interpretation. In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the state statutes. Where a provision of this article is required by a standard in Wis. Admin. Code ch. NR 117, and where an article provision is unclear, the provision shall be interpreted in light of the Wis. Admin. Code ch. NR 117 standards in effect on the date of the adoption of the ordinance from which this chapter is derived or in effect on the date of the most recent text amendment to this article.
- (8) Severability. Should any portion of this article be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, the remainder of this article shall not be affected.
- (9) Definitions.
- (a) For the purpose of administering and enforcing this article, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.
- (b) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- Accessory structure or use* means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
- Boathouse* shall mean, as defined in Wis. Stats. §30.121(1), a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
- Department* means the state department of natural resources.

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

Drainage system means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

Environmental control facility means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

Fixed houseboat means, as defined in Wis. Stats. §30.121(1), a structure not actually used for navigation which extends beyond the ordinary highwater mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

Navigable waters means Lake Superior, Lake Michigan, all natural inland lakes within the state, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under Wis. Stats. §144.26(2)(d), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stats. §62.231 and Wis. Admin. Code ch. NR 117, do not apply to lands adjacent to farm drainage ditches if:

- (1) Such lands are not adjacent to a natural navigable stream or river;
- (2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching.

Ordinary high-water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous so 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.

Planning agency means the city plan commission created under Wis. Stats. §62.23(1).

Regional flood means a flood determined to be representative of large floods known to have generally occurred in the state and which may be expected to occur or be exceeded on a particular stream because of like physical characteristics, once in every 100 years.

Shorelands means lands within the following distances from the ordinary highwater mark of navigable waters; 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

Shoreland-wetland district means the zoning district, created in this article, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this article as described in Subsection (5), above.

Special exception or conditional use means a use which is permitted by this article provided that certain conditions specified in this article are met and that a permit is granted by the board of appeals or, where appropriate, the planning agency designated by the common council.

Unnecessary hardship means the circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this article.

Variance means an authorization granted by the board of appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this article.

Wetlands means those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

Wetland alteration means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

- (10) Enforcement and Penalties. Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of the ordinance from which this chapter is derived in violation of the provisions of this article, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator shall refer violations to the common council and the city attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this article shall be subject to a forfeiture as specified in Chapter 1, Section 1-15 in the Municipal Code of Ordinances, regarding general penalties, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the city, the state or any citizen thereof pursuant to Wis. Stats. §87.30(2).
- (11) Zoning Administrator.
- (a) The zoning administrator shall have the following duties and powers
1. Advise applications as to the provisions of this article and assist them in preparing permit applications and appeal forms.
 2. Issue permits and certificates of compliance and inspect properties for compliance with this article.
 3. Keep records of all permits issued, inspections made, work approved and other official actions.
 4. Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
 5. Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation and map or text amendments within ten days after they are granted or denied to the appropriate district office of the department.
 6. Investigate and report violations of this article to the appropriate city planning agency and the district attorney, corporation counsel or city attorney.
- (12) Zoning permits
- (a) When required. Unless another section of this article specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any new development, as defined in section 90-469, or any change in the use of an existing building or structure is initiated.
- (b) Application. An application for a permit shall be made to the zoning administrator upon forms furnished by the city and shall include, for the purpose of proper enforcement of these regulations, the following information:
1. General information.
 - a. Name, address and telephone number of applicant, property owner and contractor, where applicable.
 - b. Legal description of the property and a general description of the proposed use or development.

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- c. Whether or not a private water or sewage system is to be installed.
 2. Site development plan. The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - a. Dimensions and area of the lot;
 - b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
 - c. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - d. Location of the ordinary high-water mark of any abutting navigable waterways;
 - e. Location and landward limit of all wetlands;
 - f. Existing and proposed topographic and drainage features and vegetative cover;
 - g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
 - h. Location of existing or future access roads; and
 - i. Specifications and dimensions for areas of proposed wetland alteration.
 3. Expiration. All permits issued under the authority of this article shall expire six months from the date of issuance.
 - (13) Certificates of Compliance.
 - (a) Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator subject to the following provisions:
 1. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this article.
 2. Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
 3. The certificate of compliance shall be issued within ten days after the completion of the work specified in the zoning or conditional use permit, providing the building or premises or proposed use thereof conforms with all the provisions of this article.
 - (b) The zoning administrator may issue a temporary certificate of compliance for a building, premises or part thereof, pursuant to rules and regulations established therefor by the common council.
 - (c) Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of the ordinance from which this article is derived, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this article.
 - (14) Conditional Use Permits for Wetland Areas.
 - (a) Application. Any use listed as a conditional use in this article shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the board of appeals, following the procedures in sections 90-93(18)(c), (d), and (e) for hearing and deciding appeals.
 - (b) Conditions. Upon consideration of the permit application and the standards applicable to the permitted uses in section 90-93(c), the board of appeals shall attach such conditions to a conditional use permit in addition to those required elsewhere in this article, as are necessary to further the purposes of this article as listed in section 90-462. Such conditions may include
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- specifications for, without limitation because of specific enumeration: type of shore cover; erosion potential; increased side yard setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the board of appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this article.
- (15) Fees.
- (a) The common council, by resolution, shall establish fees for permits and administrative procedures under this article.
- (16) Recording.
- (a) Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the zoning administrator of the land use and structures permitted.
- (17) Revocation.
- (a) Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the board of appeals.
- (18) Board of Appeals.
- (a) Appointment. The mayor shall appoint a board of appeals under chapter 2, article V, division 5 of this Code and Wis. Stats. § 62.23(7)(e), consisting of five members subject to confirmation by the common council. The board of appeals shall adopt rules for the conduct of the business of the board of appeals as required by Wis. Stats. § 62.23(7)(e)3.
- (b) Powers and duties. The board of appeals shall:
1. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.
 2. Hear and decide applications for conditional use permits under this article.
 3. May authorize, upon appeal in specific cases, such variance from the terms of this article as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of this article will result in unnecessary hardship. In the issuance of a variance, the spirit of this article shall be observed and substantial justice done. No variance from the terms of this article shall be granted which is contrary to the public interest. A variance may be granted where, owing to special conditions, a literal enforcement of the provisions of this article would result in unnecessary hardship. The granting of a variance shall not have the effect of granting or extending any use of property which is prohibited in that zoning district by this article.
- (c) Appeals to the board of appeals. Appeals to the board of appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the zoning administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the board of appeals, by filing with the official from whom the appeal is taken and with the board of appeals, a notice of appeal specifying the reasons therefor. The zoning administrator or other official from whom the appeal is taken shall transmit to the board of appeals all the papers constituting the record on which the appeal action was taken.
- (d) Public hearings.
1. Before making a decision on an appeal, the board of appeals shall, within a reasonable period of time, hold a public hearing. The board of appeals shall give public notice of the hearing by

publishing a Class 2 notice under Wis. Stats. ch. 985, specifying the date, time and place of the hearing and the matters to come before the board of appeals. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.

2. A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the department at least ten days prior to all public hearings on issues involving shoreland-wetland zoning.
- (e) Decisions.
1. The final disposition of an appeal, or application for a conditional use permit, to the board of appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the board chairperson. Such decision shall state the specific facts which are the basis of the board of appeals' determination and shall either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or persecution, or grant the application for a conditional use.
 2. A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the department within ten days after the decision is issued.
- (19) Amending Shoreland-Wetland Zoning Regulations.
- (a) The common council may, from time to time, alter, supplement or change the district boundaries and the regulations contained in this article in accordance with the requirements of Wis. Stats. § 62.23(7)(d)2, and the following:
1. A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the department within five days of the submission of the proposed amendment to the city planning agency.
 2. All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the city plan commission, and a public hearing shall be held as required by Wis. Stats. § 62.23(7)(d)2. The appropriate district office of the department shall be provided with written notice of the public hearing at least ten days prior to such hearing.
 3. In order to ensure that the shoreland protection objectives in Wis. Stats. § 144.26 will be accomplished by the amendment, the common council may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
 - a. Stormwater and floodwater storage capacity;
 - b. Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - d. Shoreline protection against soil erosion;
 - e. Fish spawning, breeding, nursery or feeding grounds;
 - f. Wildlife habitat; or
 - g. Areas of special recreational scenic or scientific interest, including scarce wetland types and habitat of endangered species.
 4. Where the district office of the department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in subsection (c) of this section, the department shall so notify the city of its determination either prior to or during the public hearing held on the proposed amendment.

5. The appropriate district office of the department shall be provided with:
 - a. A copy of the recommendations and report, if any, of the city plan commission on the proposed text or map amendment within ten days after the submission of those recommendations to the common council; and
 - b. Written notice of the common council's action on the proposed text or map amendment within ten days after the action is taken.
 6. If the department notifies the city plan commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subsection (c) of this section, that proposed amendment, if approved by the common council, may not become effective until more than 30 days have elapsed since written notice of the common council approval was mailed to the department, as required by subsection (e) of this section. If, within the 30-day period, the department notifies the common council that the department intends to adopt a superseding shoreland-wetland zoning ordinance for the city under Wis. Stats. § 62.231(6), the proposed amendment may not become effective until the ordinance adoption procedure under Wis. Stats. § 62.231(6) is completed or otherwise terminated.
- (20) Purpose of Shoreland-Wetland Zoning.
- (a) This article is adopted to maintain safe and healthful conditions, to prevent and control water pollution, to protect fish spawning grounds, fish and aquatic life and wildlife habitation, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner which minimizes adverse impacts upon the wetland.
- (21) Official Shoreland-Wetland Zoning Maps.
- (a) The following maps are hereby adopted and made a part of this article and are on file in the office of the city clerk:
 1. Wisconsin Wetland Inventory maps stamped "Final" on April 11, 1986.
 2. Floodplain zoning maps based on the Columbia County, Wisconsin And Incorporated Areas FIS Number 55021CV000A dated April 2, 2008.
 3. United States Geological Survey maps, Portage Quadrangle, dated 1984.
 4. City of Portage Official Zoning Map (current version).
- (22) District Boundaries.
- (a) The shoreland-wetland zoning district includes all wetlands in the city which are five acres or more and are shown on the final wetland inventory map that has been adopted and made a part of this article in section 90-522 and which are:
 1. Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the city shall be presumed to be navigable if they are listed in the department of natural resources publication "Surface Water Resources of Columbia County" or are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this article in section 90-522
 2. Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this article in section 90-522. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing community floodplain zoning maps used to

delineate floodplain area which have been adopted by the city shall be used to determine the extent of floodplain areas in the city.

- (b) Determinations of navigability and ordinary high-water mark shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the department for the final determination of navigability or ordinary high-water mark.
 - (c) When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the department to determine if the shoreland-wetland district boundary as mapped is in error. If the department staff concurs with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official shoreland-wetland zoning maps, the zoning administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.
- (23) Permitted Uses.
- (a) The following uses are permitted subject to the provisions of Wis. Stats. chs. 30 and 31, and the provisions of other local, state and federal laws, if applicable:
 - 1. Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
 - a. Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c. The practice of silviculture, including the planting, thinning and harvesting of timber;
 - d. The pasturing of livestock;
 - e. The cultivation of agricultural crops; and
 - f. The construction and maintenance of duck blinds.
 - 2. Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
 - a. The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - b. The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - c. The maintenance and repair of existing drainage ditches, where permissible under Wis. Stats. § 30.20, or of other existing drainage systems (such as tiling) to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Wis. Stats. ch. 30, and that dredged spoil is placed on existing spoil banks where possible;
 - d. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - e. The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;

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- f. The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in section 90-499(3); and
 - g. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
 3. Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:
 - a. The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted in this section, provided that:
 - i. The road cannot, as a practical matter, be located outside the wetland;
 - ii. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in section 90-499(3);
 - iii. The road is designed and constructed with the minimum cross sectional area practical to serve the intended use;
 - iv. Road construction activities are carried out in the immediate area of the roadbed only; and
 - v. Any wetland alteration must be necessary for the construction or maintenance of the road.
 - b. The construction and maintenance of nonresidential buildings provided that:
 - i. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - ii. The building cannot, as a practical matter, be located outside the wetland;
 - iii. The building does not exceed 500 square feet in floor area; and
 - iv. Only limited filling and excavating necessary to provide structural support for the building is allowed.
 - c. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - i. Any private development allowed under this subsection shall be used exclusively for the permitted purpose;
 - ii. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 - iii. The construction and maintenance of roads necessary for the uses permitted under this subsection are allowed only where such construction and maintenance meets the criteria in subsection (3)a of this section; and
 - iv. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
 - d. The construction and maintenance of electric and telephone transmission lines and water, gas and sewer distribution lines, and related facilities provided that:

- i. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland;
 - ii. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - iii. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in section 90-499(3).
 - e. The construction and maintenance of railroad lines, provided that:
 - i. The railroad lines cannot, as a practical matter, be located outside the wetland;
 - ii. Only limited wetland alteration necessary for such construction or maintenance is allowed; and
 - iii. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland as listed in section 90-499.
- (24) Prohibited Uses.
- (a) Any use not listed in section 90-524 is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this article in accordance with section 90-499.
 - (b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.
- (25) Nonconforming Structures and Uses.
- (a) The existing lawful use of a structure, building or property, or its accessory use, which is not in conformity with the provisions of this article may be continued subject to the following conditions.
 - 1. Notwithstanding Wis. Stats. § 62.23(7)(h), the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment of this article adopted under Wis. Stats. § 62.231, or of an environmental control facility in existence on May 7, 1982, related to that structure, is permitted under Wis. Stats. § 62.231(5). Wis. Stats. § 62.23(7)(h) applies to any environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of the ordinance from which this article is derived or amendment.
 - 2. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this article.
 - 3. Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption of the ordinance from which this chapter is derived or subsequent amendment of this article adopted under Wis. Stats. §§ 62.231 or 61.351 may be continued although such use does not conform with the provisions of this article. However, such nonconforming use may not be extended.
 - 4. The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Wis. Stats. § 30.121.
 - 5. Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

Section 90-94: PD Planned Development Overlay District

This district allows variations from the typical zoning district requirements in developments that are conceived and implemented as cohesive, unified projects. This district is intended to provide more incentives for redevelopment in areas of the community which are experiencing a lack of reinvestment, or which require flexible zoning treatment because of factors which are specific to the site. This district is designed to advance

both aesthetic and economic objectives of the city by controlling the site design and the land use, appearance, density, or intensity of development within the district in a manner which is consistent with sound land use, urban design, and economic revitalization principles. The application of these standards will ensure long-term progress and broad participation toward these principles. Refer to section 90-475 for the procedures applicable to proposal review in this standard zoning district. The city also intends to use the Planned Development Overlay District to provide a mechanism for review of traditional neighborhood developments per State Statute 66.1027.

Section 90-95: Historic Preservation

Regulations related to the preservation of historic structures are included in Chapter 34, Historic Preservation of the City of Portage Code of Ordinances and are incorporated by reference herein.

Section 90-96: C-1 Resource Conservation Overlay District

- (1) Description and Purpose: This district is intended to preserve the natural state of scenic areas in the city. The C-1 Resource Conservation Overlay District shall prevent uncontrolled, uneconomical spread of development, and to help discourage intensive development of marginal lands so as to prevent potential hazards to public and private property.
- (2) List of Allowable Land Uses

Permitted by Right:	Permitted as Conditional Use:
Active Outdoor Public Recreation	Drainage
Passive Outdoor Public Recreation	Water Measurement and Control Facilities
Preservation of Scenic, Historic, and Scientific Areas	Husbandry
Soil and Water Conservation	Public Service Utilities
Streambank and Lakeshore Protection	Wild Crop Harvesting
Sustained Yield Forestry	
Water Retention	
Wildlife Preserves	
Note: The above uses shall not involve the dumping, filling, cultivation, mineral, soil or peat removal or any other use that would disturb the natural fauna, flora, watercourses, water regimen, or topography.	

- (1) List of Prohibited Land Uses:

Cultivation
Clear Cutting
Filling
Extraction
No Structures are Permitted in the C-1 Conservation District

Section 90-97: M-W Municipal Well Recharge Area Overlay District

- (1) Description and Purpose. The residents of the city depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this overlay district is to institute land use regulations and restrictions protecting the municipal water supply of the city and to promote the public health, safety, and general welfare of the City's residents.
- (2) Authority. Under Wis. Stats. §62.23(7)(c), the city has the authority to enact this section, effective in the incorporated areas of the city, to encourage the protection of groundwater resources and to protect the public health, safety, and welfare of the city's residents.
- (3) Application of Regulations. The regulations specified in this section shall apply to the incorporated areas of the city that lie within the recharge areas for municipal water supply wells as defined herein

and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this section and this Chapter, the more restrictive provision shall apply.

- (4) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- (a) Aquifer. A saturated, permeable geologic formation that contains and will yield significant quantities of water.
 - (b) Conditional Use. Land use or development that either by design or operation requires additional technical or regulatory review and permitting in order to exist within defined areas of a wellhead protection overlay district.
 - (c) Cone of Depression. The area around a well, in which the water level has been lowered at least one-tenth of a foot by pumping of the well.
 - (d) Design Standards. Regulations that apply to the development of structures and infrastructure within a designated wellhead protection overlay district.
 - (e) Municipal Water Supply. The municipal water supply of the City of Portage.
 - (f) Operating Standards. Regulations that apply to land use activities and/or business practices within a designated wellhead protection overlay district.
 - (g) Permitted Use. Land use or development that by design or operation is allowed without further technical or regulatory review within defined areas of a wellhead protection overlay district.
 - (h) Person. An individual, partnership, association, corporation, municipality, state agency, or other legal entity.
 - (i) Recharge Area. The area which encompasses all areas or features that, by surface infiltration of water that reaches the zone of saturation of an aquifer, supplies groundwater to a well.
 - (j) Regulated Substances. Chemicals and chemical mixtures that are health hazards. Health hazards for chemicals and chemical mixtures are typically identified on material safety data sheets (MSDS) available from the substance manufacturer or supplier. Regulated substances include:
 - 1. Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, irritants, corrosives, sensitizers, hepatotoxins, agents that act on the hematopoietic system, reproductive toxins, and agents which damage the lungs, skin, eyes, or mucous membranes as defined in 29 CFR 1910.1200, Appendix A, "Health Hazard Definitions (Mandatory)."
 - 2. Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.
 - 3. Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and comprises 1.0 percent or greater of the composition on a weight per unit weight basis.
 - 4. Mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one (0.1) percent or greater of the composition on a weight per unit weight basis.
 - 5. Ingredients of mixtures prepared within the Groundwater Protection Overlay District in cases where such ingredients are health hazards but comprise more than one tenth of one (0.1) percent of the mixture on a weight per unit weight basis if carcinogenic, or more than one (1.0) percent of the mixture on a weight per unit weight basis if non-carcinogenic.
 - 6. Petroleum and nonsolid petroleum derivatives (except non-PCB dielectric fluids used in equipment or for transmission of electric power).

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- (k) Well Field. A piece of land used primarily for the purpose of locating wells to supply a municipal water system.
 - (l) Zone of Saturation. The area of unconsolidated, fractured, or porous material that is saturated with water and constitutes groundwater.
- (5) Groundwater Technical Review Committee.
- (a) The Portage Groundwater Technical Review Committee shall consist of:
 - 1. The city engineer, acting as committee chair.
 - 2. The utility manager.
 - 3. The mayor or city administrator.
 - (b) The purpose of the Groundwater Technical Review Committee is to provide objective and scientific technical review of requests for conditional use permits and to make recommendations to the Plan Commission to grant or deny conditional use permits based upon the facts discovered during review, to make recommendations on any and all provisions placed on a conditional use permit, and to give advice on matters concerning groundwater.
 - (c) The Groundwater Technical Review Committee may retain a consultant to assist in the review of requests for conditional use permits. Any costs incurred as part of the conditional use permit application review shall be reimbursed by the applicant.
- (6) Groundwater Protection Overlay District. A Groundwater Protection Overlay District is hereby created to institute land use regulations and restrictions within the areas defined below which contributes water directly to a municipal water supply and thus promotes public health, safety, and welfare of city residents. The district is intended to protect the groundwater recharge area for the existing or future municipal water supply from contamination.
- (7) Supremacy of this District. The regulations of an overlay district will apply in addition to all other regulations which occupy the same geographic area. The provisions of any underlying zoning districts will apply to this overlay district except when provisions of the groundwater protection overlay district are more stringent.
- (8) Zones. The Groundwater Protection Overlay District is divided into zones as follows:
- (a) Zone 1: The area of land which lies within a 600-foot radius of each municipal well. Zone boundaries are normalized to road centerlines, railways, surface water features, and include all of any tax parcel touched by the Zone 1 boundary.
 - (b) Zone 2: Encompasses the area of land which contributes water to the well starting at the line which delineates Zone 1 and ends at the line delineating the calculated fixed radius of the well. Zone boundaries are normalized to road centerlines, railways, surface water features, and include all of any tax parcel touched by the Zone 2 boundary.
- (9) Groundwater Protection Overlay District Boundaries.
- (a) The locations and boundaries of the Groundwater Protection Overlay District established by this section are set forth schematically on Figure 1, "City of Portage—Wellhead Protection Overlay District". Said figure, together with everything shown thereon and all amendments thereto, shall be as much a part of this Section as thoughtfully set forth and described herein.
 - (b) The wellhead protection zones shall be located by land survey methods by the applicant to determine exact parcels affected.
- (10) Permitted uses.
- (a) The following permitted uses in Zone 1 are subject to the separation distance requirements and prohibited uses of this section in addition to applicable design and operational standards:
 - 1. Public and private parks, playgrounds and beaches, provided there are no on-site wastewater disposal systems or holding tanks.

2. Wildlife and natural and woodland areas.
 3. Biking, hiking, skiing, nature, equestrian, and fitness trails.
 4. Municipally sewerred residential uses whose aggregate storage and/or use of regulated substances do not exceed 20 gallons or 160 pounds at any time.
 5. Commercial, industrial, and other non-residential uses that are municipally sewerred and whose aggregate use, handling, and/or storage of regulated substances do not exceed 20 gallons or 160 pounds at any time.
 6. Routine tillage, planting, and field management operations in support of agricultural crop production, where nutrients from legume, manure, and commercial sources are accounted for and credited toward crop nutrient need. The combination of all nutrient sources applied or available on individual fields may not exceed University of Wisconsin soil test recommendations for that field.
- (b) The following permitted uses in Zone 2 are subject to the separation distance requirements and prohibited uses of this section in addition to applicable design and operational standards:
1. All of the uses permitted in Zone 1.
 2. Residential use of aboveground LP gas tanks for heating, not to exceed 1,000 gallons.
 3. Commercial, industrial, and other non-residential uses that primarily warehouse, wholesale, and/or retail various substances, which may or may not be regulated substances, but are in all cases handled as sealed containers not larger than 55 gallon drums. Handling regulated substances shall require transmitting copies of applicable permits and a current emergency contingency plan for containment annually to the city fire department.
 4. Commercial, industrial, and other non-residential uses that utilize various regulated substances where such regulated substances are used as part of a process or in some other way that is ancillary to the use. Process and use of regulated substances shall require transmitting copies of applicable permits and a current emergency contingency plan for containment annually to the city fire department and a physical containment design, sealed by a state-registered professional engineer with experience in environmental containment design, appropriate to the scope of the process and/or use of the regulated substances.
- (11) Separation Distance Requirements. The separation distances as specified in Wis. Admin. Code section NR 811.16(4)(d), as amended, shall be maintained.
- (12) Prohibited Uses. The following uses are prohibited in Zones 1 and 2:

Buried hydrocarbon, petroleum or hazardous chemical storage tanks (hazardous chemicals are identified by OSHA criteria under 40 CFR Part 370)
Cemeteries
Chemical manufacturers (Standard Industrial Classification Major Group 28)
Coal storage
Dry cleaners
Industrial lagoons and pits (except wet and/or dry stormwater management facilities)
Landfills and any other solid waste facility, except post-consumer recycling
Manure and animal waste storage
All mining including sand and gravel pits
Pesticide and fertilizer dealer, transfer or storage facilities (excluding products packaged for residential use)
Railroad switch yards and maintenance stations
Rendering plants and slaughterhouses
Salt or deicing material storage
Salvage yards or junkyards

Septage or sludge spreading, storage or treatment
Septage, wastewater, or sewage lagoons
Private on-site wastewater treatment systems or holding tanks
Stockyards and feedlots
Motor vehicle services, including filling and service stations, repair, renovation, and body working
Wood preserving operations

- (13) Classification of Use. Classification of a use as being permitted, prohibited, or conditional shall be determined by an application submitted to the Groundwater Technical Review Committee. The application shall be in writing and shall describe in detail the use, activities, and structures proposed along with the quantities, use of, storage, and handling of all regulated substances. A scaled site map showing all building and structure footprints, driveways, loading docks, sidewalks, parking lots, storage yards and any other information deemed necessary shall be included.
 - (a) Application. The above-described application shall be submitted to the city engineer for inclusion on a meeting agenda for the Groundwater Technical Review Committee. The Groundwater Technical Review Committee may request additional information as deemed necessary to facilitate a determination.
 - (b) Investigation. The Groundwater Technical Review Committee shall investigate as necessary in order to compare the nature and characteristics of the proposed use with those that are permitted, conditional, or prohibited.
 - (c) Determination. The Groundwater Technical Review Committee shall determine the use as being permitted, prohibited, or conditional. The determination of the groundwater technical review committee shall be rendered in writing within 60 days from receiving all requested information and shall include findings supporting the conclusion.

- (14) Conditional Use Permits.
 - (a) Any person may request a conditional use permit for certain uses, activities, and structures within Zone 2 of the Groundwater Protection Overlay District not prohibited in this section pursuant to the terms set forth below and those contained in this Chapter. No conditional use permit may be granted to any use, activity, or structure in Zone 1.
 - (b) Use, storage handling, or production processing of regulated substances in excess of quantities outlined this section may be conditionally allowed in Zone 2 of the Groundwater Protection Overlay District.
 - (c) All properly prepared requests for a conditional use permit shall be submitted in writing to the city engineer for a review of permit application materials by the Groundwater Technical Review Committee. After review by the Groundwater Technical Review Committee, the request and recommendation of the Groundwater Technical Review Committee will then be forwarded to the city clerk, for inclusion on the agenda of the next Plan Commission meeting. In addition to the requirements of section 90-472, a conditional use permit application covering property within Zone 2 shall include:
 - 1. A site plan map set showing all proposed building and structure footprints, driveways, sidewalks, parking lots, stormwater management structures, groundwater monitoring wells, 2-foot ground elevation contours and including any of the above, if existing at the time of plan submittal. The plan set should also include building plans (including floor plans of typical floors and denote all entrances, exits, loading docks, building service areas, etc.), storage areas for regulated substances, grading plans showing existing and proposed grades and contours, proposed surface water drainage patterns, catch basin and storm sewer locations, connections to existing utilities and a construction site erosion control plan. The site plan set shall be developed in accordance with the design standards as defined in this section.

2. An operational plan and/or other documentation which describes in detail the use, activities, and structures proposed. The operational plan shall be developed in accordance with the operational standards established for the Wellhead Protection Overlay District as defined in this section.
 3. An environmental risk assessment report prepared by a licensed environmental professional which details the risk to, and potential impact of, the proposed use, activities, and structures on groundwater quality.
 4. An operational safety plan, which details the operational procedures for material processes and containment, best management practices, stormwater runoff management, and groundwater monitoring as required.
 5. A contingency plan which addresses in detail the actions to be taken should a contamination event caused by the proposed use, activities, or structures occur.
- (d) The Plan Commission shall decide upon a request for a conditional use permit only after full consideration of the recommendations made by the Groundwater Technical Review Committee. Any provisions above and beyond those specified by this section that are recommended by the Groundwater Technical Review Committee may be applied to the granting of the conditional use permit by the Plan Commission.
- (e) All conditional use permits granted under this Chapter shall be subject to provisions that will include environmental and safety monitoring determined necessary to afford adequate protection of the public water supply. These provisions shall include, but not be limited to:
1. Provide current copies of all federal, state, and local facility operation approval or certificates and ongoing environmental monitoring results to the city.
 2. Establish environmental or safety structures/monitoring to include an operational safety plan, material processes and containment, operations monitoring, best management practices, stormwater runoff management, and groundwater monitoring.
 3. Replace equipment or expand in a manner that improves the environmental and safety technologies being utilized.
 4. Prepare, file, and maintain a current contingency plan which details the response to any emergency which occurs at the facility, including notifying municipal, county, and state officials. Provide a current copy to the city.
- (f) The person making the request shall reimburse the city for fees and expenses associated with this review at the invoiced amount, plus administrative costs.
- (g) The conditional use permit will become effective only after any costs incurred during the conditional use permit application review are satisfied by the applicant.
- (h) Conditional use permits are nontransferable. In a case of business or property transfer, the new owner is responsible for applying for a new conditional use permit.
- (15) Design and Operational Standards.
- (a) The following design standards apply to permitted land use activities within the Wellhead Protection Overlay District:
1. All parking lots shall be paved with asphalt or concrete.
 2. All stormwater retention/infiltration ponds shall use a design intended to maximize natural filtration. When deemed necessary by the city engineer, the designs shall include spill containment measures, initial and secondary detainment weirs and/or outfall control valves.
- (b) The following design standards apply to conditional use activities within Zone 2 of the Wellhead Protection Overlay District:

1. Facilities that handle regulated substances shall have a loading/unloading area designated for the handling of regulated substances. The designated loading/unloading area shall be designed with spill and/or runoff containment. Regulated substances may be loaded/unloaded only in a designated handling area.
 2. Storage areas for regulated substances shall be designed with secondary containment capable of controlling 125 percent of the maximum design capacity of the liquid and/or solid storage area.
 3. Facilities involved in the handling of regulated substances will, when required by the committee, prepare a groundwater monitoring plan.
 4. All rail spurs used to transport regulated substances shall be designed to minimize infiltration and convey runoff to a stormwater conveyance system. Rail car loading/unloading areas used to handle regulated substances shall be designed with spill and/or runoff containment.
- (c) The following operational standards apply to permitted land use activities within the Wellhead Protection Overlay District:
1. Regulated substances associated with paving, the pouring of concrete, or construction for which all necessary permits have been obtained may be handled in the Groundwater Protection Overlay District, provided such regulated substances are present at the construction site for which the permits have been issued and do not pose a real and present danger of contaminating surface and/or groundwater. For the on-site storage of fuel for vehicles or other equipment, which may be associated with such construction activity, the fuel storage containers shall be secondarily contained. Regulated substances not used in the construction process and all wastes generated during construction shall be removed from the construction site not later than at the time of the completion of the construction. If construction activity has ceased for 30 days, all regulated substances shall be removed from the site until such time as the construction activity is to resume.
 2. The use of deicing salt or other chemical deicing materials shall be minimized and used only when threats to safety occur.
- (d) The following operational standards apply to conditional use activities within Zone 2 of the Wellhead Protection Overlay District:
1. All operational standards listed in this section.
 2. Except in the case of seasonal discontinuation of operation, the owner or operator of any non-residential property that becomes unoccupied or has discontinued operation for a period of 30 consecutive days shall remove all regulated substances from the property, except those approved to be exclusively used for heating, cooling, and providing electrical lighting for the premises, within 30 days after the date upon which the property initially became unoccupied or the operation discontinued. The owner or operator shall secure the regulated substances on the property until they have been removed. The owner or operator shall notify the city engineer in writing of the date of the cessation of operation or the property becoming unoccupied no later than the day upon which the operation actually ceases or the property becomes unoccupied, and such notification shall include the owner's name, phone number, and address and the operator's name, phone number, and forwarding address.
 3. Truck, truck trailer, rail car, or tank truck loading and unloading procedures for regulated substances shall meet the minimum requirements of the U.S. Department of Transportation and the state department of transportation.
 4. No truck, trailer, rail car, or tank truck shall be used for on-site storage of regulated substances. Regulated substances shall be transferred from the delivery vehicle to the

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- regulated substance storage area as soon as possible and shall occur only in designated loading/unloading areas.
5. Warning signs and chock blocks shall be provided in the loading and unloading area to prevent premature vehicular departure.
 6. No outdoor storage of product, material, or equipment other than that approved through the conditional use permitting process shall be allowed. Any designated outdoor storage area shall be an impervious surface paved with concrete or asphalt and have secondary containment.
 7. Daily visual inspections of regulated substances shall be conducted by the holder of the conditional use permit to check for container damage or leakage, stained or discolored storage surfaces in all storage areas, excessive accumulation of water in outdoor curbed areas, and to ensure that dike drain valves are securely closed in outdoor curbed areas.
 8. Storage areas for regulated substances shall have access restricted to properly authorized and trained personnel.
 9. The holder of a conditional use permit shall provide adequate training to ensure that operational safety plans and contingency plans are understood by all authorized personnel.
 10. A holder of a conditional use permit using or producing regulated substances shall have an adequate quantity of spill response equipment and supplies onsite to contain and cleanup spills of regulated substances.
 11. Annual spill prevention briefings shall be provided to authorized personnel by company management to ensure adequate understanding of the operational safety and contingency plans. These briefings shall highlight any past spill events or failures and recently developed precautionary measures. Annually, records of these briefings shall be provided to the fire department.
 12. Instructions and phone numbers for reporting spills to the fire department and other local, state, and federal agencies shall be posted in all areas where regulated substances are handled.
- (16) Requirements for Existing Facilities. Existing facilities within the Groundwater Protection Overlay District at the time of enactment of such district which are considered a prohibited use by this section or a conditional use, each of which are incorporated herein as if fully set forth, shall be subject to the following requirements:
- (a) Such existing facilities shall provide copies of all current, revised or new federal, state, and local operation approvals, permits or certificates; operational safety plans; and ongoing environmental monitoring results to the fire department.
 - (b) Such existing facilities shall have the responsibility of devising, filing, and maintaining with the fire department, a current contingency plan, satisfactory to the city, for immediate notification of municipal, county, and state officials in the event of an emergency.
 - (c) Such existing facilities will be allowed to upgrade the facilities to facilitate or enhance groundwater protection. Plans for the proposed upgrade must be approved by the Plan Commission and Common Council and appropriate permit issued by the Public Works Department, prior to any work being initiated. Expansion of any prohibited use will not be allowed. This section does not apply to normal maintenance or minor repairs.
- (17) Changing Technology.
- (a) The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by a particular use considered to be of a high risk for pollution to the groundwater resource. As the technology of other uses change to low or non-risk materials or methods and after conferring with the Groundwater Technical Review Committee or other expert opinion, the city, through appropriate procedures

- and actions to change these provisions of this Code, may remove from the designated prohibited uses such uses as are demonstrated convincingly that they no longer pose a groundwater pollution hazard.
- (b) In dealing with uses which attempt to become permissible by continuing to utilize pollutant materials but altering their processing, storage, and handling, it is not the city's intent to accept alternate or reduced hazards as the basis for making a use permissible. The city intends to continue to prohibit such uses until the technology of the use removes reliance upon the pollutant materials or processes deemed to be a groundwater hazard.
- (18) Enforcement and Penalty.
- (a) Penalty. Any person who violates, neglects, or refuses to comply with any of the provisions of this section shall be subject to a penalty as provided below.
- (b) Injunction. The city may, in addition to any other remedy, seek injunction or a restraining order against the party alleged to have violated the provisions herein, the cost of which shall be charged to the defendant in such action.
- (c) Notice of violation.
1. Any person found in violation of any provisions of this section will be served with a written notice stating the nature of the violation and providing reasonable time for compliance.
 2. The notice shall be served in the manner provided by the law for the service of civil processes. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax-mailing address of the owner as shown on the county tax record.
- (d) Inspections. Subject to applicable provisions of law, the city building inspector, city engineer, fire inspector, or any authorized representative thereof shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling, and records examination pertaining to the requirements of this Section to ensure that activities are in accordance with the provisions of this section. Upon request of the entity which is the subject of the inspection, and if permitted by the state public records law (Wis. Stats. §§19.31-19.39), information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the appointed individual for the above stated purposes, the city may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.
- (e) Subject area. The area subject to the provisions of this Section is the Wellhead Protection Overlay District as shown on the Official Zoning Map of the city.
- (f) Determination of applicability. It shall be the responsibility of any person owning real property and/or owning or operating a business within the Wellhead Protection Overlay District to make a determination of the applicability as they pertain to the property and/or business, and failure to do so shall not excuse any violation of said sections.
- (g) Management.
1. No persons shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as "handle," any regulated substance on public or private property within the Wellhead Protection Overlay District or in any area under the jurisdiction of said district, except as provided by law, statute, ordinance, rule, or regulation.
 2. Any violation of this section is hereby declared a nuisance.
- (h) Spills, leaks or discharges.
1. Any person with direct knowledge of a spill, leak or discharge of a regulated substance within the Wellhead Protection Overlay District shall, if such spill, leak, or discharge escapes

containment or contacts a non-impervious ground surface and is not immediately and completely remediated, give notice to the fire department utilizing the county wide 911 service within 30 minutes. The notification shall include, at a minimum, the location of the incident, name and telephone number of the contacting party, date and time thereof, type of substances, concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, state, and federal reporting obligations.

2. Any entity or person who spills, leaks or discharges said substances shall be liable for any reasonable expense, loss or damages incurred by the city in response to such an incident, in addition to the amount of any fines imposed on account thereof under state and federal law; said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than 180 days after the incident.
 - (i) Cleanup costs. In addition to any other action or remedy, the city may commence legal action against both the person who releases the contaminants and the owner of the facility whereupon the contaminants were released to recover the city's costs, including costs of prosecution. Any person who causes the release of any contaminants which may endanger or contaminate the municipal water supply system associated with the Groundwater Protection Overlay District shall immediately cease such discharge and immediately initiate cleanup satisfactory to the city and any other state and/or federal regulatory agencies. The person who releases such contaminants and the person who owns the facility whereon the contaminants have been released shall be jointly and severally responsible for the cost of cleanup and other fees, including all administrative costs for oversight, review and documentation, including the city employees, equipment, and mileage.

Section 90-98: S-B Sexually Oriented Business Overlay District

- (1) Description and Purpose. The City of Portage, relying on the experience of other local governments in this state and throughout the country, finds as follows:
 - (a) That sexually oriented businesses may have an adverse secondary effect on the surrounding community because the sexual nature of the business may, regardless of the intentions of the proprietors, attract persons seeking prostitution or unlawful drugs, or who are inclined to be disorderly or disruptive.
 - (b) Sexually oriented businesses are typically intense commercial uses which create a large volume of foot and automobile traffic in the vicinity of the business, which may require police and other municipal services which may not be available in the townships surrounding the city.
 - (c) Sexually oriented businesses have their peak activity at hours and days which are incompatible with residential and most other commercial uses.
 - (d) Because of the potential for negative impacts on property values, the peace and good order of the city and the welfare of the individuals affected by sexually oriented businesses, it is necessary to minimize the secondary effects of sexually oriented businesses and assure that such establishments are not located in places which pose unacceptable conflicts with existing or planned land uses.
 - (e) It is the intent of this section to protect the health, safety, and welfare of the citizens of the city and to further preserve the quality of family life and to preserve the urban and rural characteristics of its neighborhoods.
 - (f) The intent of the S-B Sexually Oriented Business Overlay District is solely to regulate the location of such establishments, not the content of any presentation or materials held for sale, rent, or loan.

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- (g) Nothing in this section shall be construed to permit the regulation of any activities conducted in sexually oriented businesses which are entitled to protection under the First Amendment of the United States Constitution, including:
1. Plays, operas, musicals, or other dramatic works that are not obscene;
 2. Classes, seminars, or lectures which are held for a serious scientific or educational purpose that are not obscene.
 3. Whether or not an activity is obscene shall be judged by consideration of the following factors:
 - a. Whether the average person, applying contemporary community standards, would find that the activity, taken as a whole, appeals to the prurient interest in sex;
 - b. Whether the activity depicts or describes sexual conduct in a patently offensive way, as measured against community standards; and
 - c. Whether the activity, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (2) Definitions.
- (a) A sexually oriented business shall be defined as any business that conducts any live performance that includes nudity and/or sexual activities or any business that devotes more than ten percent of its available floor, wall, and display space open to the public for sale, rent or loan of books, movies, novelties, or other item(s) that include any pictures, photographs, drawings, motion pictures films or similar visual representations or images of a person or portions of the human body which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to sexual activities or nudity.
 - (b) Nudity shall mean the showing of any human genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the areola or nipple, or the showing of the covered male genitals in a discernibly turgid state.
 - (c) Sexual activities shall mean the fondling of another person's genitals, pubic region, anus or female breasts; actual or implied sex acts including intercourse, oral copulation, masturbation or sodomy; or any sexual acts prohibited by Wisconsin Statutes.
- (3) Overlay District. The overlay district shall apply only to those lands in the City of Portage zoned A-I agricultural district, lying south of the Wisconsin River and/or south and east of Ontario Street.
- (4) Permitted Use. A sexually oriented business shall be a permitted use within the overlay district.
- (5) Siting Standards. Sexually oriented businesses shall meet all of the following requirements:
- (a) No sexually oriented business may be located within 1,000 feet, as measured from nearest front door to nearest front door, from any church, synagogue, temple, mosque or other place of worship, residentially zoned district, residential use regardless of zoning, school, day care center, public library, and other sexually oriented business or within 1000 feet, as measured from the front door to the closest property boundary of a park, playground, or interstate highway.
 - (b) There shall be no display windows on the premises.
 - (c) The exterior building appearance and signage shall be designed to ensure that the use does not detract from the ability of businesses in the vicinity to attract customers, nor affect the marketability of properties in the vicinity for sale at their assessed values.
 - (d) The business may have only one non-flashing business sign, which must be on the premises occupied by the business, may only indicate the name of the business and identify it as a sexually oriented business and shall be no larger than four feet by four feet.

- (e) A one square foot sign shall be placed on each public entrance which shall state "Admittance to adults only" and may include other pertinent business information.
- (f) The owner and operator of a sexually oriented business shall agree to comply with all federal, state, and local laws and ordinances, including those regulating obscenity and alcoholic beverages, and shall further insure that minors are not allowed on the premises;
- (g) There shall be no areas in a sexually oriented business where entertainment is provided which are not fully visible from the main area of the establishment (i.e., there shall be no areas set off by doors, curtains, screens, barriers, café, saloon doors, or other obstructions where entertainment is provided).
- (h) Minimum required parking: One space per 300 square feet of gross floor area, or one space per person at the maximum capacity of the establishment (whichever is greater).
- (i) Severability. The provisions of this section shall be severable if so determined by the Common Council.

Section 90-99 through 90-109: Reserved

ARTICLE VII: SITE DESIGN AND PERFORMANCE REGULATIONS

Section 90-110: Purpose

The purpose of this article is to protect the health, safety, and welfare of the public from nuisances and hazards and to regulate site and building design to maintain and enhance the attractiveness and values of property in the community.

Section 90-111: Avoidance of Monotony

- (1) Purpose. The purpose of this section is to preserve the aesthetically pleasing character of Portage's residential districts; protect and enhance property values; and promote the easy identification of houses, by encouraging new dwelling construction of distinctive design and discouraging excessive similarity among adjacent dwellings.
- (2) Applicability. The regulations listed in this section are applicable to all two-family and multi-family residential structures requiring a building permit on or after the effective date of this Chapter.
- (3) Exempt.
 - (a) These regulations shall not apply to dwellings for which a sales contract has been signed or wherein a building permit has been approved prior to the effective date of this chapter, including dwellings that are being remodeled, reconstructed, or replaced after fire or natural catastrophe.
 - (b) These regulations may be waived by the Zoning Administrator in cases where the applicant for a building permit could not be expected to anticipate the design of a neighboring dwelling for which a building permit has already been issued but is not yet built. In such instances, the builder may request an exception from this section.
 - (c) These regulations may be waived for planned developments in which similarity of architectural form and style among dwellings is integral to the success of the planned development, in which case the high quality of building materials and site design overcome the presumed deficiencies of similarity. In such cases, the developer shall request an exception from this chapter as a condition of the proposed planned development.
- (4) Residential Construction Design Variety. No building permit shall be issued for any new residential dwelling which is similar in appearance to any residential dwelling within 150 feet on the same street.
- (5) Similarity Standards. A dwelling on a corner lot may be considered dissimilar to another if the two dwellings face different streets. On cul-de-sac turnarounds, no dwelling shall be similar in appearance to another dwelling on the turnaround.
 - (a) For the purpose of this Chapter, "similar in appearance" means a dwelling which is identical, or nearly identical, to another in any three of the following characteristics:
 1. Roof type.
 2. Roof height.
 3. Approximate dimensions (height and length) of the front wall closest to the front lot line;
 4. Shape of the front elevation silhouette.
 5. Relative locations and sizes of windows in the front elevation.
 6. Relative location and dimensions of garage door(s), if included on the front elevation.
 7. Exterior materials.

Section 90-112: Exterior Materials

- (1) Exterior Materials. Except for exposed foundations, all buildings and other structures, except single family homes, located within any district, except the A-1 or the M-2 districts, shall employ only high-

quality, decorative exterior construction materials on the visible exterior of the following portions of all structures and buildings:

- (a) Any portion of the building or structure within 50 feet of an adjacent residentially zoned property.
- (b) Any portion of the building or structure located within 50 feet of a public right-of-way.
- (c) The entire side of the building containing the primary entrance for customers or visitors.
- (d) The following exterior construction materials shall not be considered “high quality, decorative:” non-decorative concrete block or cinder block, non-decorative concrete foundation walls or panels, non-decorative plywood or other composite material, asphaltic siding, or other non-decorative surfaces as determined by the Plan Commission. However, such materials may be allowed by the Plan Commission as decorative elements.

Section 90-113: Driveway Access

- (1) In addition to provisions for driveways in Article IX of Chapter 10 of the Municipal Code of Ordinances, the following regulations shall apply:
 - (a) Placement of Driveways.
 1. No non-residential driveway shall be located closer than 100 feet from the intersection of any two street rights-of-way unless such street is the only available frontage on the subject property.
 2. On arterial streets and in areas experiencing or expected to experience congestion and/or safety problems, driveway access may be placed on another street frontage or shared driveway access to an adjacent lot may be permitted. In instances of shared access, a shared driveway agreement shall be prepared.
 3. Driveways shall not be located closer than 5 feet to an adjacent property, as measured along the right-of-way line.
 4. All driveways shall intersect the street right-of-way at a 90 degree angle whenever possible; otherwise, the intersection angle shall not be less than 75 degrees.
 - (b) Paving.
 1. Driveways located in an agricultural district are exempt from paving requirements.
 2. Ribbon driveways are permitted for single family and two-family dwellings. Individual ribbons shall be surfaced per (c), below and shall measure between 1 ½ and 2 ½ feet in width. Ribbon driveways are subject to the dimensions in (4), above.
 3. All driveways, except exempted driveways, shall be surfaced with a hard, all-weather surface and shall be maintained so as to prevent the transport of gravel, dirt, or other eroded material from the property.
 - (c) Traffic Control.
 1. The traffic generated by any use shall be channelized and controlled in a manner which avoids congestion on public streets and other safety hazards.
 2. Traffic into and out of all off-street parking, loading, and traffic circulation areas serving 6 or more parking spaces shall be forward moving, with no backing into streets or pedestrian ways.
 3. On-site traffic control devices such as striped crosswalks, traffic cameras, speed platforms, yield signs, and stop signs shall be required as determined by the zoning administrator.

Section 90-114: Visibility Triangle

- (1) Purpose. The purpose of this section is to establish minimum requirements for the provision of vehicular visibility for the safety and protection of the general public.
- (2) Vision Triangle.
 - (a) No obstructions, such as structures, parking, or vegetation shall be permitted in any district between the heights of 2 ½ feet and 10 feet above the plane within a 15 foot vision triangle measured from the right-of-way corner.
 - (b) In the case of an arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 50 feet, except in the B-2 Downtown district.

Section 90-115: Off-Street Parking

- (1) Purpose. The purpose of this section is to establish requirements for access, design, and installation and maintenance requirements for off-street parking areas.
- (2) Applicability. The off-street parking provisions shall apply to all buildings and structures erected after the effective date of this Chapter.
- (3) Number of Parking Spaces.
 - (a) The number of parking spaces required varies by land use. Refer to Article III, sections 90-45 through 90-54 for parking requirements for a specific land use.
 - (b) Parking space requirements are hereby waived within the B-2 Downtown district, except for developments exceeding 40,000 square feet (refer to Section 90-64 related to group and large developments).
 - (c) No site plan may be approved for a multi-family or nonresidential use which contains more than 120 percent of the development's minimum number of required parking spaces, except as granted through a conditional use permit.
- (4) Handicapped Parking.
 - (a) Handicapped parking shall be provided at a size, number, location, and with signage as specified by state and federal regulations.
- (5) Access.
 - (a) Each off-street parking space shall open directly upon an aisle or driveway that is designed to provide a safe and efficient means of vehicular access to the parking space.
 - (b) All off-street parking facilities shall be designed with an appropriate means of vehicular access to a street or alley in a manner which least interferes with traffic movements.
 - (c) Driveways shall meet the requirements of Article IX, Chapter 10 of the Municipal Code of Ordinances.
 - (d) Off-street parking spaces for residential uses may be stacked or in front of one-another for the same building unit. Parking spaces located behind an enclosed garage and located directly off a through aisle shall be a minimum of 30 feet deep.
 - (e) Parking and traffic circulation areas shall not be used for snow storage.
- (6) Parking Lot Design.
 - (a) Each parking space shall not be less than 162 square feet in area, 18 feet in length, and 9 feet in width, exclusive of aisles and access drives.
 - (b) No parking area of more than two spaces shall be designed as to require any vehicle to back into a public street.

- (c) Any parking area of more than 5 spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses.
 - (d) Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.
 - (e) All traffic control measures shall meet the requirements of the Manual of Uniform Traffic Control Devices.
 - (f) Landscaped medians shall be used to break large parking areas into distinct pods, with a maximum of 100 spaces in any one pod.
 - (g) Parking spaces must be broken by a tree island at the rate of one island for each linear row of 12 parking spaces for single-row or peninsula configurations, or for each 24 parking spaces in double row configurations.
 - (h) All tree islands and landscaped areas with trees shall have a minimum of 9 feet as measured from outside the curb or frame.
 - (i) All landscaped areas without trees, but planted with shrubs, shall have a minimum width of 3 feet measured from inside the curb or frame.
- (7) Location.
- (a) All parking spaces required herein shall be located within 400 feet from the principal use unless approved by the Plan Commission.
 - (b) No parking shall be permitted between the street right-of-way line and the paved surface setback line prevailing in the zoning district in which the proposed parking area is to be located.
 - (c) Parking on a residential lot shall not be located between the principal structure and a street right-of-way except within residential driveways.
 - (d) No private parking shall occur on street terraces or any other areas located within a public right-of-way.
- (8) Surfacing.
- (a) All off-street parking areas, except a single parking space accessory to a single family dwelling, shall be surfaced with a dustless all-weather material capable of carrying a wheel load of 4,000 pounds (normally, a 2 inch blacktop on a 4 inch base or 5 inches of Portland cement will meet this requirement).
 - (b) Compacted stone or gravel maintained in a dust free condition may be used only in the M-1 and M-2 districts, and only with the approval of the Plan Commission.
 - (c) Any parking area for more than five vehicles shall have the aisles and spaces clearly marked.
- (9) Curbs.
- (a) Curbs and barriers shall be located a minimum of 5 feet from a property line so as to prevent the parked vehicles from extending over any lot lines.
- (10) Reduction in Parking.
- (a) The required number of existing or proposed off-street parking spaces may be reduced in number at the discretion of the Plan Commission.
- (11) Bicycle Parking.
- (a) Bicycle parking (bike racks) shall be located in a convenient and visible area and shall permit the locking of the bicycle frame and one wheel to the rack and shall support a bicycle in a stable position.
 - (b) Bicycle parking shall be located on paved or pervious, dust-free surface with a slope no greater than 3 percent.

- (c) Bicycle parking shall be a minimum of 2 ½ by 6 feet in size, unless a rack is not the modular standard, in which case, space shall be 2 feet by 6 feet. There shall be an access aisle a minimum of 5 feet in width.
 - (d) Each required bicycle parking space must be accessible without moving another bicycle and its placement shall not result in a bicycle obstructing a required walkway.
 - (e) Bicycle racks shall be installed to the manufacturer’s specifications, including the minimum recommended distance from other structures.
 - (f) Bicycle parking not meeting dimensional or access aisle requirements may be installed but shall not count towards a minimum bicycle parking requirement.
 - (g) All racks shall accommodate cable locks and “U” locks including removing the front wheel and locking it to the rear fork and frame.
 - (h) Bicycle parking is not required in the B-2 Downtown District.
- (12) Shared Parking Facilities.
- (a) Parking may be shared by one or more uses if approved via the site plan approval process (see section 90-474). The applicant shall demonstrate that there is no substantial conflict in the demand for parking during the principal operating hours of the two or more uses for which the joint parking facility is proposed to serve.
 - (b) Parking facilities which have been approved to provide parking for one or more uses shall provide a total number of parking spaces which shall not be less than the sum total of the separate parking needs for each use during any peak hour parking period when said joint parking facility is utilized at the same time by said uses. This aggregate requirement may be reduced or expanded by the Plan Commission by explicit motion associated with the site plan review process.
 - (c) Each parking space designed to serve as joint parking shall not be located farther than 300 feet, except as permitted by a conditional use permit, from the principal structures it is designated to serve.
 - (d) A shared parking agreement, or other legally binding instrument, shall be executed by any and all parties to be served by a joint parking facility. This instrument shall be recorded with the County Register of Deeds and filed with the city clerk.

Section 90-116: Off-Street Loading Standards

- (1) Purpose. The purpose of this section is to prevent congestion of public rights-of-way and private lots so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of loading facilities on various sites.
- (2) Loading Space Requirements. On every lot on which a business, commercial, or industrial use is hereafter established, loading space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way.

Uses	Square Feet of Gross Floor Area	Required Off-Street Loading Spaces
School		1
Hospital	Under 10,000	None
	From 10,000-30,000	1
	For each additional 30,000 or major fraction thereof	1 additional
Funeral Home		1
Office, hotel, retail, service,	Under 10,000	None

Uses	Square Feet of Gross Floor Area	Required Off-Street Loading Spaces
wholesale, manufacturing, processing or repairing	From 10,000-25,000	1
	From 25,001-40,000	2
	From 40,001-60,000	3
	From 60,001-100,000	4

- (3) Multiple or Mixed Uses. Where a building is devoted to more than one use or for different uses and where the floor area for each use is below the minimum required for a loading space but the average floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- (4) Location.
 - (a) All loading areas shall be located on the same lot with the principal use requiring such space and shall not be located within or interfere with any public right-of-way.
 - (b) All loading berths shall be located 30 feet or more from the intersection of two street right-of-way lines.
 - (c) Loading berths shall not be located within any required front yard or street yard setback area.
- (5) Surfacing.
 - (a) All loading berths shall be improved with a compacted gravel base, not less than 7 inches thick, surfaced with not less than 2 inches of asphalt or treated with some comparable all-weather, dustless material.
 - (b) Said surface shall be marked in a manner which clearly indicates required loading areas.
- (6) Size. An individual loading space shall be at least 15 feet wide by 70 feet long and have a minimum vertical clearance of 16 feet.
- (7) Access.
 - (a) Each loading berth shall be located so as to facilitate access to a public street or alley, and shall not interfere with other vehicular or pedestrian traffic or the function of parking areas.
 - (b) In no instance shall loading areas rely on backing movements into public rights-of-way.
- (8) Utilization. The use of all required loading areas shall be limited to the loading and unloading of vehicles. Said area shall not be used to provide minimum required parking spaces.
- (9) Central Loading. Central loading facilities may be permitted for multiple uses provided the following conditions are fulfilled:
 - (a) Each principal structure or use served shall have direct access to the central loading area without crossing streets or alleys at grade.
 - (b) Total berths provided shall meet the requirements based on the sum of the several types of uses served.
 - (c) No principal structure served shall be more than 300 feet removed from the central loading area.
 - (d) The tunnel or ramp connecting the central loading area with the lots served shall not be less than 7 feet in width and have a vertical clearance of not less than 7 feet.

Section 90-117: Highway Access

- (1) Purpose. The purpose of this section is to establish highway access requirements for safety and welfare of the public.
- (2) Access Prohibited.

- (a) No direct private access shall be permitted to the existing or proposed rights-of-way of expressways or to any controlled access arterial street without permission of the highway agency that has access control jurisdiction.
 - (b) No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes, nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps).
 - (c) No driveway openings shall be permitted within 100 feet of the intersection of an arterial street right-of-way line.
- (3) Access Barriers. Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- (4) Temporary Access.
- (a) Temporary access to the above rights-of-way may be granted by the zoning administrator after review and recommendation by the highway agencies having jurisdiction.
 - (b) 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.

Section 90-118: Storage and Parking of Recreational Vehicles

- (1) Purpose. The purpose of this section is to establish requirements for the storage and parking of recreational vehicles to protect property values and the safety and welfare of the public.
- (2) Definitions. For purposes of this section, the following definitions for “recreational vehicle” shall apply:
- (a) Travel trailer means a vehicular, portable structure built on a chassis and on wheels that is between 10 and 36 feet long, including the hitch, and 8 feet or less in width, designated to be used as a temporary dwelling for travel, recreation, vacation or other uses and towed by a car or truck. It includes so-called fifth-wheel units.
 - (b) Pick-up coach means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, vacation or other uses.
 - (c) Motor home means a portable, temporary dwelling to be used for travel, recreation, vacation or other uses, constructed as an integral part of a self-propelled vehicle.
 - (d) Camping trailer means a canvas or folding structure mounted on wheels and designed for travel, recreation, vacation or other uses.
 - (e) Chassis mounts, motor homes, and mini-motor homes means recreational structures constructed integrally with a truck or motor-van chassis and incapable of being separated therefrom.
 - (f) Converted and chopped vans means recreational structures which are created by altering or changing an existing auto van to make it a recreational vehicle.
 - (g) Boat or snowmobile trailer means a vehicle on which a boat or snowmobile may be transported and is towable by a motor vehicle. When removed from the trailer, a boat or snowmobile, for purposes of this article, is termed an unmounted boat or snowmobile.
 - (h) Boat means every description of watercraft used or capable of being used as a means of transportation on water.
- (3) Permitted Parking or Storage. In all districts provided for in this Chapter, it is permissible to park or store a recreational vehicle or boat and snow mobile on private property in the following manner:
- (a) Parking is permitted pursuant to the street yard requirements of the applicable zoning district per Article II.

- (b) The recreational vehicle or boat shall be owned by the resident on whose property the unit is parked for storage.
- (c) When in storage, recreational vehicles or boats shall not be:
 - 1. Used for dwelling purposes, except for overnight sleeping for a maximum of 14 days in any one calendar year. Cooking is not permitted at any time.
 - 2. Permanently connected to sewer lines, water lines or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - 3. Used for storage of goods, materials or equipment other than those items considered to be part of the unit or essential for its immediate use.
 - 4. Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.

Section 90-119: Exterior Lighting

- (4) Purpose. The purpose of this section is to regulate the glare and spill-over of light of a light source in order to promote traffic safety and to prevent the creation of nuisances.
- (5) Applicability. The requirements of this section apply to all private exterior lighting within the jurisdiction of this Chapter, except for lighting within public rights-of-way and/or lighting located on public property.
- (6) Exterior Lighting Requirements.
 - (a) In no instance shall an exterior lighting fixture be oriented so that the lighting element (or a clear shield) is visible from a property located within a residential zoning district. The use of shielded luminaries and careful fixture placement is encouraged so as to facilitate compliance with this requirement.
 - (b) Flashing, flickering and/or other lighting which may distract motorists are prohibited.
- (7) Intensity of Illumination.
 - (a) In no instance shall the amount of illumination attributable to exterior lighting, as measured at the property line, exceed 0.50 footcandles above ambient lighting conditions on a cloudless night.
 - (b) The maximum average on-site lighting in residential zoning districts shall be 0.90 foot-candles.
 - (c) The maximum average on-site lighting in non-residential zoning districts shall be 2.4 foot-candles.
 - (d) The following exceptions shall be permitted:
 - 1. The maximum average allowable on-site lighting of outdoor recreation facilities and assembly areas is 3.60 foot-candles.
 - 2. The maximum average on-site lighting of auto display lots and gas station pump islands is 25.0 foot-candles. All under-the-canopy fixtures shall be fully recessed.
 - (e) Reflected glare onto nearby buildings, streets or pedestrian areas is prohibited. To minimize any indirect overflow of light on adjacent properties, the height of any proposed parking lot light standard should be as short as possible and should stair step down to a lower height when close to residential uses.
- (8) Fixtures and Luminaries.
 - (a) Outdoor lighting shall be full cut-off fixtures and downward facing and no direct light shall bleed onto adjacent properties. Exempt from this requirement are any fixtures using an incandescent bulb of 100 watts or less, or its equivalent.

- (b) Light fixtures shall not be located within required bufferyards.
- (c) Total cut-off luminaries with angles of less than 90 degrees shall be required for pole and building security lighting to ensure no fugitive up lighting occurs.
- (d) The color and design of fixtures shall be compatible with the building and public lighting in the area, and shall be uniform throughout the entire development site.
- (e) The maximum fixture height in the residential districts and the B-1 and B-2 districts shall be 14 feet. The maximum fixture height in all other districts shall be 20 feet.
- (f) All lighting fixtures existing prior to the effective date of this Chapter shall be considered as legal conforming.
- (g) All areas designated on required site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.2 foot-candles.
- (h) Any temporary use using exterior lighting which is not in complete compliance with the requirements of this section.

Section 90-120: Exterior Storage

- (1) Purpose. The purpose of this section is to regulate exterior storage so as to promote the safety and general welfare of the public.
- (2) Materials and Equipment Storage.
 - (a) In all commercial and industrial zoning districts, all materials and equipment shall be stored within a completely enclosed building
 - (b) The following materials shall not be located within any front yard or required street yard and shall be stored a minimum of 5 feet from any and all property lines:
 - 1. Screened refuse containers.
 - 2. Construction materials.
 - 3. Landscape materials.
 - 4. Related equipment connected within on-site construction.
- (3) Exterior Trash Storage.
 - (a) All exterior trash storage shall be located within an enclosure that completely screens the view of said trash.
 - (b) The exterior of said enclosure shall be constructed of some or all of the materials used on the main building.
 - (c) A solid wood fence shall be used to gain access to the storage area.
- (4) Inoperable Vehicles and Junk. Refer to Chapter 50, Article X of the City of Portage Code of Ordinances.
- (5) Outdoor Storage of Firewood.
 - (a) No person shall store firewood in the front yard of residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of 48 hours from the time of its delivery.
 - (b) Firewood should be neatly stacked and may not be stacked closer than 2 feet to any lot line and not higher than 6 feet from grade, except adjacent to a fence where firewood can be stacked

- against the fence as high as the fence. Fences as used in this section shall not include hedges and other vegetation.
- (c) All brush, debris, and refuse from processing of firewood shall be promptly and properly disposed of.
 - (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles, or that harbor or are infested or inhabited by rats or other vermin, are public nuisances and may be abated pursuant to the provisions of this Chapter.
 - (e) Not more than 20 percent of the side and rear yard may be used for storage of firewood at any one time.

Section 90-121: Fences

- (1) Purpose: The purpose of this section is to regulate the materials, location, height, and maintenance of fencing, landscaping walls and decorative posts in order to prevent the creation of nuisances and to promote the general safety and welfare of the public.
- (2) Fences Defined. For the purpose of this section, a “fence” is herein defined as an enclosed barrier consisting of vegetation, wood, stone, or metal intended to prevent ingress or egress. For the purposes of this section, the term “fence” shall include plantings, such as hedges and shrubbery.
- (3) Types of Fences.
 - (a) Boundary Fence. A fence placed on or within 3 feet of the property lines of adjacent properties.
 - (b) Protective Fence. A fence constructed to enclose a hazard to the public health, safety, and welfare.
 - (c) Architectural or Aesthetic Fence. A fence constructed to enhance the appearance of the landscape.
 - (d) Hedge. A row of bushes or small trees planted close together which form a barrier, enclosure, or boundary.
 - (e) Picket Fence. A fence having a pointed post, stake, pale or peg laced vertically with the point pointing upward to form a part of the fence.
- (4) Acceptable Materials.
 - (a) Acceptable materials for constructing fencing, landscape walls, and decorative posts include wood, stone, brick, wrought iron, aluminum, steel, chain link, PVC, and wire mesh.
 - (b) Wire mesh and chain link fencing is not permitted within front or street side yard areas in any residential zoning districts.
- (5) Prohibited Fences.
 - (a) No fence shall be constructed of dangerous materials that would constitute a nuisance.
 - (b) Electric fences shall not be permitted.
 - (c) Barbed wire fencing shall not be permitted, except in M-1 and M-2 districts if devices securing the barbed wire to the fence are 10 feet above the ground or project toward the fenced property and away from any public area.
 - (d) Security fences shall not be permitted, except in M-1 and M-2 districts if the fence does not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (6) Height, Location, and Orientation.

- (a) Fences in or adjacent to a residential property are permitted along lot lines.
 - (b) Fences, walls and continuous linear shrubbery such as hedges shall be permitted in all yards subject to the following limitations:
 - 1. Any such structure or shrubbery not in excess of 4 feet in height may be permitted anywhere on the lot, except as may be prohibited at street intersections.
 - 2. Any such structure or shrubbery in excess of 4 feet, but not more than 6 feet, may be permitted provided it is no closer than 5 feet to any public right-of-way, except as may be prohibited at street intersections.
 - 3. No such structure or shrubbery in any yard of a corner lot within 25 feet of the corner of such lot that is at the street intersection shall be higher than 2½ feet above the centerline of the street, provided that a chain link fence with a mesh of 2 inches or more shall be permitted within such area to the maximum height as specified in this section.
 - 4. All such structures shall be no closer than 5 feet to an alley line.
 - (c) Any and all fences, landscape walls, or decorative posts shall be erected so as to locate visible supports and other structural components toward the subject property.
 - (d) Any fence within any portion of a front yard shall be a maximum of 50 percent opaque (such as a wood or metal picket or wood rail fence), except with the granting of a conditional use.
- (7) Repair and Maintenance. All fences shall be maintained and kept safe and in a state of good repair.
- (8) Temporary Fences.
- (a) Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible and marked with colors or streamers or other such warning devices at 4 foot intervals. Such fences shall comply with the setback requirements set forth in this section and shall not be erected for more than 45 days.
 - (b) Fences erected for the purposes of limiting snow drifting shall be permitted between November 1 and April 1 and shall be permitted for no more than 180 days.
 - (c) The issuance of a permit shall not be necessary for temporary fences as described herein.

Section 90-122: Swimming Pools and In-Ground Hot Tubs

- (1) Purpose. The purpose of this section is to regulate permanent swimming pools in order to prevent the creation of nuisances and to promote the health, safety, and general welfare of the public.
- (2) Definition. A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than 1½ feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool. The regulations herein shall also be applicable to in-ground hot tubs.
- (3) Exempt Pools. Covered, above-ground hot tubs and 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.
- (4) Permit Required. Before work is commenced on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted in writing to the department of inspection. Plans and specifications and pertinent explanatory data should

- be submitted to the department of inspection at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. A fee as set forth in the official city fee schedule on file in the city clerk's office shall accompany such application.
- (5) Construction Requirements. In addition to such other requirements as may be reasonably imposed by the Department of Inspection, the Department of Inspection shall not issue a permit for construction as provided for in this section, unless the following construction requirements are observed:
- (a) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all ordinances of the City now in effect or hereafter enacted.
 - (b) All plumbing work shall be in accordance with all applicable ordinances of the city and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.
 - (c) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and city ordinances regulating electrical installations.
- (6) 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. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
 - (b) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in this chapter for an accessory building, and in no case shall the water line of any pool be less than five feet from any lot line.
- (7) Fence Requirement.
- (a) Pools within the scope of this section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than six feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be kept locked while the pool is not in actual use.
 - (b) The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing which complies with the International Building Code requirements as adopted by the state.
 - (c) All swimming pools existing as of the effective date of this Chapter not satisfactorily fenced shall comply with the fencing requirements of this section or when water is placed in the pool.
- (8) Draining and Approval Thereof. No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the plumbing inspector. In all cases where a private swimming pool is to be constructed on premises served by a private sewage disposal system, approval of the state board of health shall be necessary before the construction of any such pool may commence.

- (9) Filter System Required. All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.
- (10) Dirt Bottoms Prohibited. All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

Section 90-123: Vibration

- (1) Purpose. The purpose of this section is to regulate the creation of vibration which adversely affects adjoining properties in order to prevent the creation of nuisances and to promote the health, safety, and general welfare of the public.
- (2) Applicability. The requirements of this section apply to all uses and activities which create detectable vibrations, except that these standards shall not apply to vibrations created during the construction of the principal use on the subject property.
- (3) Requirements. No activity or operation shall transmit any physical vibration that is above the vibration perception threshold of an individual or beyond the property line of the source. Vibration perception threshold means the minimum ground-borne or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

Section 90-124: Noise

- (1) Purpose. The purpose of this section is to regulate the creation of noise which adversely affects adjoining properties in order to prevent the creation of nuisances and to promote the health, safety, and general welfare of the public.
- (2) Applicability. The requirements of this section apply to all uses and activities which create detectable noise, except that these standards shall not apply to noise created during the construction of the principal use on the subject property, or by incidental traffic, parking, loading, maintenance, or agricultural operations.
- (3) Requirements. All noise shall be muffled so as not be objectionable due to intermittence, frequency, or shrillness. In no event shall the sound-pressure level of noise continuously radiated from a facility exceed the values given in below as measured by a Type 2 sound meter that is in compliance with ANSI standard S1.4-1983. The measurement shall be conducted at the lot line of the subject property where said lot abuts property within any residential, office, or business zoning district, or the M-3 district.
- (4) Nonconforming Noise. Noise that was in effect as of the effective date of this Chapter shall be considered legal nonconforming. The burden of proof to demonstrate that said noises were in effect prior to the effective date of this Chapter is the responsibility of the noise producer.

Maximum Permitted Noise Level at Lot Line for Continuous Noise	Increase in Noise Level Over Ambient Level
Zoning District	
A-1, R-T, R-1, R-2, R-3, R-4, R-5, R-MN	Plus 3 dBA
B-1, B-2, B-3, B-4, M-3	Plus 5 dBA
M-1, M-2	Plus 8 dBA
Adjustment Factors for Maximum Noise Levels	
Type of Operation in Character of Noise	Correction in Decibels
Daytime operation only	Plus 5 dBA
Noise source operates less than 20% of any one hour period	Plus 5 dBA*
Noise source operates less than 5% of any one-hour period	Plus 10 dBA*

Noise source operates less than 1% of any one-hour period	Plus 15 dBA*
Noise of impulsive character (hammering, etc.)	Minus 5 dBA
Noise of periodic character (hum, speech, etc.)	Minus 5 dBA
*Apply only one of these corrections.	

Section 90-125: Air Pollution

- (1) Purpose. The purpose of this section is to regulate the creation of air pollution which adversely affects adjoining properties in order to prevent the creation of nuisances and to promote the health, safety, and general welfare of the public.
- (2) Requirements.
 - (a) The emission of particulate matter containing a particle diameter larger than 44 microns is prohibited.
 - (b) Emission of smoke or particulate matter of a density equal to or greater than Number 2 on the Ringelmann Chart (US Bureau of Mines) is prohibited at all times.
 - (c) Dust and other types of air pollution borne by the wind from such sources as storage areas, yards, and roads within the boundaries of any lot shall be kept to a minimum by appropriate landscaping, paving, oiling, or other acceptable means.
 - (d) Outdoor wood furnaces are not permitted in the City of Portage for public health and safety reasons.
 - (e) All applicable state and federal standards.

Section 90-126: Odor

- (1) Purpose. The purpose of this section is to regulate the creation of odor which adversely affects adjoining properties in order to prevent the creation of nuisances and to promote the healthy, safety, and general welfare of the public.
- (2) Requirements.
 - (a) Except for food preparation and cooking odors emanating from residential land uses, and odors associated with property development and maintenance (such as construction, lawn care, and the painting and roofing of structures), no odor shall be created for periods exceeding a total of 15 minutes per any day which are detectable (by a healthy observer such as the zoning administrator) at the boundary of the subject property.
 - (b) Public landfills and public sanitary sewage treatment plants shall be exempted from the requirements of this section as essential public services.

Section 90-127: Glare and Heat

- (1) Purpose. The purpose of this section is to regulate the creation of glare or heat in order to prevent the creation of nuisances and to promote the health, safety, and welfare of the public.
- (2) Requirements.
 - (a) No direct or sky-reflected glare shall be visible at the lot line of the subject property, whether from floodlights or from temperature processes, such as combustion, welding, or otherwise.
 - (b) As determined by the zoning administrator, there shall be no discernible transmission of heat or heated air at the lot line.
 - (c) Solar systems regulated by Wisconsin Statutes 66.0401 shall be entitled to the protection of its provisions.

Section 90-128: Fire and Explosions

- (1) Purpose. The purpose of this section is to regulate the creation of fire and/or explosion hazards which adversely affect adjoining properties in order to prevent the creation of nuisances and to promote the health, safety, and general welfare of the public.
- (2) Requirements.
 - (a) Any use involving materials which could decompose by detonation shall be located not less than 400 feet from any residential or commercial zoning district, except that this standard shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes.
 - (b) All activities and storage of flammable and explosive materials at any point shall be provided with adequate safety and fire fighting devices in accordance with all fire prevention codes of the State of Wisconsin.

Section 90-129: Toxic, Noxious, and Waste Materials

- (1) Purpose. The purpose of this section is to regulate the handling of toxic, noxious, or waste material which adversely affects adjoining properties in order to prevent the creation of nuisances and to promote the health, safety, and general welfare of the public.
- (2) Requirements.
 - (a) No use shall discharge across the boundaries of the subject property, or through percolation into the subsoil, toxic or noxious material in such concentration as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to private property or business.
 - (b) No use shall discharge at any point into any public or private sewage disposal system or stream, or into the ground, any liquid or solid materials except in accordance with the regulations of the Wisconsin Department of Public Health.

Section 90-130: Hazardous Materials

- (1) Purpose. The purpose of this section is to provide information to the City regarding the nature of land uses which involve research, production, storage, disposal, handling, and/or shipment of hazardous materials.
- (2) Applicability. The requirements of this section apply to all land uses and activities involving any one or more of the following:
 - (a) Micro-organism cultures subject to Wisconsin Statutes 94.65.
 - (b) Pesticides subject to Wisconsin Statutes 94.67(25).
 - (c) Biological products subject to Wisconsin Statutes 95.39.
 - (d) Hazardous substances subject to Wisconsin Statutes 100.37(1)(c).
 - (e) Toxic substances subject to Wisconsin Statutes 101.58(2)(j).
 - (f) Infectious agents subject to Wisconsin Statutes 101.58(2)(f).
 - (g) Any material for which the State of Wisconsin requires notification of a local fire department.
 - (h) Any other uses, activities, or materials which are subject to county, state, or federal hazardous, or related, materials regulations.
- (3) Requirements. All land uses involving such hazardous materials shall submit a written description of such materials and the operations involving such materials conducted on their property as part of the required site plan submittal.

Sections 90-131 through 90-139: Reserved

ARTICLE VIII: LANDSCAPING REGULATIONS

Section 90-140: Purpose

The purpose of this article is to establish landscaping requirements and other regulations intended to preserve and maintain vegetation within in a manner that promotes the natural resource protection, aesthetic, and public health goals of the City.

Section 90-141: Applicability

Any use or activity for which site plan approval is required shall provide landscaping in accordance with the regulations of this section, except for single-family and agricultural land uses which are exempt from landscaping requirements. Where insufficient site area remains to comply with all provisions of this article, the City may require compliance to the extent practical.

Section 18-142: Landscaping Plan

The applicant shall provide a landscaping plan depicting the following:

- (1) Plan shall be drawn at a reasonable scale to clearly delineate the landscape improvements and shall include a north arrow, property lines, and easements.
- (2) Zoning of the subject property and adjacent properties.
- (3) Linear feet of the new/expanded building foundation and street frontage.
- (4) Square footage of the total lot and new/expanded paved area.
- (5) Existing landscaping to be removed.
- (6) Existing landscaping to remain including type/name, size, number, and number of landscaping points per Figure 90-143(a).
- (7) Proposed landscaping meeting the requirements of this Article including type/name, size, number, and number of landscaping points per Figure 90-143(a).

Section 90-143: Landscaping Requirements

- (1) Provision of Landscaping. Landscaping shall be provided based on the following requirements for building foundations, street frontages, paved areas, general yard areas, and bufferyards. These requirements are additive to each other and any other landscaping or screening requirements in this Chapter. Credit for existing landscape plantings that are retained and protected with the development of the site, and for restoration or reestablishment of native flora, shall be allowed. In calculating the number of required landscaping points under the provisions of this section, all areas and distances on which required calculations are based shall be rounded up to the nearest whole number of square feet or linear feet. Any partial plant derived from the required calculations of this section (for example: 23.3 canopy trees) shall be rounded up to the nearest whole plant (for example: 24 canopy trees).
- (2) Building Foundations.
 - (a) For each 100 feet of building foundation perimeter, the landscaping installed shall at a minimum meet the number of landscaping points specified in Figure 90-143(a).
 - (b) Foundation landscaping shall be placed so that at maturity, the plant's drip line is located within 10 feet of the building foundation. Such landscaping shall not be located in areas required for street frontage, paved areas, general yard areas, bufferyards, or other green space areas.
 - (c) Shade trees and tall trees shall not be used to meet the foundation landscaping requirement.
 - (d) If the officially approved site plan depicts a future building extension, the foundation landscaping requirement shall be calculated by measuring the length of the total perimeter of the building, including extension. However, foundation plantings need only be installed for portion of the building for which a building permit has been issued.

- (3) Street Frontages.
- (a) For every 100 linear feet of street frontage of a developed lot abutting a public street right-of-way, the landscaping installed shall at a minimum meet the number of landscaping points specified in Figure 90-143(a).
 - (b) All landscaping used to meet street frontage requirements shall be located within 10 feet of the public right-of-way. Under no circumstances shall such landscaping be located within a public right-of-way. Landscaping shall not impede vehicle or pedestrian visibility.
 - (c) Shrubs shall not be used to meet street frontage landscaping requirements. A minimum of 50 percent of all points shall be devoted to climax or tall trees, or a combination of such trees, and a minimum of 30 percent of all points shall be devoted to medium trees.
 - (d) Under no circumstances shall such landscaping be located within a public right of way. Landscaping shall not impede vehicle or pedestrian visibility.
 - (e) For all lots not meeting the requirements of this subsection as of the effective date of this Chapter, the following shall apply:
 1. For additions to floor area, landscaping installed shall be equal to the percent increase in new floor area. New floor area shall be defined as the square footage of the addition divided by the square footage of the existing building.
 2. For additions to paved areas, landscaping installed shall be equal to the percent increase in new paved area. New paved area shall be defined as the square footage of the addition divided by the square footage of the existing paved area.
- (4) Paved Areas.
- (a) For every 20 off-street parking stalls or 10,000 square feet of pavement (whichever yields the greater landscaping requirement), landscaping shall at a minimum meet the number of landscaping points specified in Figure 90-143(a).
 - (b) Landscaping shall be located within 10 feet of the paved area. Said area does not have to be provided in one contiguous area. Plants used to fulfill this requirement shall visually screen parking, loading and circulation areas from view from public streets.
 - (c) A minimum of 30 percent of all points shall be devoted to climax or tall trees, or a combination of such trees, and a minimum of 40 percent of all points shall be devoted to shrubs.
 - (d) Parking Lot Design.
 1. Landscaped medians shall be used to break large parking areas into distinct pods, with a maximum of 100 spaces in any one pod.
 2. Parking spaces must be broken by a tree island at the rate of one island for each linear row of 12 parking spaces for single-row or peninsula configurations, or for each 24 parking spaces in double row configurations.
 3. All tree islands and landscaped areas with trees shall have a minimum of 9 feet as measured from outside the curb or frame.
 4. All landscaped areas without trees, but planted with shrubs, shall have a minimum width of 3 feet measured from inside the curb or frame.
- (5) Yard Areas. An additional 200 landscaping points shall be provided for each acre or portion thereof of total lot area. Landscaping required by this standard shall be placed where appropriate on the site, but generally in those areas not covered by other provisions of this section.
- (6) Bufferyards. A bufferyard is a combination of distance and a visual buffer or barrier. It includes an area, together with the combination of plantings, berms and fencing that are required to eliminate or

reduce existing or potential nuisances (e.g. dirt, litter, noise, glare, signs, and incompatible land uses, buildings, or parking areas).

- (a) Bufferyards shall be located along (and within) the outer perimeter of a lot wherever two different zoning districts abut one another. Bufferyards are not be required in front or street side yards.
- (b) Required Opacity.
 - 1. Opacity is a quantitatively-derived measure which indicates the degree to which a particular bufferyard screens the adjoining property. The required level of opacity indicated is directly related to the degree to which the potential character of development differs between different zoning districts.
 - 2. Figure 90-143(b) shall be used to determine the minimum level of opacity for the required bufferyard. The required level of opacity is the value given in the cell of the table at which the row (representing the subject property's zoning district) intersects with the column (representing the adjacent property's zoning district). The value listed is the required level of opacity for the bufferyard on the subject property.
 - 3. Figure 90-143(c) provides details to meet opacity requirements listed in subsection 2., above.
- (7) Other Green Space Areas. Green space areas not used for landscape plantings other than natural resource protection areas shall be graded and seeded or sodded with an acceptable maintainable seed mix, restored to native vegetation, or maintained in crop production if approved by the Plan Commission. Mulch of plantings or planting beds is acceptable provided that such mulching consists of organic or natural materials. Mulches shall be installed so that they will not erode, fall, be plowed or otherwise transported into walks, drives, streets or other hard surfaced portions of the site.

Figure 90-143(a): Landscaping Requirements

		Landscaping Components			
		Building Foundation	Street Frontages	Paved Areas	Yard Areas
Types of Landscaping		Shade trees and tall trees shall not be used to meet this requirement	Shrubs not allowed; a minimum of 50 percent of points devoted to climax/tall trees and 30 percent to medium trees	A minimum of 30 percent of points devoted to climax/tall trees and 40 percent to shrubs	All plant categories can be used to meet requirements
Placement of Landscaping		Located so that at maturity the plant's drip line is located 10 feet of building foundation	Plant drip line located within 10 feet of the public right-of-way	Plant drip line located within paved area or within 10 feet of the paved area	Away from other required landscaping areas (e.g. foundations, street frontages, paved areas)
Calculation of Landscaping Points*		Points per 100 linear feet of building foundation	Points per 100 linear feet of street frontage	Greater of: points per 20 parking stalls or 10,000 square feet of paved area	Additional 200 required for each acre of total lot area.
Zoning Districts	A-1 Agricultural	20	20	40	Dependent upon total lot area.
	R-1 Single Family	40	40	80	
	R-2 Single Family	40	40	80	
	R-T Traditional Residential	40	40	80	
	R-3 Single Family/Two-Family	45	45	80	
	R-4 Small-Scale Multi-Family	50	50	80	
	R-5 Large-Scale Multi-Family	60	60	80	
	R-MH Mobile Home	40	40	80	
	B-1 Neighborhood Business	40	40	80	
	B-2 Downtown	0	0	80	
	B-3 Interchange Business	60	60	80	
	B-4 General Business	40	40	80	
	M-3 Interchange Industrial	40	40	60	
	M-1 Industrial	20	20	50	
M-2 Heavy Industrial	20	20	40		
*Note: Single family and agricultural land uses are exempt from landscaping requirements.					

Figure 90-143(b): Required bufferyard opacity values

Apply the required opacity value from this Figure to Figure 90-142(c) and select the most appropriate bufferyard option. Note that certain land uses may have more stringent bufferyard requirements.		Adjacent Property's Zoning District:														
		A-1 Agricultural	R-1 Single Family	R-2 Single Family	R-T Traditional Neighborhood	R-3 Single Family/Two-Family	R-4 Small-Scale Multi-Family	R-5 Large-Scale Multi-Family	R-MH Mobile Home	B-1 Neighborhood Business	B-2 Downtown	B-3 Interchange Business	B-4 General Business	M-3 Interchange Industrial	M-1 Industrial	M-2 Heavy Industrial
Subject Property's Zoning District:	A-1 Agricultural															
	R-1 Single Family	*														
	R-2 Single Family	*	0.0													
	R-T Traditional Neighborhood	*	0.0	0.0												
	R-3 Single Family/Two-Family	*	0.2	0.2	0.1											
	R-4 Small-Scale Multi-Family	*	0.3	0.3	0.2	0.2										
	R-5 Large-Scale Multi-Family	*	0.4	0.4	0.3	0.2	0.1									
	R-MH Mobile Home	*	0.4	0.4	0.3	0.2	0.1	0.1								
	B-1 Neighborhood Business	*	0.5	0.5	0.4	0.3	0.2	0.2	0.1							
	B-2 Downtown	*	0.6	0.6	0.5	0.4	0.3	0.3	0.2	0.1						
	B-3 Interchange Business	*	0.6	0.6	0.5	0.4	0.3	0.3	0.2	0.1	0.1					
	B-4 General Business	*	0.6	0.6	0.5	0.4	0.3	0.3	0.2	0.1	0.1	0.1				
	M-3 Interchange Industrial	*	0.6	0.6	0.5	0.4	0.3	0.3	0.2	0.1	0.1	0.1	0.1			
	M-1 Industrial	*	0.6	0.6	0.5	0.4	0.3	0.3	0.2	0.1	0.1	0.1	0.1	0.1		
M-2 Heavy Industrial	*	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.6	0.6	0.6	0.6	0.5	0.4		

*Note: For properties zoned A-1, refer to the future land use map in the city's comprehensive plan to determine the potential future zoning and applicable bufferyard requirements for said property.

Figure 90-143(c): Detailed Bufferyard Requirements

Opacity	# Landscaping Points per 100 feet	Width (in feet)	Required Structure
0.05	00	10+	Minimum 44 inch picket fence*
	00	10+	Minimum 4 foot wood rail fence*
	40	10	N/A
	36	15	N/A
	33	20	N/A
	31	25	N/A
	29	30	N/A
0.10	00	10+	Minimum 44 inch picket fence*
	38	10+	Minimum 4 foot wood rail fence*
	91	10	N/A
	80	15	N/A
	73	20	N/A
	68	25	N/A
	65	30	N/A
	62	35+	N/A
00	35+	Minimum 4 foot berm	
0.20	00	10+	Minimum 6 foot solid fence*
	84	10+	Minimum 44 inch picket fence*
	133	15+	Minimum 4 foot wood rail fence*
	198	15	N/A
	173	20	N/A
	158	25	N/A
	149	30	N/A
	140	35	N/A
	10	35+	Minimum 4 foot berm
	135	40+	N/A
	00	40+	Minimum 5 foot berm
0.30	00	10+	Minimum 6 foot solid fence*
	198	15+	Minimum 44 inch picket fence*
	320	20	N/A
	240	20+	Minimum 4 foot wood rail fence*
	276	25	N/A
	252	30	N/A
	235	35	N/A
	104	35+	Minimum 4 foot berm
	223	40	N/A
	44	40+	Minimum 5 foot berm
	215	45	N/A
	209	50+	N/A
	00	50+	Minimum 6 foot berm

Opacity	# Landscaping Points per 100 feet	Width (in feet)	Required Structure
0.40	53	10+	Minimum 6 foot solid fence*
	330	20+	Minimum 44 inch picket fence*
	440	25	N/A
	362	25+	Minimum 4 foot wood rail fence*
	385	30	N/A
	349	35	N/A
	208	35+	Minimum 4foot berm
	327	40	N/A
	148	40+	Minimum 5 foot berm
	310	45	N/A
	299	50+	N/A
	56	50+	Minimum 6 foot berm
	135	15+	Minimum 6 foot solid fence*
0.50	564	30	N/A
	405	30+	Minimum 44 inch picket fence*
	492	30+	Minimum 4 foot wood rail fence*
	499	35	N/A
	319	35+	Minimum 4 foot berm
	454	40	N/A
	261	40+	Minimum 5 foot berm
	422	45	N/A
	405	50	N/A
	160	50+	Minimum 6 foot berm
	388	55	N/A
	374	60+	N/A
	221	20+	Minimum 6 foot solid fence*
0.60	433	35+	Minimum 4 foot berm
	541	35+	Minimum 44 inch picket fence*
	630	35+	Minimum 4 foot wood rail fence*
	626	40	N/A
	379	40+	Minimum 5 foot berm
	570	45	N/A
	525	50	N/A
	270	50+	Minimum 6 foot berm
	500	55	N/A
	480	60+	N/A
415	30+	Minimum 6 foot solid fence*	
0.80	655	40+	Minimum 4 foot berm
	627	45+	Minimum 5 foot berm
	873	45+	Minimum 44 inch picket fence*
	910	50	N/A
	505	50+	Minimum 6 foot berm
	809	50+	Minimum 4 foot wood rail fence*
	804	55	N/A
	744	60	N/A

Opacity	# Landscaping Points per 100 feet	Width (in feet)	Required Structure
0.80	710	65	N/A
	677	70+	N/A
	636	40+	Minimum 8 foot solid fence
1.00	732	50+	Minimum 8 foot solid fence
	751	50+	Minimum 8 foot solid fence
	867	55+	Minimum 8 foot solid fence
	1091	60+	Minimum 8 foot solid fence
	1136	60+	Minimum 8 foot solid fence
	1083	65	Minimum 8 foot solid fence
	994	70	Minimum 8 foot solid fence
	934	75	Minimum 8 foot solid fence
	892	80+	Minimum 8 foot solid fence
	892	80+	Minimum 8 foot solid fence

Figure 143(d): Landscaping Points

Plant Category	Landscaping Points Per Plant	Minimum Permitted Installation Size
Shade Tree	75	2” Caliper
Tall Deciduous Tree	30	1 ½” Caliper
Medium Deciduous Tree	15	6’ Tall
Low Deciduous Tree	10	4’ Tall
Tall Evergreen Tree	40	5’ Tall
Medium Evergreen Tree	20	4’ Tall
Low Evergreen Tree	12	3’ Tall
Tall Deciduous Shrub	5	36” Tall
Medium Deciduous Shrub	3	24” Tall
Low Deciduous Shrub	1	18” Tall
Medium Evergreen Shrub	5	18” Tall/Wide
Low Evergreen Shrub	3	12” Tall/Wide
Non-contributory Plants	0	N/A

Source: A Guide to Selecting Landscape Plants for Wisconsin, E. R. Hasselkus, UW-Extension Publication: A2865

Section 90-144: Classification of Plant Species

Examples of species suitable for landscaping and compatible with local climate and soil factors are listed in Figure 90-144(a). See Figure 90-144(b) for examples of species appropriate for specific and common landscaping situations (e.g. planting under power lines), and Figure 90-144(c) for examples of species to use sparingly or to avoid. The City Forester maintains the official list of plant species referred to in Figures 90-144(a), 90-144(b) and 90-144(c).

Figure 90-144(a): Examples of Common Appropriate Landscaping Species

Classification	Landscaping Point Value per Plant	Common Name	Scientific Name
Shade Trees	75	Baldcypress	Taxodium distichum
Tall Deciduous Trees	30	Chanticleer pear	Pyrus calleryana 'Chanticleer'
Medium Deciduous Trees	15	Paperbark maple	Acer griseum
Low Deciduous Trees	10	Hazelnut	Corylus spp.
Tall Evergreen Trees	40	Firs	abies spp.
Tall/Medium Evergreen Trees	30	Juniper (Red Cedar)	Juniperus virginiana
Low Evergreen Trees	12	Juniper (Mountbatten)	Juniperus chinensis 'Mountbatten'
Tall Deciduous Shrubs	5	Elderberry	Sambucus canadensis "aurea"
Medium Deciduous Shrubs	3	Weigela	Weigela spp.
Low Deciduous Shrubs	1	Azalea	<i>Azalea</i> spp.
Tall-Medium Evergreen Shrubs	5	Juniper (Pfitzer)	<i>Juniperus x pfitzeriana</i>
Low Evergreen Shrubs	2	Boxwood	Buxus spp.
Perennial Plantings	20/20 sf	Coneflower	Echinacea spp.

Figure 90-144(b): Examples of Plant Species Appropriate for Specific Situations

Use/Situation	Classification	Common Name	Scientific Name
Appropriate for Planting Under Power Lines	Low Deciduous Tree	Flowering crabapple	Malus spp.
Appropriate for Screening Appropriate for Screening	Tall Evergreen Tree	Firs	abies spp.
	Medium Evergreen Tree	Arborvitae	Thuja occidentalis
Salt Tolerant	Shade Tree/Tall or Medium Deciduous Tree (varies by species)	Maple	Acer spp
	Low Deciduous Tree	Flowering Crabapples	Malus spp
	Tall Deciduous Shrub	Dogwood (Gray, Pagoda)	Cornus spp
	Medium Deciduous Shrub	Barberry	Berberis spp
	Low Deciduous Shrub	Azalea	Azalea spp
	Tall Evergreen Tree	American holly	<i>Ilex opaca</i>
	Tall/Medium Evergreen Shrub	Yew (Japanese)	Taxus spp
Low Evergreen Shrub	Boxwood	Buxus spp	

Figure 90-144(c): Examples of Species to Use Sparingly or to Avoid

Classification	Common Name	Scientific Name	Avoid or Use Sparingly	Reason	Alternative
Shade Tree	Non-resistant elms	Ulmus spp.	Avoid	Dutch Elm Disease	Disease Resistant Elm
Shade Tree	Freeman Maple	Acer x freemanii	Use Sparingly	Over-planted	
Tall Deciduous Tree	Autumn Blaze Maple	Acer truncatum	Use Sparingly	Over-planted	Ginkgo (Ginkgo biloba)
Tall Deciduous Tree	Ash trees	Fraxinus spp.	Avoid	Emerald Ash Borer	
Medium Deciduous Tree	White mulberry	Morus alba	Avoid	Invasive non-native	Serviceberry Amelanchier spp.
Low Deciduous Tree	Purple Sandcherry	Prunus x cistena	Use Sparingly	Short-lived	Flowering Crabapple
Tall Deciduous Shrub	Buckthorns	Rhamnus cathartica	Avoid	Invasive, non-native	Grey Dogwood Cornus mas
Medium Deciduous Shrub	Japanese spirea	Spiraea japonica	Avoid	Invasive (re-seed)	Red chokeberry Aronia arbutifolia
Low Deciduous Shrub	Japanese Barberry	Berberis thunbergii	Avoid	Invasive; over-planted	Dwarf bush honeysuckle Diervilla lonicera
Tall Evergreen Tree	Austrian pine	Pinus nigra	Use Sparingly	Over-planted	Norway spruce Picea abies

Notes:

¹ Species to Use Sparingly may be used as part of an overall landscaping plan, but only if the number of individual plants does not constitute more than one plant per 20 total plants within the same plant classification. For example, if a landscaping plan includes a total of 20 Tall Deciduous Trees, no more than one of those 20 trees may be classified as a “Species to Use Sparingly.” The purpose of this provision is to encourage plant species diversity throughout the City.

² Species to Avoid may not be included as contributing landscaping points as part of any landscaping plan that is subject to City review. The purpose of this provision is to limit the planting of species that are invasive, have invasive tendencies, or that may perpetuate or spread disease.

Section 90-145: Standards for Rain Gardens and Bioswales

- (1) Definitions.
 - (a) Rain gardens and bioswales can serve both as landscaping and stormwater management features on a building site, where appropriately designed and sited. A rain garden is a shallow, depressed garden that is designed and positioned on a site to capture stormwater runoff and allow for the infiltration of water back into the ground. Rain garden plants are carefully chosen for their ability to withstand moisture extremes and potentially high concentrations of nutrients and sediments that are often found in stormwater runoff. A well designed and maintained rain garden serves as an attractive component of an overall landscaping plan for a development site.
 - (b) A bioswale is a linear, vegetative stormwater runoff conveyance system that is designed to store and infiltrate water from small storm events back into the ground and direct water from heavy rain events to appropriate storm sewer inlets or other management facilities. The flow of water being conveyed through a bioswale is slowed down, allowing for municipal storm systems to more effectively manage heavier rain events and help reduce the risk of flooding on or off-site. Water being infiltrated or conveyed via a bioswale is also filtered by the vegetation within it, generally improving both ground and surface water quality.
- (2) Requirements.
 - (a) The installation of a rain garden or bioswale may contribute to the overall stormwater management plan for a development site and count toward meeting the City's landscaping guidelines. Raingardens may count for 20 points for every 20 square feet for yard area, building foundation, and/or paved area requirements, provided the following requirements are met.
 - (b) Detailed plans shall be provided that show all proposed dimensions of the rain garden or bioswale including length, width, depth, and slope of depression; location of the rain garden or bioswale on the lot relative to hard-surfaced areas, downspouts, and site topography; characteristics of the soil underlying the rain garden or bioswale; description of planting media; the species, number, and size at time of installation of all vegetation proposed for the rain garden or bioswale; and information on any other materials (e.g., rocks) that will be used to line the rain garden or bioswale.
 - (c) Installation shall not be proposed for any of the following areas of a site:
 1. Areas where there is known soil contamination unless the rain garden or bioswale is proposed to be constructed with an under-drain;
 2. Areas where the characteristics of the soil would not allow for the proper infiltration of water into the ground; or
 3. Areas where there are expected to be high levels of foot traffic.
 - (d) The owner of the site shall demonstrate that the rain garden or bioswale shall be properly maintained; kept free of trash, weeds, debris, and dead or dying plants; any pipes associated with the rain garden or bioswale will be inspected on an annual basis and kept free of debris; and by the beginning of every spring dead plant materials will be cut back or removed.
 - (e) Bioswales and rain gardens shall be generously (and appropriately) vegetated to qualify for landscaping points. Bioswales and rain gardens (or portions thereof) that are lined with turf and/or rocks but do not include other vegetation will not count toward meeting landscaping point requirements.
 - (f) Rain gardens and bioswales may serve as a component of an overall stormwater management plan for a site only if detailed plans, calculations, and specifications are submitted. Detailed plans

shall include the location and description of all other stormwater management facilities serving the site, particularly those to which any bioswale will be directed.

Section 90-146: Landscaping Installation Requirements

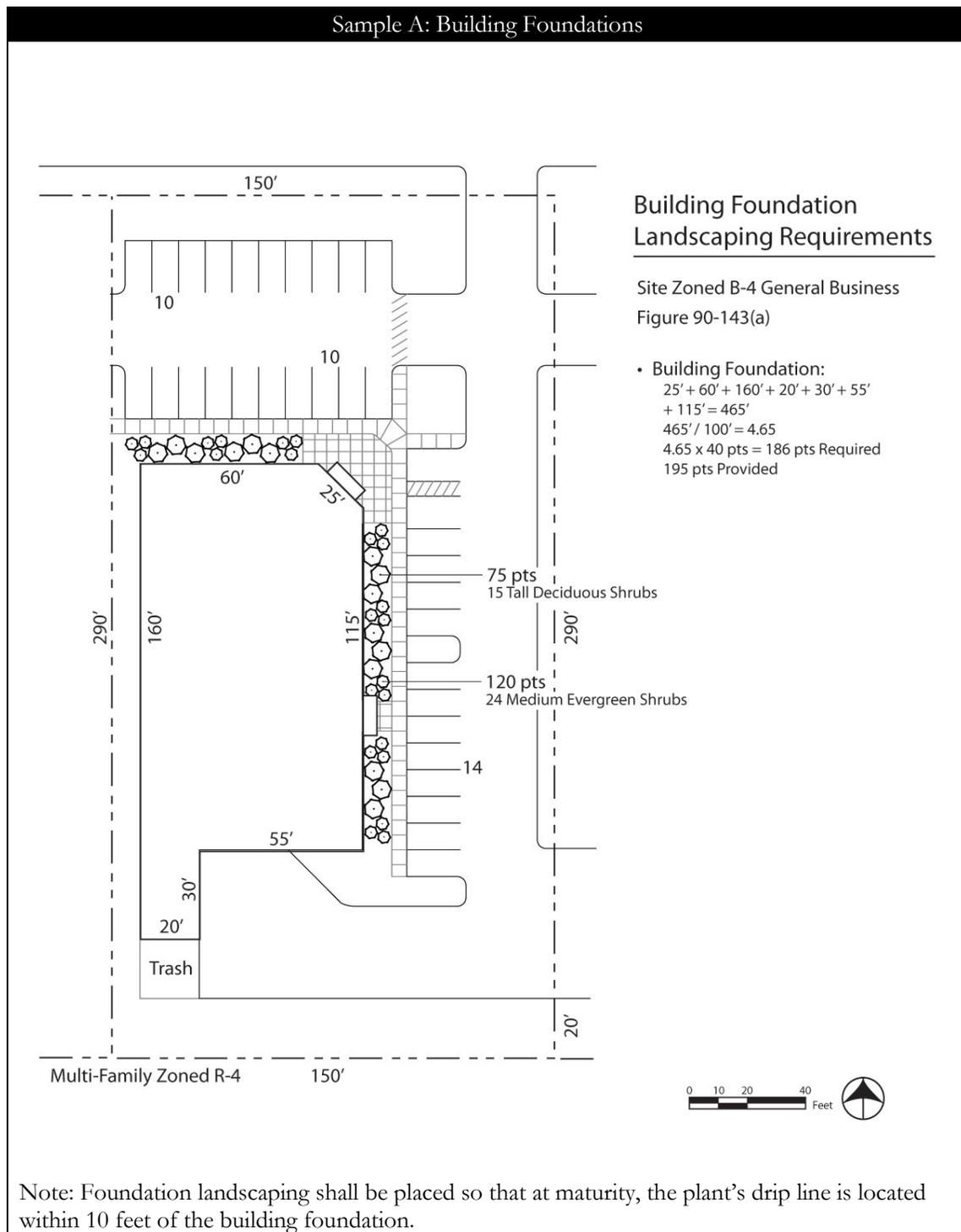
- (1) Installation. Any and all landscaping and bufferyard material required by the provisions of this Chapter shall be installed on the subject property, in accordance with the approved site plan within 365 days of the issuance of an occupancy permit for any building on the subject property, unless a conditional use is approved to allow for greater than 365 days.
- (2) Surety.
 - (a) If the subject property is to be occupied prior to the installation of all required landscaping and bufferyard material, the property owner shall sign an instrument agreeing to install the landscaping within the 730 day period and shall furnish to the City an irrevocable letter of credit or other form of security acceptable to the City sufficient to guarantee completion of the work. Such security shall be provided by the property owner at the time that the agreement is signed. It shall be in an amount equal to 110 percent of the estimated actual cost for all of the required elements of the approved site plan and shall specifically guarantee that all such elements shall be made and installed according to the approved site plan. The costs of the work shall be furnished by the property and shall be verified by the City. The financial security shall remain in force until all of the work has been completed and approved by the City. This agreement shall also contain a statement indicating that the property owner's failure to comply with the requirements of the terms of the agreement will constitute a violation of the Chapter and subject the property owner to a forfeiture upon conviction.
 - (b) If the required landscaping and bufferyard materials are to be installed during different phases of a subdivision development, the developer may furnish for each phase financial security in an amount sufficient to guarantee completion of the landscaping and bufferyard work performed during a particular phase, unless the Land Division Regulations requires otherwise.
 - (c) If the property owner is a governmental unit, it may, in lieu of signing an agreement and furnishing a guarantee and file a resolution or letter from officers authorized to act in its behalf, agreeing to comply with the provisions of this article.
- (3) If existing plant material meets the requirements of this article and will be preserved on the subject property following the completion of development, it may be counted as contributing to the landscaping requirements.
- (4) All landscaping and bufferyard areas shall be seeded with lawn or native ground cover unless such vegetation is already fully established.
- (5) The exact placement of plants and structures shall be depicted on the required detailed landscaping plan submitted to the City for its approval. Such plant and structure location shall be the decision of each property owner provided the following requirements are met:
 - (a) Evergreen shrubs shall be planted in clusters to maximize their chance for survival.
 - (b) Where a combination of plant materials, berming, and fencing is used in a bufferyard, the fence and/or berm shall be located toward the interior of the subject property and the plant material shall be located toward the exterior of the subject property.
 - (c) A property owner may establish through a written agreement, recorded with the Register of Deeds that an adjacent property owner agrees to provide on the immediately adjacent portion of his or her land a partial or full portion of the required bufferyard, thereby relieving the developer of the responsibility of providing the entire bufferyard on his property.
 - (d) Under no circumstance shall landscaping or bufferyard materials be selected or located in a manner resulting in the creation of a safety or visibility hazard.
 - (e) The restrictions on types of plants listed in this article shall apply.

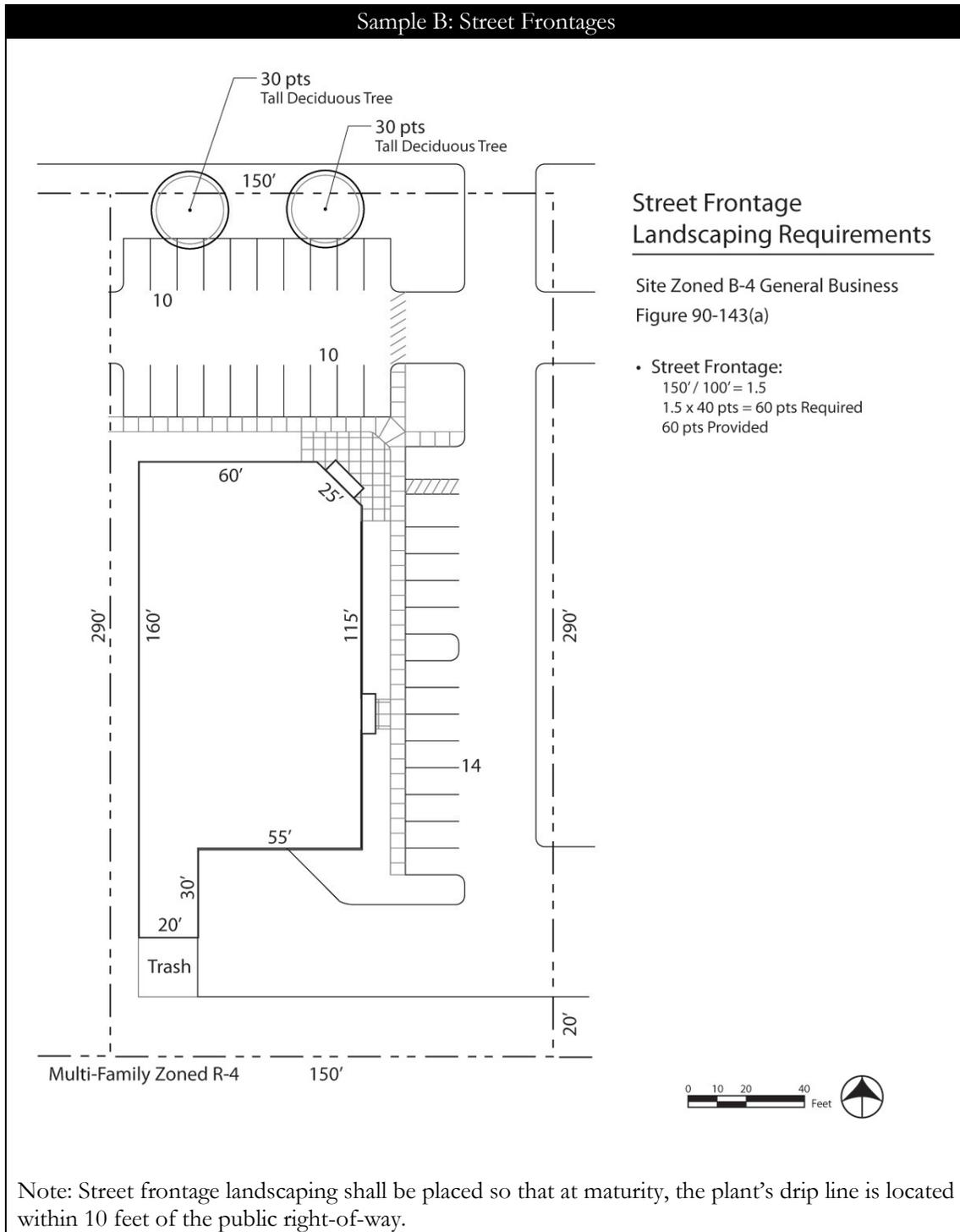
- (6) Maintenance. The continual maintenance of all required landscaping and bufferyard materials shall be a requirement of this Chapter and shall be the responsibility of the owner of the property on which said materials and plants are required. This requirement shall run with the property and shall be binding upon all future property owners. Development of any or all property following the effective date of this chapter shall constitute an agreement by the property owner to comply with the provisions of this section. If the property owner fails to comply with these provisions, the City may enter upon the property for the purpose of evaluating and maintaining all required landscaping and bufferyard materials, and may specially assess the costs thereof against the property. A property owner's failure to comply with this requirement shall also be considered a violation of this chapter, and shall be subject to any and all applicable enforcement procedures and penalties.
- (7) Use of Required Bufferyard and Landscaped Areas. Any and all required bufferyards or landscaped areas may be used for passive recreation activities. Said areas may contain pedestrian, bike or equestrian trails provided that no required material is eliminated; the total width of the required bufferyard, or the total area of required landscaping, is maintained; and all other regulations of this Chapter are met. However, in such areas, no swimming pools, tennis courts, sports fields, golf courses, or other such similar active recreational uses. No parking and no outdoor display of storage of materials shall be permitted. Paving in such areas shall be limited to that required for necessary access to, through, or across the subject property.
- (8) Utility Easements. Landscaping materials, fences and berms located within a duly recorded utility or a pedestrian easement shall not count toward meeting a landscaping requirement, unless authorized otherwise by a conditional use permit. However, the width of such areas may be counted as part of a landscaping requirement.

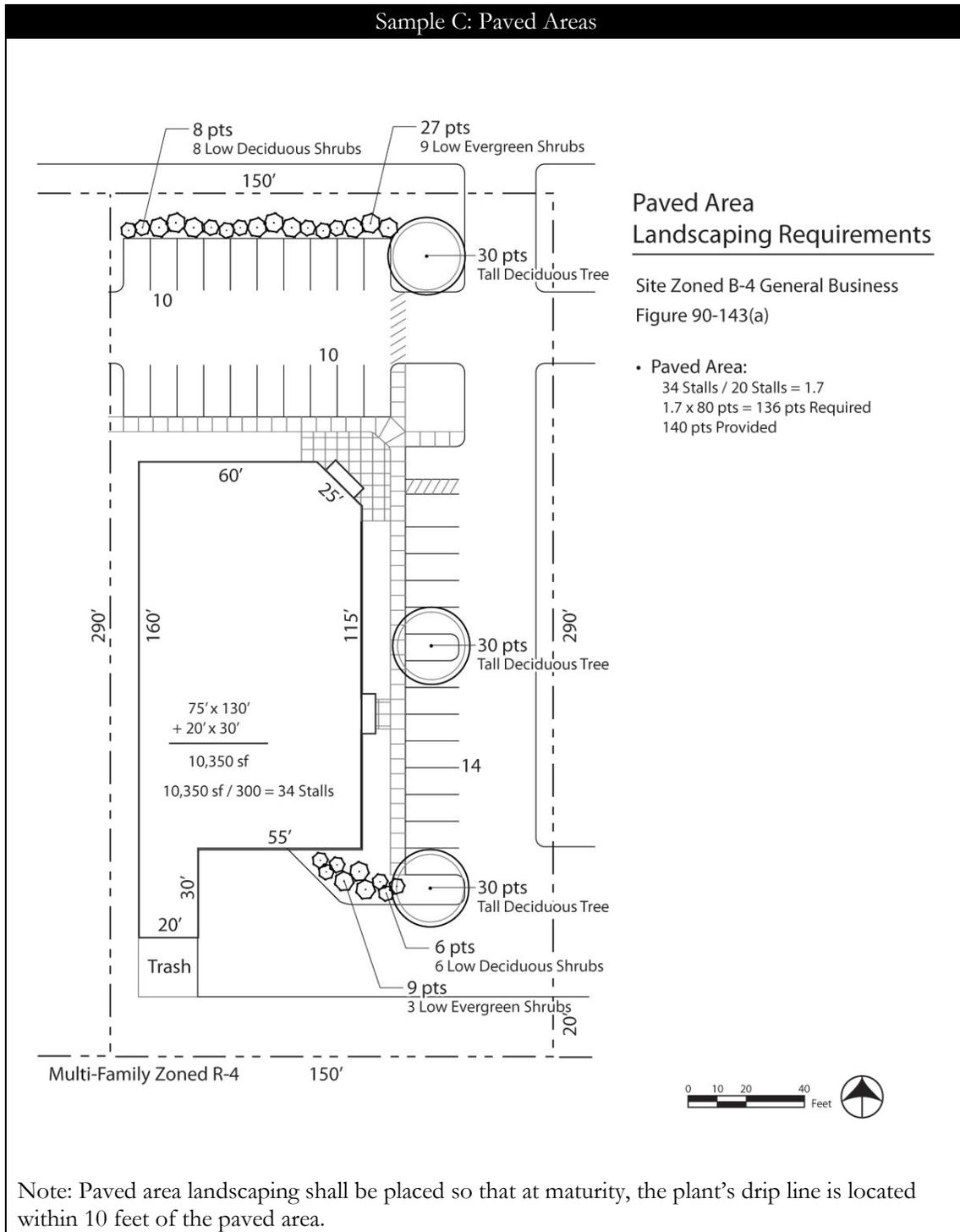
Section 90-147: Sample Landscaping Schemes

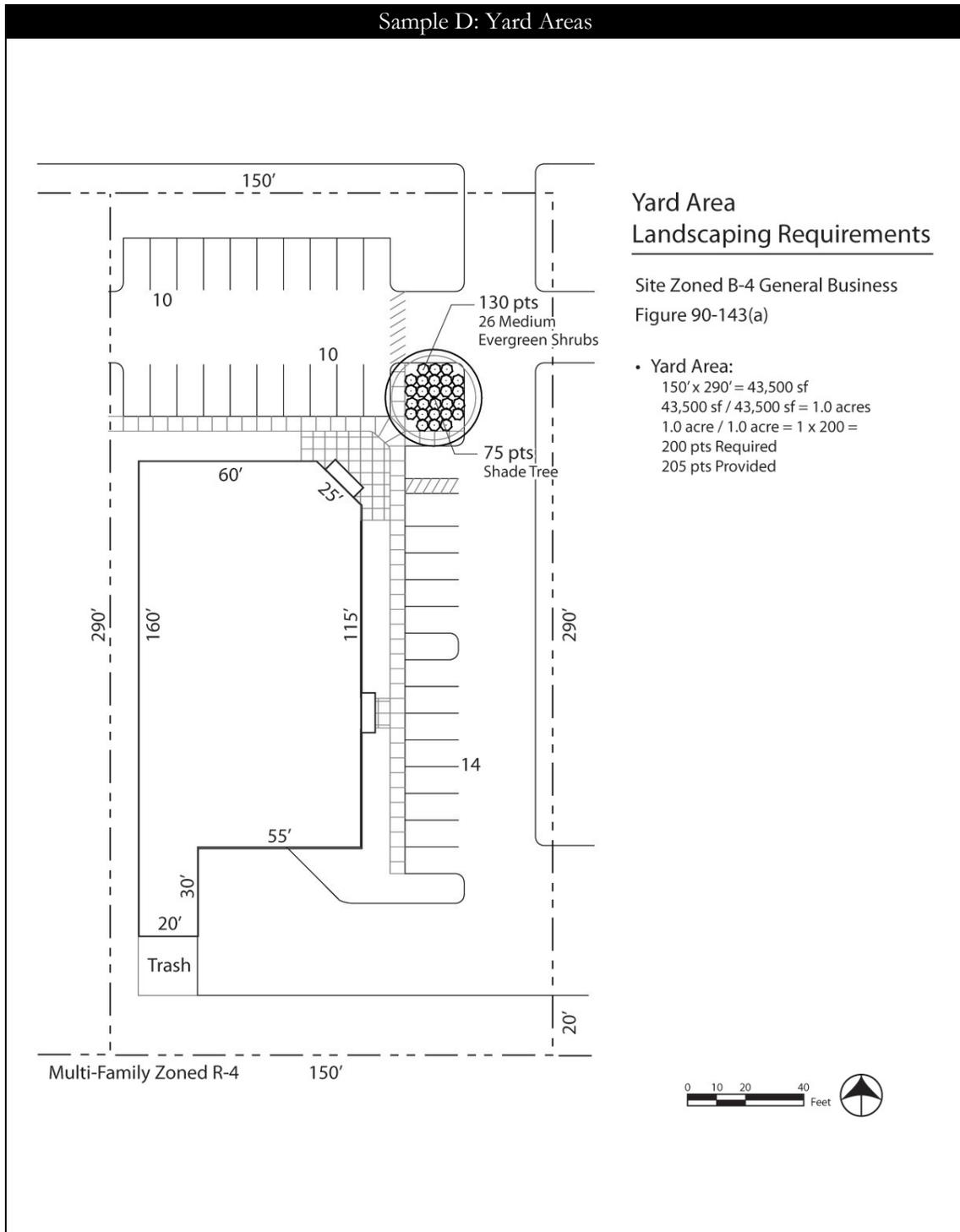
Sample landscaping schemes that may be used for building foundations, developed lots, street frontages, paved areas, reforestation, and bufferyards are depicted in Figure 90-146.

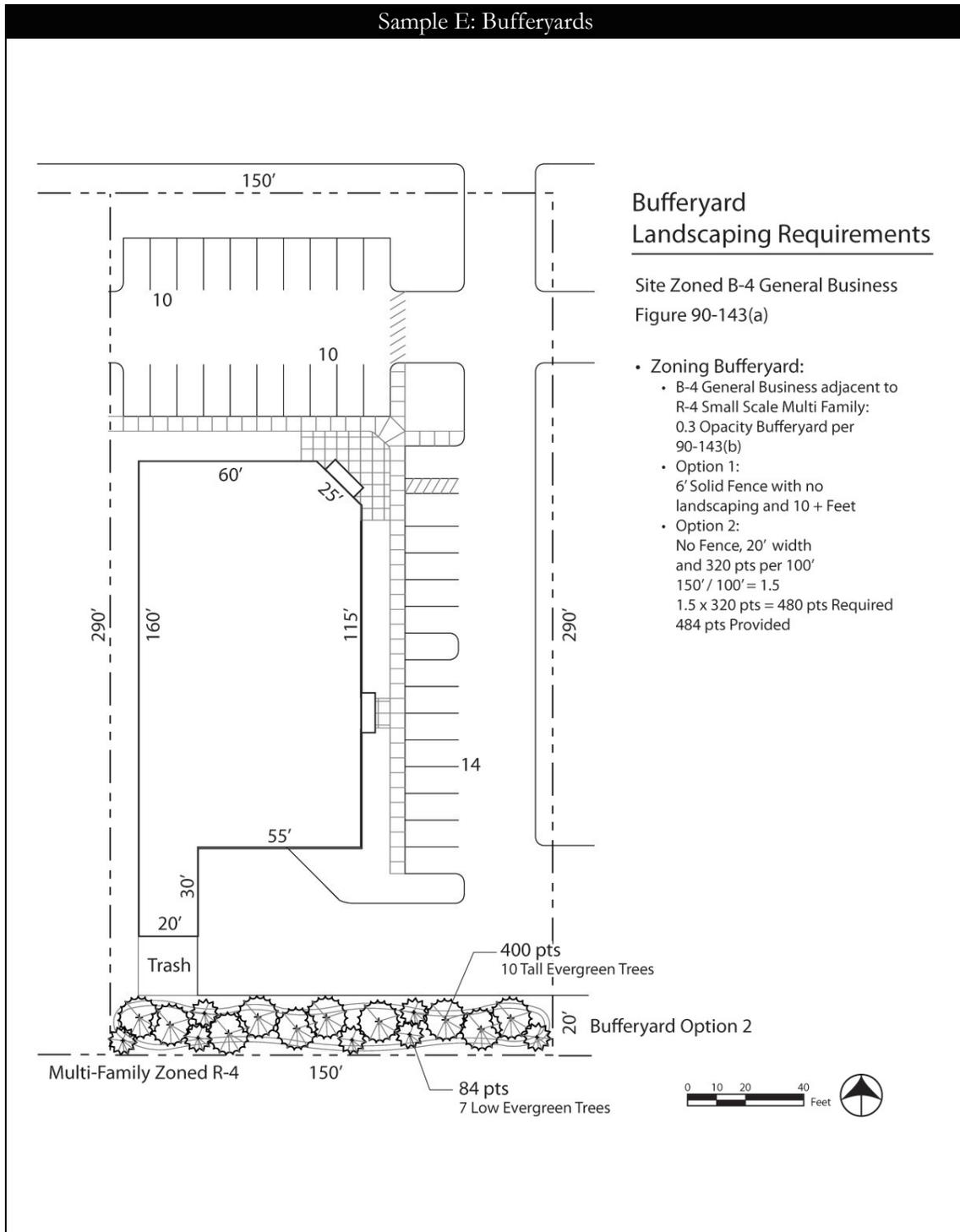
Figure 90-147: Sample Landscaping Schemes

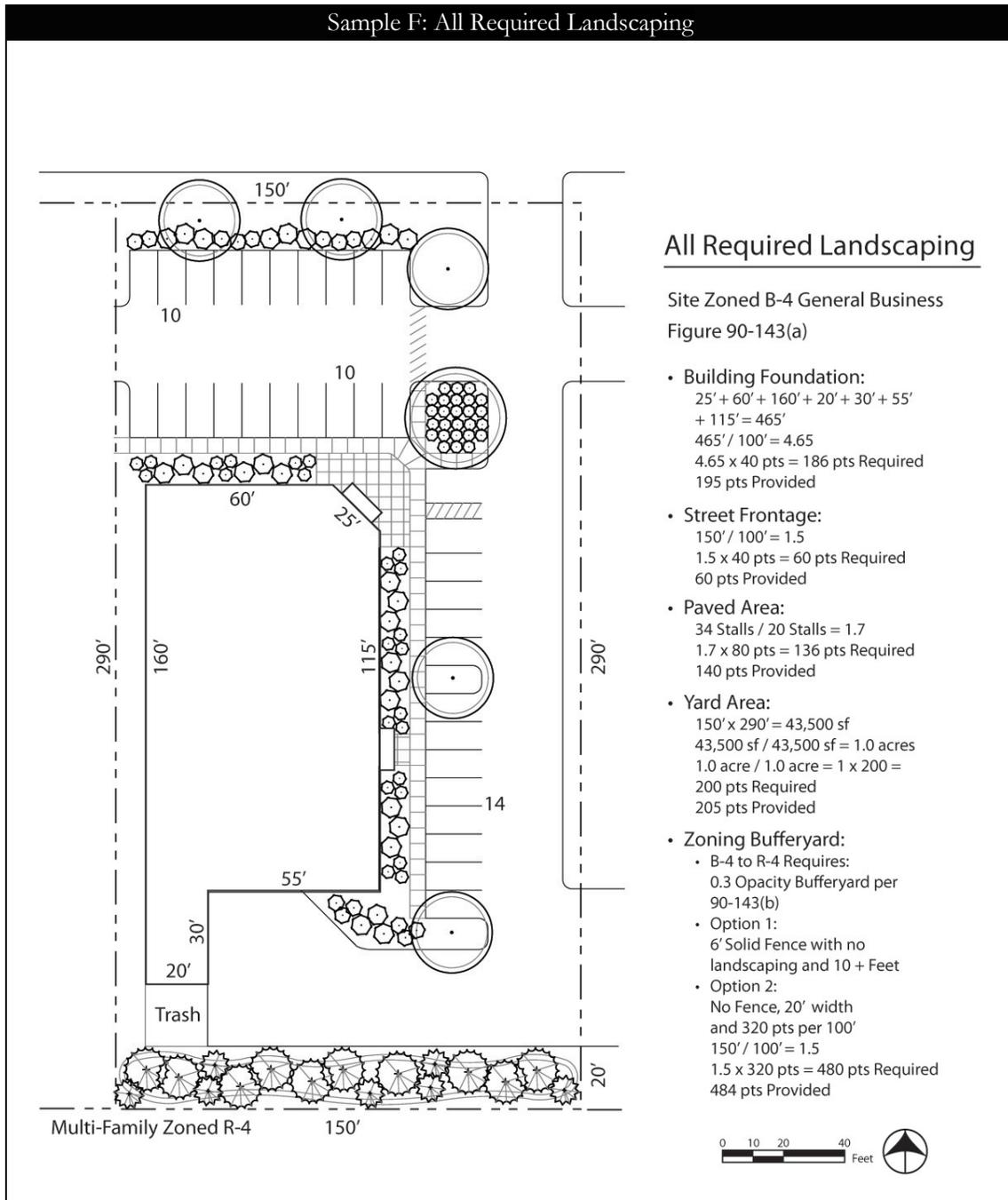












Section 90-148 to 90-270: Reserved

ARTICLE IX: FLOODPLAIN ZONING

Division I: Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions

Section 90-271: Statutory Authorization

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; and the requirements in s. 87.30, Stats.

Section 90-272: Finding of Fact

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

Section 90-273: Statement of Purpose

This ordinance is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

Section 90-274: Title

This ordinance shall be known as the Floodplain Zoning Ordinance for the City of Portage, Wisconsin.

Section 90-275: General Provisions

- (1) Areas to be regulated. This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by the Wisconsin Department of Natural Resources (DNR). Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as A Zones on the FIRM. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.
- (2) Official maps and revisions. The boundaries of all floodplain districts are designated as A-Zones on the maps based on the FIS listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the FIRM must be reviewed and approved by the DNR and the Federal Emergency Management Agency (FEMA) through the Letter of Map Change (LOMC) process (see s. 90-431 Amendments) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Portage Zoning Administrator, 115 West Pleasant Street, Portage, Wisconsin. If more than one map or revision is referenced, the most restrictive information shall apply.

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- (a) Official Maps: Based on the Columbia County, Wisconsin And Incorporated Areas FIS Number 55021CV000A dated April 2, 2008.
 1. FIRM, community number 550063, dated April 2, 2008 with corresponding profiles that are based on the FIRM panel numbers listed below:
55021C0234E, 55021C0242E, 55021C0253E, 55021C0254E, 55021C0258E, 55021C0261E, 55021C0262E, 55021C0263E, 55021C0264E, 55021C0266E and 55021C0268E,
FIRM Effective Date: 04/02/2008
FIS: 55021CV000A
FIS Effective Date: 04/02/2008
 - (b) Official Analysis: Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.
 1. Letter of Map Change (Case No. 07-05-0473V, Effective Date 04/03/2008).
 - (3) Establishment of floodplain zoning districts. The regional floodplain areas are divided into three districts as follows:
 - (a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.
 - (b) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
 - (c) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.
 - (4) Locating floodplain boundaries. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 90-431 Amendments. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 90-414(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 90-431 Amendments.
 - (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - (b) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.
 - (5) Removal of lands from floodplain. Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 90-431 Amendments.
 - (6) Compliance. Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.
 - (7) Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State
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agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

- (8) Abrogation and greater restrictions.
 - (a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 for cities; or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - (b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- (9) Interpretation. In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- (10) Warning and disclaimer of liability. The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.
- (11) Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- (12) Annexed areas for cities and villages. The Columbia County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

Section 90-276 through 90-300: Reserved

Division 2: General Standards Applicable to All Floodplain Districts

Section 90-301: General Standards Applicable to All Floodplain Districts

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 90-412(2). Adequate

drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

Section 90-302: Hydraulic and Hydrologic Analyses

- (1) No floodplain development shall:
 - (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
 - (b) Cause any increase in the regional flood height due to floodplain storage area lost.
- (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 90-431 *Amendments* are met.

Section 90-303: Watercourse Alterations

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 90-302 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 90-431 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

Section 90-304: Chapter 30, 31, Wis. Stats., Development

Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to s. 90-431 *Amendments*.

Section 90-305: Public or Private Campgrounds

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Department of Health Services;
- (2) A land use permit for the campground is issued by the zoning administrator;
- (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;
- (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

- (7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 90-331, s. 90-351 or s. 90-371 for the floodplain district in which the structure is located;
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- (12) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

Section 90-306 through 90-330: Reserved

Division 3: Floodway District (FW)

Section 90-331: Applicability

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 90-374.

Section 90-332: Permitted Uses

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
 - they meet the standards in s. 90-333 and 90-334; and
 - all permits or certificates have been issued according to s. 90-412.
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 90-333(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with s. 90-333 and s. 90-334.
 - (5) Extraction of sand, gravel or other materials that comply with s. 90-333(4).
 - (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
 - (7) Public utilities, streets and bridges that comply with s. 90-333(3).

Section 90-333: Standards for Development

- (1) General.
 - (a) Any development in the floodway shall comply with s. 90-301 and have a low flood damage potential.
 - (b) Applicants shall provide the following data to determine the effects of the proposal according to s. 90-302:
 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 2. An analysis calculating the effects of this proposal on regional flood height.
 - (c) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (b) above.
- (2) Structures. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - (a) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - (b) Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - (c) Must be anchored to resist flotation, collapse, and lateral movement;
 - (d) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
 - (e) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (3) Public utilities, streets and bridges. Public utilities, streets and bridges may be allowed by permit, if:
 - (a) Adequate floodproofing measures are provided to the flood protection elevation; and
 - (b) Construction meets the development standards of s. 90-302.
- (4) Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:
 - (a) The requirements of s. 90-302 are met;
 - (b) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
 - (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - (d) The fill is not classified as a solid or hazardous material.

Section 90-334: Prohibited Uses

All uses not listed as permitted uses in s. 90-332 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

Section 90-335 through 90-350: Reserved

Division 4: Floodfringe District (FF)

Section 90-351: Applicability

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 90-374.

Section 90-352: Permitted Uses

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 90-353 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 90-411 have been issued.

Section 90-353: Standards for Development

S. 90-302 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 90-391 *Nonconforming Uses*;

- (1) Residential uses. Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of s. 90-391 *Nonconforming Uses*;
 - (a) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s. 90-353(1)(b) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
 - (b) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
 - (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).
 - (d) In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

2. The municipality has a DNR-approved emergency evacuation plan.
- (2) Accessory structures or uses. Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (3) Commercial uses. Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of s. 90-353(1). Subject to the requirements of s. 90-353(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (4) Manufacturing and industrial uses. Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s. 90-416. Subject to the requirements of s. 90-353(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (5) Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 90-416. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (6) Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
 - (a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 90-416.
 - (b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) Sewage systems. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 90-416(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.
- (8) Wells. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 90-416(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (9) Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (10) Deposition of materials. Any deposited material must meet all the provisions of this ordinance.
- (11) Manufactured homes.
 - (a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - (b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 1. have the lowest floor elevated to the flood protection elevation; and
 2. be anchored so they do not float, collapse or move laterally during a flood
 - (c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 90-353(1).
- (12) Mobile recreational vehicles. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring

requirements in s. 90-353(11)(b) and (c). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

Section 90-354 through 90-370: Reserved

Division 5: General Floodplain District (GFP)

Section 90-371: Applicability

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

Section 90-372: Permitted Uses

Pursuant to s. 90-374, it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (s. 90-332) and Floodfringe (s. 90-352) Districts are allowed within the General Floodplain District, according to the standards of s. 90-373, provided that all permits or certificates required under s. 90-412 have been issued.

Section 90-373: Standards for Development

Secs. 90-331 – 90-334 apply to floodway areas, secs. 90-351 – 90-353 apply to floodfringe areas. The rest of this ordinance applies to either district.

- (1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below, whichever is higher:
 - (a) at or above the flood protection elevation; or
 - (b) two (2) feet above the highest adjacent grade around the structure; or
 - (c) the depth as shown on the FIRM
- (2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

Section 90-374: Determining the Floodway/Floodfringe Limits

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

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
 - (a) A Hydrologic and Hydraulic Study as specified in s. 90-412(2)(c).
 - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - (c) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

Section 90-375 through 90-390: Reserved

Division 6: Nonconforming Uses

Section 90-391: General

- (1) Applicability. If these standards conform with s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.
- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:
 - (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
 - (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
 - (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
 - (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 90-353(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
 - (e) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 90-353(1).
 - (f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 90-353(1).

- (g) Except as provided in subd. (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
 - (h) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.
 - 1. Residential Structures
 - a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 90-416(2).
 - b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
 - c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
 - e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 90-373(1).
 - f. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
 - 2. Nonresidential Structures
 - a. Shall meet the requirements of s. 90-391(2)(h)1a-b and e-g.
 - b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 90-416(1) or (2).
 - c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 90-373(1).
- (3) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 90-333(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 90-416 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 90-391(2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

Section 90-392: Floodway District

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
 - (a) Has been granted a permit or variance which meets all ordinance requirements;
 - (b) Meets the requirements of s. 90-391;

- (c) Shall not increase the obstruction to flood flows or regional flood height;
- (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 90-416, by means other than the use of fill, to the flood protection elevation; and
- (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - 4. The use must be limited to parking, building access or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 90-416(3) and ch. SPS 383, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 90-416(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

Section 90-393: Floodfringe District

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of s. 90-353 except where s. 90-393(2) is applicable.
- (2) Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of zoning appeals, using the procedures established in s. 90-414, may grant a variance from those provisions of subd. (1) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (b) Human lives are not endangered;
 - (c) Public facilities, such as water or sewer, shall not be installed;
 - (d) Flood depths shall not exceed two feet;
 - (e) Flood velocities shall not exceed two feet per second; and
 - (f) The structure shall not be used for storage of materials as described in s. 90-353(5).
- (3) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, 90-416(3) and ch. SPS 383, Wis. Adm. Code.
- (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 90-416(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

Section 90-394 through 90-410: Reserved**Division 7: Administration****Section 90-411: Administration**

Where a zoning administrator, planning agency or a board of zoning appeals has already been appointed to administer a zoning ordinance adopted under s. 62.23(7), Stats., these officials shall also administer this ordinance.

Section 90-412: Zoning Administrator

- (1) Duties and powers. The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
 - (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
 - (c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
 - (d) Keep records of all official actions such as:
 1. All permits issued, inspections made, and work approved;
 2. Documentation of certified lowest floor and regional flood elevations;
 3. Floodproofing certificates.
 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 5. All substantial damage assessment reports for floodplain structures.
 6. List of nonconforming structures and uses. .
 - (e) Submit copies of the following items to the Department Regional office:
 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 2. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
 - (f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - (g) Submit copies of amendments and biennial reports to the FEMA Regional office.
- (2) Land use permit. A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
 - (a) General information.
 1. Name and address of the applicant, property owner and contractor;
 2. Legal description, proposed use, and whether it is new construction or a modification;

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- (b) Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
1. Location, dimensions, area and elevation of the lot;
 2. Location of the ordinary highwater mark of any abutting navigable waterways;
 3. Location of any structures with distances measured from the lot lines and street center lines;
 4. Location of any existing or proposed on-site sewage systems or private water supply systems;
 5. Location and elevation of existing or future access roads;
 6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of secs. 90-331 – 90-334 or secs. 90-351 – 90-353 are met; and
 9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 90-302. This may include any of the information noted in s. 90-333(1).
- (c) Hydraulic and hydrologic studies to analyze development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.
1. Zone A floodplains:
 - a. Hydrology
 - i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - b. Hydraulic modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of RFE* and the following:
 - i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - ii. channel sections must be surveyed.
 - iii. minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 - v. the most current version of HEC_RAS shall be used.
 - vi. a survey of bridge and culvert openings and the top of road is required at each structure.
 - vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.

- viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 - ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- c. Mapping
- i. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
 - ii. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - iii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
2. Zone AE Floodplains
- a. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - b. Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of RFE* and the following:
 - i. Duplicate Effective Model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
 - ii. Corrected Effective Model. The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
 - iii. Existing (Pre-Project Conditions) Model. The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
 - iv. Revised (Post-Project Conditions) Model. The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
 - v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

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- vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
 - c. Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
 - i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
 - ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
 - iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
 - iv. If an annotated FIRM and/or FBFM and digital mapping data; Geographic Information System (GIS) or Computer Aided Drafting/Design (CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
 - v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 - vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
 - vii. Both the current and proposed floodways shall be shown on the map.
 - viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.
 - (d) Expiration. All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.
- (3) Certificate of compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
 - (b) Application for such certificate shall be concurrent with the application for a permit;
 - (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
 - (d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 90-416 are met.
- (4) Other permits. Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by

the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

Section 90-413: Zoning Agency

- (1) The plan commission shall:
 - (a) oversee the functions of the office of the zoning administrator; and
 - (b) review and advise the governing body on all proposed amendments to this ordinance, maps and text.
- (2) The plan commission shall not:
 - (a) grant variances to the terms of the ordinance in place of action by the board of zoning appeals; or
 - (b) amend the text or zoning maps in place of official action by the governing body.

Section 90-414: Board of Zoning Appeals

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

- (1) Powers and duties. The board of zoning appeals shall:
 - (a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
 - (b) Boundary disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
 - (c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.
- (2) Appeals to the board.
 - (a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
 - (b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES
 1. Notice - The board shall:
 - a. Fix a reasonable time for the hearing;
 - b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
 - c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
 2. Hearing - Any party may appear in person or by agent. The board shall:
 - a. Resolve boundary disputes according to s. 90-414(3);
 - b. Decide variance applications according to s. 90-414(4); and
 - c. Decide appeals of permit denials according to s. 90-415.
 - (c) DECISION: The final decision regarding the appeal or variance application shall:

1. Be made within a reasonable time;
 2. Be sent to the Department Regional office within 10 days of the decision;
 3. Be a written determination signed by the chairman or secretary of the board;
 4. State the specific facts which are the basis for the board's decision;
 5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
 6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.
- (3) Boundary disputes. The following procedure shall be used by the board in hearing disputes concerning floodplain district boundaries:
- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
 - (b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board; and
 - (c) If the boundary is incorrectly mapped, the board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 90-431 Amendments.
- (4) Variance.
- (a) The board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 1. Literal enforcement of the ordinance will cause unnecessary hardship;
 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 3. The variance is not contrary to the public interest; and
 4. The variance is consistent with the purpose of this ordinance in s. 90-273.
 - (b) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
 1. The variance shall not cause any increase in the regional flood elevation;
 2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
 - (c) A variance shall not:
 1. Grant, extend or increase any use prohibited in the zoning district;
 2. Be granted for a hardship based solely on an economic gain or loss;
 3. Be granted for a hardship which is self-created.
 4. Damage the rights or property values of other persons in the area;

5. Allow actions without the amendments to this ordinance or map(s) required in s. 90-431 Amendments; and
 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted the board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

Section 90-415: To Review Appeals of Permit Denials

- (1) The Zoning Agency (s. 90-413) or board shall review all data related to the appeal. This may include:
 - (a) Permit application data listed in s. 90-412(2);
 - (b) Floodway/floodfringe determination data in s. 90-374;
 - (c) Data listed in s. 90-333(1)(b) where the applicant has not submitted this information to the zoning administrator; and
 - (d) Other data submitted with the application, or submitted to the board with the appeal.
- (2) For appeals of all denied permits the board shall:
 - (a) Follow the procedures of s. 90-414;
 - (b) Consider zoning agency recommendations; and
 - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the board shall:
 - (a) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 90-431 Amendments; and
 - (b) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

Section 90-416: Floodproofing

- (1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.
- (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - (a) certified by a registered professional engineer or architect; or
 - (b) meets or exceeds the following standards:
 1. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 2. the bottom of all openings shall be no higher than one foot above grade; and
 3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (3) Floodproofing measures shall be designed, as appropriate, to:
- (4) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- (5) Protect structures to the flood protection elevation;

- (6) Anchor structures to foundations to resist flotation and lateral movement; and
- (7) Minimize or eliminate infiltration of flood waters.
- (8) Minimize or eliminate discharges into flood waters.

Section 90-417: Public Information

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) Real estate transfers should show what floodplain district any real property is in.

Section 90-418 through 90-430: Reserved

Division 8: Amendments

Section 90-431: Amendments

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 90-432.

- (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional LOMR from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 90-432. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional LOMR from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 90-432.

Section 90-432: General

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 90-433 below. Actions which require an amendment to the ordinance and/ or submittal of a LOMC include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in s. 90-275(2)(b);
- (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Section 90-433: Procedures

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities. The petitions shall include all data required by ss. 90-374 and 90-412(2). The Land Use Permit shall not be issued until a LOMR is issued by FEMA for the proposed changes.

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be

submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities.

- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

Section 90-434 through 90-443: Reserved

Division 9: Enforcement and Penalties

Section 90-444: Violations

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the city a penalty of not less than \$25.00 (twenty-five dollars) and not more than \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

Section 90-445 through 90-450: Reserved

Division 10: Definitions

Section 90-451: Words and Terms Defined

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

- (1) A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) AH ZONE – See “AREA OF SHALLOW FLOODING”.
- (3) AO ZONE – See “AREA OF SHALLOW FLOODING”.
- (4) ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- (5) ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
- (6) AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's FIRM with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
- (7) BASE FLOOD – Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- (8) BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

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- (9) BUILDING – See STRUCTURE.
 - (10) BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
 - (11) CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
 - (12) CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
 - (13) CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
 - (14) CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
 - (15) CRAWLWAYS OR "CRAWL SPACE" – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
 - (16) DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
 - (17) DEPARTMENT – The Wisconsin Department of Natural Resources.
 - (18) DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
 - (19) DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
 - (20) ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.
 - (21) FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.
 - (22) FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
 - (23) FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - (a) The overflow or rise of inland waters;
 - (b) The rapid accumulation or runoff of surface waters from any source;
 - (c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or

- (d) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (24) FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
- (25) FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (26) FLOOD HAZARD BOUNDARY MAP (FHBM) – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (27) FLOOD INSURANCE STUDY (FIS) – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (28) FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- (29) FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (30) FLOODPLAIN MANAGEMENT – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (31) FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (32) FLOODPROOFING – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (33) FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- (34) FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (35) FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (36) FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- (37) HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.
- (38) HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For

- all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (39) HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- (40) HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (41) HISTORIC STRUCTURE – Any structure that is either:
- (a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- (42) INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- (43) LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- (44) LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
- (45) LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.
- (46) MAINTENANCE – The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
- (47) MANUFACTURED HOME – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (48) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
- (49) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum,

- this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- (50) MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- (51) MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- (52) MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
- (53) MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
- (54) MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- (55) MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
- (56) MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- (57) MUNICIPALITY" or "MUNICIPAL – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- (58) NAVD" or "NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.
- (59) NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.
- (60) NEW CONSTRUCTION – For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (61) NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

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- (62) **NONCONFORMING USE** – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (63) **OBSTRUCTION TO FLOW** – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- (64) **OFFICIAL FLOODPLAIN ZONING MAP** – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
- (65) **OPEN SPACE USE** – Those uses having a relatively low flood damage potential and not involving structures.
- (66) **ORDINARY HIGHWATER MARK** – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (67) **PERSON** – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (68) **PRIVATE SEWAGE SYSTEM** – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (69) **PUBLIC UTILITIES** – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (70) **REASONABLY SAFE FROM FLOODING** – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (71) **REGIONAL FLOOD** – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (72) **START OF CONSTRUCTION** – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (73) **STRUCTURE** – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (74) **SUBDIVISION** – Has the meaning given in s. 236.02(12), Wis. Stats.

- (75) **SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- (76) **SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (77) **UNNECESSARY HARDSHIP** – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- (78) **VARIANCE** – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- (79) **VIOLATION** – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- (80) **WATERSHED** – The entire region contributing runoff or surface water to a watercourse or body of water.
- (81) **WATER SURFACE PROFILE** – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (82) **WELL** – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Section 90-452 through 90-460: Reserved

ARTICLE X: ADMINISTRATION AND PROCEDURES

Section 90-461: Purpose

The purpose of this article is to establish the administrative and enforcement framework for the application of this Chapter. This article also establishes procedural requirements for processes enabled or required by this Chapter, including: amendments to the regulations of this Chapter, amendments to the Official Zoning Map, conditional use permits, temporary use permits, site plans, variances, planned developments, zoning and occupancy permits, sign permits, interpretations, appeals, and violations and penalties.

Section 90-462: Zoning Administrator

- (1) Designation. The Director of Public Works, and/or other designee of the Common Council, is hereby designated as the administrative and enforcement officer(s) for the provisions of this Chapter and is herein referred to as the zoning administrator.
- (2) Duties. In enforcing and administering this Chapter, the zoning administrator shall perform the following duties:
 - (a) Issue the necessary building permits and occupancy and zoning use permits required by the provisions of this Chapter, provided its provisions have been complied with.
 - (b) Keep an accurate record of all permits, numbered in the order of issuance, in a record book for this purpose.
 - (c) In case of any finding of a violation of a provision of this Chapter, notify, in writing, the actual violator where known, the 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.
 - (d) Receive, file, and process for action all applications for conditional uses, variances, interpretations, appeals, and amendments to this Chapter which are filed in the zoning office.
 - (e) Initiate, direct, and review, from time to time, a study of the provisions of this Chapter and make reports of the recommendations to the Plan Commission for investigation and appropriate action.
 - (f) 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 zoning administrator 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 building or occupancy permit and issue cease and desist orders requiring the cessation of any building, alteration, or use which is in violation of the provisions of this Chapter. Such revocation would be in effect until reinstated by the zoning administrator or the Board of Appeals, or by other action as directed by the Common Council to ensure compliance with or to prevent violation with the provisions of this Chapter.
 - (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 or the building code, including the collection of forfeitures provided for herein.

Section 90-463: Plan Commission

- (1) The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the planning and development of the city to the Common Council, other public officials, and other interested organizations and citizens.

- (2) The Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning.
- (3) Under this Chapter, its functions are primarily recommendatory to the Common Council pursuant to guidelines set forth in this Chapter as to various matters, and, always being mindful of the intent and purposes of this Chapter, except that it shall decide applications for conditional use permits.
- (4) Recommendations shall be in writing. A recording in the Plan Commission's minutes shall constitute any required written recommendation. The Plan Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing. The Plan Commission shall have the powers to conduct and hold public hearings on all proposed amendments to the Zoning Ordinance as provided in Wis. Stats. §62.23(7)(d).

Section 90-464: Common Council

- (1) The Common Council, the governing body of the city, subject to recommendations by the Plan Commission and the holding of public hearings by said Common Council, has ultimate authority to grant Planned Development applications, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map, and to amend the text of this Chapter.
- (2) The Common Council may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this Chapter.

Section 90-465: Board of Zoning Appeals

- (1) Establishment. A Board of Zoning Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in the enforcement of this Chapter.
- (2) Powers. In addition to powers enumerated elsewhere in this Chapter, the Board of Zoning 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 zoning administrator or building inspector.
 - (b) To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (c) To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (d) To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board of Zoning Appeals permits such a substitution, the use may not thereafter be changed without application.
 - (e) To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Plan Commission has made a review and recommendation.
 - (f) The Board of Zoning Appeals may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

Section 90-466: Fees

The following fees shall be applicable for this Chapter:

- (1) Rezoning Application. The fee per application (including repetitions of previous applications) shall be set forth in the official city fee schedule on file in the city clerk's office.

- (2) Conditional Use Permit Application. All conditional use applications shall be filed with the Department of Public Works along with a filing fee as set forth in the official city fee schedule on file in the city clerk's office. The filing fee shall be used to reimburse the city for publication costs and attorney's fees incurred in relation to the application and hearings thereon. The Director of Public Works, upon receipt of an application and the fee shall immediately refer it to the Plan Commission for consideration.
- (3) Variance Application. All applications for special exceptions and variances and appeals shall be filed with the Director of Public Works along with a filing fee as set forth in the official city fee schedule on file in the city clerk's office. The filing fee shall be used to reimburse the city for publication costs and attorney's fees incurred in relation to the application or appeal and hearings thereon. The Director of Public Works, upon receipt of an application or appeal and the fee, shall immediately refer it to the Board of Zoning Appeals for consideration.
- (4) Building Permit Application. The fees for building permits shall be established in chapter 10 of this Code regarding buildings and building code regulations.

Section 90-467: Recovery of Costs and Expenses

- (1) General Provisions. In addition to any other fees required to be paid in conjunction with the filing of an application as set forth in section 90-466, above, the applicant shall compensate the city for all costs and expenses the city incurs in the administration, investigation, and consideration of any such application or request, including the cost of retaining the services of professional consultants. The obligation to compensate the city for its costs or expenses shall extend to pre-submission discussions with the city or its representatives which precede an application to the city.
- (2) Cost Recovery Agreement. Before the city shall incur any costs or expense in consideration of any application as described in this Chapter, the applicant shall sign a cost recovery agreement acknowledging the applicant's responsibility for all city costs and expenses directly or indirectly related to the request. The original of said agreement shall be kept on file with the city clerk. A copy shall be given to the applicant at the time of signing.
- (3) Costs Recoverable. All costs incurred by the city in the consideration of any requests by an applicant related to the Zoning or Subdivision Ordinance shall be recoverable, including, without limitation by enumeration, the following:
 - (a) All professional and technical consultant services and fees retained by the city and rendered in review of any application, including, but not limited to, the engineer, planner, attorney, or any other professional or expert hired by the city for purposes of review of the application or pre-submission request.
 - (b) Legal publication costs.
 - (c) Court report costs, as deemed necessary by the Plan Commission.
 - (d) Copy reproduction.
 - (e) Postage.
 - (f) Inspection fees incurred by the building inspector.
 - (g) Document recordation (if required).
 - (h) All of these expenses shall be considered special charges as defined in §66.0627, Wis. Stats.
- (4) Billing of Costs. The city clerk shall, on a monthly basis, bill all costs recoverable pursuant to this Chapter to the applicant. Said costs shall be paid by the applicant within 30 days of receipt of the city's billing. The Common Council may require an applicant to submit an advance deposit against future billings by the city for the recovery of costs provided by this Chapter. Surplus deposits shall be returned to the applicant at the conclusion of the project if such deposit exceeds the amount of billings for recoverable costs. Any billed costs from the city unpaid at the expiration of said 30 day period shall bear interest at the rate of 18 percent per annum.

- (5) Condition of all Applications. Notwithstanding anything in the city Municipal Code of Ordinances to the contrary, payment in full of all recoverable costs pursuant to Chapter shall be a precondition to the final approval of any application. This precondition shall extend to any Common Council request for an advance deposit against future billings for recoverable costs as called for herein.
- (6) Enforcement. In the event the city is not paid billed recoverable fees as called for herein, the city shall be entitled to recover all actual attorney fees, litigation expenses, witness fees, filing fees, expert witness fees, and all other costs or expenses incurred by the city in the prosecution of a violation of this Chapter regardless of whether the city prevails in such prosecution or not.

Section 90-468: Public Hearings

- (1) In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by the provisions of this Chapter.
- (2) Notice of any public hearing which the Common Council, Plan Commission, or Board of Zoning Appeals is required to hold under the terms of this Chapter shall specify the date, time, and place of hearing, and the matter to be presented at the hearing. Pursuant to Chapter 985, Wis. Stats., the notice shall be published as a Class 2 notice.
- (3) The notice of public hearing shall be published in a newspaper of general circulation in the City of Portage at least once each week for two consecutive weeks, the last publication of which shall be at least one week before the public hearing.
- (4) Notice of the public hearing shall be mailed to all parties-in-interest at least 10 days before the hearing. Parties-in-interest shall be defined as the petitioner; the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the petition; the owners of all lands included in the petition and all lands lying within 300 feet of lands included in the petition; and the owner or operator of an airport lying within 3 miles of lands included in the petition. The failure to give any notice to any property owner shall not invalidate the action taken by any of the aforementioned bodies.
- (5) Except for hearings required for a zoning change, such request for a hearing shall be presented to the city clerk in writing and shall be accompanied by a map or description clearly identifying the property involved and by a fee in accordance with the city fee schedule, payable to the city, to defray the cost of notification and holding of a public hearing.

Section 90-469: Review and Approval Required

Review procedures vary depending on the type of request; however, procedures within this article generally adhere to three common elements: submittal of a complete application, including fee payment and appropriate supplemental information; review by appropriate City staff and/or officials; and action by appropriate City officials or staff to approve, conditionally approve, or deny the request. Figure 90-469 summarizes the procedures, agencies, and personnel involved in the various procedures authorized by this Chapter. Detailed procedures are discussed in sections 90-470 through 90-481 of this article. Figure 90-469 is provided as a convenience for the zoning administrator and general public. Where there are conflicts between the text of this Chapter and Figure 90-469, the text shall prevail.

Figure 90-496: Review and Approval Activities and Bodies

Application Process	Review and Approval Bodies			
	Zoning Administrator	Plan Commission	Common Council	Board of Zoning Appeals
Zoning Ordinance Amendment	RE	RR	PH, A	-
Zoning Map Amendment	RE	RR	PH, A	-
Conditional Use Permit	RE	PH, A	-	-
Temporary Use Permit	RE, I	-	-	-
Site Plan	RE	RE, A	-	-
Planned Development	RE	PH, A	-	-
Zoning and Occupancy Permit	RE, I	-	-	-
Sign Permit	RE, I	-	-	-
Variance	RE	-	-	RE, PH, A
Interpretation	RE, A	-	-	-
Appeal	RE	-	-	RE, PH, A
A = Action RE = Review and Evaluate I = Issues Permit RR = Review and Recommend PH = Public Hearing				

Section 90-470: Zoning Ordinance Amendment

- (1) Authority. Whenever the public necessity, convenience, general welfare or good zoning practices requires, the Common Council may, by ordinance, amend, change, or supplement the text of the regulations established by this Chapter or amendments thereto. Such amendment shall be subject to the review and recommendation of the Plan Commission.
- (2) Request. Proceedings for amendment of this Chapter may be initiated by the Plan Commission, Common Council, Board of Zoning Appeals, or any private petitioner.
- (3) Petition. A petition to amend the regulations of this Chapter shall be filed with the city clerk and shall contain the following items (digital files should be submitted whenever possible):
 - (a) The portion of the current provisions of this Chapter that are proposed to be amended.
 - (b) Proposed text intended to replace the current provisions.
 - (c) As an optional requirement, the applicant may provide written justification for the proposed text amendment.
- (4) Staff Review.
 - (a) The zoning administrator shall review the petition and evaluate whether the proposed amendment:
 1. Is in compliance with the purposes of this Chapter as outlined in section 90-4 and the purpose of the article and section in which the amendment is proposed to be located.
 2. Is in harmony with the recommendations of the comprehensive plan.
 3. Maintains the desired overall consistency of land uses and development within the pertinent zoning district(s), if applicable.
 4. Addresses any of the following factors that may not be addressed in the current zoning text, if applicable:
 - a. A change in the land market, or other factors which require a new form of development, a new type of land use, or a new procedure to meet said change(s).

- b. New methods of development or types of infrastructure.
 - c. Changing governmental finances to meet the needs of the government in terms of providing and affording public services.
- (b) The zoning administrator shall prepare a staff report addressing items 1 through 4, above, and forward said report to the Plan Commission for review and use in making its recommendation to the Common Council. If the zoning administrator determines that the proposal may be in conflict with the provisions of this Chapter or the comprehensive plan, he shall note this determination in the report.
- (5) Plan Commission Review. The Plan Commission shall review the petition and staff report and shall recommend in writing that the petition be granted as requested, modified, or denied.
- (6) Public Hearing. Following receipt of the Plan Commission recommendation, the Common Council shall hold a public hearing upon the proposed amendment per the procedure of section 90-468. The Common Council may delegate to the Plan Commission the responsibility to hold public hearings as required under this section.
- (7) Common Council Action.
- (a) Following public hearing and after consideration of the Plan Commission's recommendations, the Common Council shall vote to approve the amendment as originally proposed, with modifications, or may deny approval of the proposed amendment.
 - (b) The Common Council's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.
- (8) Effect of Denial. No application which has been denied (either wholly or in part) shall be resubmitted, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.

Section 90-471: Zoning Map Amendment

- (1) Authority. Whenever the public necessity, convenience, general welfare or good zoning practices requires, the Common Council may, by ordinance, change the district boundaries established by this Chapter and the Official Zoning Map and/or supplementary Shoreland-Wetland and Shoreland Zoning maps amendments thereto. Such amendment shall be subject to the review and recommendation of the Plan Commission.
- (2) Request. Proceedings for amendment of the Official Zoning Map may be initiated by an application of the owner(s) of the subject property, a recommendation of the Plan Commission, or by action of the Common Council.
- (3) Petition. A petition to amend the Official Zoning Map shall be filed with the city clerk and shall contain the following items (digital files should be submitted whenever possible):
- (a) A map at a scale not less than 1" = 800' depicting the current zoning of the subject property and all other lands within 200 feet, all lot dimensions of the subject property, and a graphic scale and north arrow.
 - (b) Names and addresses of land owners within 200 feet of the subject property as they appear on the current tax records.
 - (c) Written justification for the proposed amendment, including evidence that the application is consistent with the comprehensive plan.
 - (d) Any additional information which may be required by the Plan Commission to facilitate the making of a comprehensive report to the Common Council.
- (4) Staff Review.

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- (a) The zoning administrator shall review the petition and evaluate whether the proposed amendment:
 1. Is in compliance with the purposes of this Chapter as outlined in section 90-4 and the applicable rules of WisDNR and FEMA.
 2. Is in harmony with the recommendations of the comprehensive plan.
 3. Maintains the desired overall consistency of land uses and development within the pertinent zoning districts, if applicable.
 4. Addresses any of the following factors that are not properly addressed on the current Official Zoning Map:
 - a. The designations of the Official Zoning Map are not in conformance with the comprehensive plan.
 - b. A mapping mistake was made. If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the City may intend to stop an undesirable land use pattern from spreading.
 - c. Factors have changed (such as new data, infrastructure, development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district.
 - d. Growth patterns or rates have changed, creating the need for an amendment to the Official Zoning Map.
 - (b) The zoning administrator shall prepare a staff report addressing items 1 through 4, above, and forward said report to the Plan Commission for review and use in making its recommendation to the Common Council. If the zoning administrator determines that the proposal may be in conflict with the provisions of this Chapter or the comprehensive plan, he shall note this determination in the report.
- (5) Plan Commission Review. The Plan Commission shall review the petition and staff report and shall recommend in writing that the petition be granted as requested, modified, or denied.
 - (6) Public Hearing. Following receipt of the Plan Commission recommendation, the Common Council shall hold a public hearing upon the proposed amendment per the procedure of section 90-468. The Common Council may delegate to the Plan Commission the responsibility to hold public hearings as required under this section.
 - (7) Common Council Action.
 - (a) Following public hearing and after consideration of the Plan Commission's recommendations, the Common Council shall vote to approve the amendment as originally proposed, with modifications, or may deny approval of the proposed amendment.
 - (b) If the Common Council wishes to make significant changes in the proposed amendment to the Official Zoning Map, as recommended by the Plan Commission, the procedure set forth in section 62.23(7)(d) of the Wisconsin Statutes shall be followed prior to Common Council action.
 - (c) The Common Council's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.
 - (8) Effect of Denial. No application which has been denied (either wholly or in part) shall be resubmitted, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.
 - (9) Protest.
 - (a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of 20 percent or more, either of the areas of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent extending 100
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- feet there from, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths of the full common council membership.
- (b) In the event of protest against amendment to the text of the regulations of this chapter, duly signed and acknowledged by 20 percent of the number of persons casting ballots in the last general election, it shall cause a three-fourths vote of the full common council membership to adopt such amendment.

Section 90-472: Conditional Use Permit

- (1) Authority. The development and execution of this section is based upon the division of the city into zoning districts, within which districts the use of land and buildings, and the bulk and location of buildings and structures in relation to the land are mutually compatible and substantially uniform. However, there are certain uses, which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use at a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development, and operation of such uses. Such uses are classified as conditional uses.
- (2) Purpose. The purpose of this article is to provide regulations which govern the procedure and requirements for the review and approval or denial of proposed conditional uses. (Refer to the requirements of Wis. Stats. §62.23). Under this Chapter, a proposed conditional use shall be denied unless the applicant can demonstrate to the satisfaction of the city that the proposed conditional use will not create undesirable impacts on nearby properties, the environment, or the community as a whole.
- (3) Limited Conditional Uses. Limited Conditional Uses are the same as regular conditional uses excepting that further, in considered findings of the plan commission and the granting thereof, because of any of the following should be of lesser permanence than regular conditional uses, and the duration or term of existence may be established until time certain or be limited to a future happening or event at which time the same shall terminate:
- (a) Their particularly specialized nature.
 - (b) Their particular locations within a district.
 - (c) The peculiar unique relationships or needed compatibility of uses to involved individuals.
 - (d) Any other reason(s) the plan commission deems specially relevant and material to delimit the scope thereof.
- (4) Initiation of Conditional Use Permit. A request for a conditional use may be initiated by the owner(s) and/or operator of the subject property. Conditional use permit applications initiated by the operator of the subject property must include the property owner's signature
- (5) Application. An application for a conditional use permit shall be filed with the city clerk and shall contain the following items, unless specifically waived by the zoning administrator. Digital files should be submitted whenever possible.
- (a) Written description of the proposed conditional use including:
 - 1. Type of activities.
 - 2. Location and size of proposed buildings and/or structures.
 - 3. Location and number of off-street parking spaces.
 - (b) Written justification for the proposed conditional use, including evidence that the application is consistent with the comprehensive plan.

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- (c) A map at a scale not less than 1" = 800' depicting the current zoning of the subject property and all other lands within 300 feet, all lot dimensions of the subject property, and a graphic scale and north arrow.
 - (d) Names and addresses of land owners within 200 feet of the subject property as they appear on the current tax records.
 - (e) A site plan of the subject property if proposed for development. Said site plan shall conform to all requirements of section 90-474. If the proposed conditional use is a group or large development (per section 90-64), a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan.
- (6) Staff Review.
- (a) The zoning administrator shall review the application and evaluate whether the proposed amendment:
 - 1. Is in harmony with the recommendations of the comprehensive plan.
 - 2. Will result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environment, traffic, parking, public improvements, public property, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future.
 - 3. Maintains the desired consistency of land uses and development related to the environs of the subject property.
 - 4. The conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.
 - 5. The potential public benefits outweigh any and all potential adverse impacts of the proposed conditional use, after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts.
 - (b) The zoning administrator shall prepare a staff report addressing items 1 through 5, above, and forward said report to the Plan Commission for review and use in making its recommendation to the Common Council. If the zoning administrator determines that the proposal may be in conflict with the provisions of this Chapter or the comprehensive plan, he shall note this determination in the report.
- (7) Public Hearing. The Plan Commission shall hold a public hearing on the proposed conditional use permit per the procedure of section 90-468.
- (8) Plan Commission Review and Action.
- (a) The Plan Commission shall review the application and staff report and may authorize the zoning administrator to issue a conditional use permit for either regular or limited conditional use, provided that such conditional use and involved structure are found to be in accordance with the purpose and intent of this Chapter and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community.
 - (b) In the instance of the granting of a limited conditional use, the Plan Commission in its findings shall further specify the delimiting reason or factors which resulted in issuing limited rather than regular conditional use.
 - (c) Such Plan Commission resolution and the resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises.
 - (d) Prior to the granting of a conditional use, the Plan Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

- (9) Recordation. Except for conditional use approvals for temporary uses or limited conditional uses, a certified copy of the authorizing resolution, containing identifiable description and any specific requirements of approval, shall be recorded by the city with the County Register of Deeds.
- (10) Effect of Denial. No application which has been denied (either wholly or in part) shall be resubmitted, except on grounds of new evidence or proof of change of factors found valid by the zoning administrator.
- (11) Violation and Revocation.
 - (a) Any conditional use found not to be in compliance with the terms of this Chapter shall be considered in violation of this Chapter and shall be subject to all applicable procedures and penalties.
 - (b) A conditional use may be revoked for such a violation by majority vote of the Plan Commission, following the procedures outlined in subsections (3) through (5), above.
- (12) Time Limits on Development.
 - (a) The start of construction of any and all conditional uses shall be initiated within 365 days of their approval by the Plan Commission and shall be operational within 730 days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this section, “operational” shall be defined as the granting of an occupancy permit for the conditional use.
 - (b) Prior to such a revocation, the applicant may request an extension of this period. Said request shall require formal approval by the Plan Commission and shall be based upon a showing of acceptable justification (as determined by the Plan Commission).
- (13) Discontinuance. Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.
- (14) Change of Ownership. All requirements of the approved conditional use shall be continued regardless of ownership of the subject property; however, submittal of a plan of operation shall be required prior to the change in ownership. For bed and breakfasts, the granting of a conditional use permit shall be valid while said property is owned by the owner at time of conditional use approval.
- (15) Modification, Alteration, or Expansion. Modification, alteration, or expansion of any conditional use without approval by the Plan Commission, shall be considered in violation of this Chapter and shall be grounds for revocation of said conditional use approval.
- (16) Formerly Approved Conditional Uses. A use now regulated as a conditional use which was approved as a legal land use, either permitted by right or as a conditional use, prior to the effective date of this Chapter, shall be considered as a legal, conforming land use so long as the previously approved conditions of use and site plan are followed. Any modification of the previously approved conditions of use or site plan shall require application and city consideration under this section.

Section 90-473: Temporary Use Permit

- (1) Application. Temporary use applications shall contain the following items (digital files should be submitted whenever possible):
 - (a) Written description of the proposed temporary use including:
 1. Type of activities.
 2. Location and size of proposed temporary buildings and/or structures.
 3. Location and number of off-street parking spaces.

- (b) A map at a scale not less than 1" = 800' depicting the current zoning of the subject property and all other lands within 200 feet, all lot dimensions of the subject property, and a graphic scale and north arrow.
 - (c) The zoning administrator may require a site plan of the subject property. Said site plan shall conform to any and all the requirements of section 90-474.
- (2) Staff Review and Action. Approval of a temporary use shall be by the zoning administrator following review and evaluation of the proposed temporary use application.

Section 90-474: Site Plan

- (1) Required Site Plan and Exceptions. All applications for zoning permits for any construction, reconstruction, expansion or conversion, except for single family and two-family residences in residential or agricultural districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this section.
- (2) Pre-Application Conference. Prior to formal submittal of a site plan application, it is recommended that the applicant confer with the zoning administrator to establish mutual understanding as to the basic concept proposed and to ensure proper compliance with the technical requirements and procedures for processing the application. A timetable for project review may also be discussed.
- (3) Application. A site plan application shall be filed with the city clerk and shall contain the following items, unless specific application requirements are waived by the zoning administrator. Digital files should be submitted whenever possible.
 - (a) Written description of the intended use describing in reasonable detail the following:
 - 1. Existing zoning district(s) and proposed zoning district(s), if different.
 - 2. Existing and proposed land uses.
 - 3. Projected number of residents, employees, and/or daily customers.
 - 4. Proposed number of dwelling units and density.
 - 5. Demonstration of compliance with the applicable standards and requirements of this Chapter.
 - 6. Demonstration of compliance with the city's land dedication requirements per Chapter 70 of the Municipal Code.
 - 7. Demonstration of consistency with the comprehensive plan.
 - 8. Any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.
 - 9. Exterior building and fencing materials (sections 90-112 and 90-121).
 - 10. Any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.
 - (b) Maps depicting the following information shall be prepared at a scale of not less than 1" = 800'
 - 1. Pre-Development Site Information.
 - a. Legal description of the subject property.
 - b. Existing property lines and setback lines.
 - c. Existing structures and paved areas.
 - d. Existing right-of-way lines with bearings and dimensions clearly labeled.
 - e. Existing easements and utilities.

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- f. Existing and proposed topography with a maximum contour interval of two feet, except where existing ground is on a slope of less than 2 percent where one foot contours shall be shown.
 - g. The outer edges of all natural resource areas (i.e. floodplains, shorelands, wetlands, drainageways, woodlands, steep slopes).
 - h. Soil types based upon the County Soils Identification Map and/or a soil report prepared by or under the direction of a professional engineer experienced in soil and foundation engineering may be required for site plans located in areas with severe building limitations.
2. Proposed Post-Development Site Information.
 - a. Property lines and setback lines.
 - b. Location of all proposed structures and use areas, including paved areas, building entrances, walks, drives, decks, patios, fences, utility poles, and drainage facilities.
 - c. Proposed right-of-way lines with bearings and dimensions clearly labeled.
 - d. Proposed access points onto public streets and access drives on the subject property.
 - e. Location and dimension of all on-site parking (and off-site provisions if they are to be employed), including a summary of the number of parking stalls provided.
 - f. Location of all proposed parking and traffic circulation areas.
 - g. Location and configuration of all visibility triangles proposed on the subject property.
 - h. Location and dimension of all loading and service areas on the subject property.
 - i. Location of all outdoor storage areas and the design of all screening devices.
 - j. Location and type of all stormwater facilities and management approach to be employed.
 - k. Location of snow storage areas, except for single family residential.
 - l. Proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose.
 - m. Location, type, height, size, and lighting of all signage on the subject property.
 - n. In the legend, include the following data for the subject property: lot area, flood area, floor area ratio, impervious surface area, impervious surface ratio, and building heights.
 - (c) Detailed Landscaping Plan. Depicting the location, type, and size at time of planting and maturity of all landscaping features as required in Article VIII.
 - (d) Grading and Erosion Control Plan. Depicting existing and proposed grades, including retention walls and related devices, and erosion control measures.
 - (e) Elevation Drawings.
 1. Elevations of proposed buildings or proposed remodeling of existing buildings showing finished exterior treatment.
 2. Depict exterior materials, texture, color, and overall appearance.
 3. Perspective renderings of the proposed project and/or photos of similar structures may also be submitted, but not in lieu of drawings showing the actual intended appearance of the building(s).
 - (f) Photometric Plan.
 1. Location, type, height, design, illumination power, and orientation of all exterior lighting on the subject property.
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2. Impact of lighting across the entire property to the property lines rounding to the nearest 0.10 foot candles, and depicting an illumination limit of 0.50 foot candles. The 0.50 foot candle line cannot extend beyond the property line.
- (g) Operational Plan.
1. Describe the proposed hours of operation, projected normal and peak water usage, sanitary sewer or septic loadings, and traffic generation.
 2. Consider potential nuisance creation pertaining to noncompliance with the performance standards addressed in Article VII, including street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, electromagnetic radiation, glare, heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created, then the statement: "The proposed development shall comply with all requirements of Article VII." shall be provided.
 3. Procedures for snow removal, except for single family residential.
- (h) A certified survey may be required by the zoning administrator in instances where compliance with setback requirements may be difficult to determine.
- (4) Staff Review. The zoning administrator shall review the site plan application and shall prepare a staff report addressing application components and forward said report to the Plan Commission for review and action. If the zoning administrator determines that the proposal may be in conflict with the provisions of this Chapter or the comprehensive plan, he shall note this determination in the report.
- (5) Plan Commission Review and Action. The Plan Commission shall review the application and vote to approve application as requested, with modifications, or deny approval of the proposed site plan. The decision shall be recorded in the Plan Commission's official minutes.
- (a) In its consideration of the submitted application, the Plan Commission shall take into account the following:
1. The basic intent of this Chapter to ensure attractive, efficient, and appropriate development of land in the city, and to ensure that every reasonable step has been taken to avoid depreciating effects on surrounding property and the natural environment.
 2. Whether the proposed site plan is consistent with adopted city plans, including the comprehensive plan.
 3. That the public health and safety is not endangered and whether the public benefits outweigh any and all potential adverse impacts of the proposed site plan.
- (b) In its review, the Plan Commission may:
1. Require such additional measures and/or modifications as it deems necessary to accomplish this objective. If such additional measures and/or modifications are required, the Plan Commission may withhold approval of the site plan until revisions depicting such additional measures and/or modifications are submitted to the satisfaction of the Plan Commission, or may approve the application subject to the satisfaction of the zoning administrator. Such amended plans and conditions shall be made part of the official record, and development activity on the subject property may not proceed until the revised application has been approved by the Plan Commission.
 2. Make findings on each of the following criteria to determine whether the site plan shall be approved, approved with modification, or denied:
- (6) Effect on Municipal Services. Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Director of Public Works or other municipal officials, with special attention to the effect of such approval upon

existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Common Council and shall not issue final approval until the Common Council has entered into an agreement with the applicant regarding the development of such facilities.

- (7) Initiation of Land Use or Development Activity. Except with the written permission of the zoning administrator, absolutely no land use or development activity, including site clearing, grubbing, or grading shall occur on the subject property prior to the approval of the required site plan. Any such activity prior to such approval shall be a violation of this Chapter and shall be subject to all applicable enforcement mechanisms and penalties.
- (8) Modification. Any and all variation between development and/or land use activity on the subject property and the approved site plan is a violation of this Chapter. An approved site plan shall be revised and approved via the procedures of this section, so as to clearly depict any and all proposed modifications to the previously approved site plan prior to the initiation of said modification.
- (9) Sunset Clause. All buildings on an approved site plan not fully developed within two years of final Common Council approval shall expire, and no additional site plan development shall be permitted on undeveloped portions of the subject property. The Common Council may extend this period, if requested by the applicant, through the conditional use permit process following a public hearing.

Section 90-475: Planned Development

- (1) Planned Developments shall be permitted in a location where a Planned Development Overlay District specific to an approved Planned Development.
- (2) Flexible Development Standards. The following development standard exemptions may be provided as part of the approval of a Planned Development:
 - (a) Land Use Requirements. All residential, institutional, and business land uses listed in Article III may be allowed by right or by conditional use within a Planned Development. Uses proposed for a Planned Development are not limited to those allowed within the underlying standard zoning district.
 - (b) Density, Intensity, and Bulk Requirements. All requirements listed in Articles II and IV for residential density and nonresidential intensity may be varied within a Planned Development.
 - (c) Parking and Loading Requirements. All requirements listed in sections 90-115 and 90-116 may be varied within a Planned Development.
 - (d) Landscaping Requirements. All requirements listed in Article VIII may be varied within a Planned Development.
 - (e) Sign Requirements. All requirements listed in Article IX may be varied within a Planned Development.
- (3) Initiation of request for approval of a planned development. Proceedings for approval of a planned development shall be initiated by:
 - (a) An application of the owner(s) of the subject property;
 - (b) A recommendation of the Plan Commission to the Common Council; or
 - (c) By action of the Common Council.
- (4) Process. All planned developments are required to meet certain procedural requirements applicable only to planned developments, in addition to the general requirements of this Chapter. This process essentially combines the process for an amendment to the Official Zoning Map (for the general development plan (GDP) step) with that required for a conditional use (for the specific implementation plan (SIP) step), with several additional requirements.

- (5) Step 1: Pre-Application Conference. Prior to formal petition for zoning to a PD district, the applicant shall confer with the Plan Commission and appropriate City staff in order to establish mutual understanding as to the basic concept proposed and to ensure proper compliance with the requirements for processing. Points of discussion and conclusions reached in this stage of the process shall in no way be binding upon the applicant or the city, but should be considered as the informal, non-binding basis for proceeding to the next step.
- (6) Step 2: Concept Plan. Upon completion of the pre-application conference, the applicant shall provide the zoning administrator with a concept plan.
- (a) Submittal Requirements. The concept plan submittal shall include the following items (digital files should be submitted whenever possible):
1. Location map of the subject property and its vicinity.
 2. Conceptual drawing of the site plan layout, including the general locations of public streets and/or private drives.
 3. General written description of the proposed PD, including:
 - a. Project themes and images.
 - b. Mix of dwelling unit types and density and/or land uses.
 - c. Treatment of natural features.
 - d. Relationship to nearby properties and public streets.
 - e. Relationship of the project to the comprehensive plan.
 - f. Description of requested exemptions or variations from the requirements of the underlying base zoning district.
- (b) Plan Commission Review. At the Plan Commission meeting, the applicant shall engage in an informal discussion with the Plan Commission regarding the concept plan. Points of discussion and conclusions reached at this stage of the process shall be in no way be binding upon the applicant or the city, but should be considered as the informal, non-binding basis for proceeding to the next step. One or more iterations of concept plan review may occur prior as determined necessary by the Plan Commission.
- (7) Step 3: General Development Plan (GDP). Following successful completion as determined by the Plan Commission of Step 2, above, the applicant shall submit to the zoning administrator a GDP submittal.
- (a) Submittal Requirements. The GDP submittal shall include the following items (digital files should be submitted whenever possible):
1. Names and addresses of the owners of all properties within 200 feet of the subject property.
 2. General location map of the subject site (at a minimum scale of 1" = 800') depicting:
 - a. All lands for which the Planned Development is proposed and all other lands within 300 feet of the boundaries of the subject site.
 - b. Current zoning of the subject site and abutting properties, and the jurisdiction(s) that maintains that control.
 - c. All lot dimensions of the subject property.
 - d. A graphic scale and a north arrow.
 3. Generalized site plan showing the pattern or proposed land uses, including:
 - a. General size, shape, and arrangement of lots and specific use areas.
 - b. Basic street pattern.
 - c. General site grading plan showing preliminary road grades.
 - d. Basic storm drainage pattern, including proposed on-site stormwater detention.

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- e. Preliminary sanitary sewer and water system layout.
 - f. General location of recreational and open space areas, including designation of any such areas to be classified as common open space.
 4. Statistical data, including:
 - a. Minimum lot sizes in the development.
 - b. Approximate areas of all lots.
 - c. Density/intensity of various parts of the development.
 - d. Building coverage.
 - e. Landscaping surface area ratio of all land uses.
 - f. Expected staging.
 5. Conceptual landscaping plan, noting approximate locations of foundation, street, yard, and paving landscaping, and comparing the proposed landscaping plan to the standard landscaping requirements in this Chapter.
 6. General signage plan, including all project identification signs and concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles) which are proposed to vary from city standards or common practices.
 7. General outline of property owners association, covenants, easements, and deed restrictions.
 8. A written description of the proposed Planned Development, including:
 - a. General project themes and images.
 - b. The general mix of dwelling unit types and/or land uses.
 - c. Approximate residential densities and nonresidential intensities as described by dwelling units per acre, landscaping surface area ratio, and/or other appropriate measures of density and intensity.
 - d. General treatment of natural features.
 - e. General relationship to nearby properties and public streets.
 - f. General relationship of the project to the comprehensive plan.
 - g. Proposed exemptions or variations from the requirements of the underlying base zoning district.
 9. The zoning administrator, or by majority vote of the Plan Commission, may waive submittal information listed above, and/or may likewise require additional information beyond that listed above.
 - (b) GDP Review Procedure. The process for review and approval of the GDP shall be identical to that for amendments of the Official Zoning Map as outlined in section 90-471. If land is to be divided, to that for preliminary and final plats of subdivision per the Municipal Code.
 - (8) Step 4: Specific Implementation Plan (SIP). Following successful completion as determined by the Plan Commission of Step 3, above, the applicant shall submit to the zoning administrator a SIP submittal. Note that the area included in a SIP may be only a portion of the area included in a previously approved GDP.
 - (a) Submittal Requirements. The SIP submittal shall include the following items (digital files should be submitted whenever possible):
 1. Names and addresses of the owners of all properties within 200 feet of the subject property.
 2. Existing conditions map of the subject property at a minimum scale of 1" = 800' depicting the following:

- a. Current zoning of the subject property and the jurisdiction(s) which maintains that control.
 - b. Existing utilities and recorded easements.
 - c. All lot dimensions of the subject property.
 - d. A graphic scale and north arrow.
3. A SIP map at a minimum scale of 1" = 100' of the proposed site showing at least the following:
 - a. Lot layout and the arrangements of buildings.
 - b. Public and private roads, driveways, walkways, and parking facilities.
 - c. Specific treatment and location of recreational and open space areas, including designation of any such areas to be classified as common open space.
 4. Grading plan depicting existing and proposed grades, including retention walls and related devices, and erosion control measures.
 5. Landscaping plan specifying the location, species, and installation size of all plantings. The landscaping plans shall include a table summarizing all proposed species.
 6. Architectural plans for any non-residential buildings, multifamily structures, or building clusters, other than conventional single-family homes or individual lots, in sufficient detail to indicate the floor area, bulk, and visual character of such buildings.
 7. Engineering plans for all water and sewer systems, stormwater systems, roads, parking areas, and walkways.
 8. Signage plan.
 9. Photometric plan depicting Location, type, height, design, illumination power, and orientation of all exterior lighting on the subject property.
 10. Specific written description of the proposed SIP including:
 - a. Specific project themes and images.
 - b. Specific mix of dwelling unit types and/or land uses.
 - c. Specific residential densities and nonresidential intensities as described by dwelling units per acre, and landscaped area and/or other appropriate measures of density and intensity.
 - d. Specific treatment of natural features, including parkland.
 - e. Specific relationship to nearby properties and public streets.
 - f. Statistical data on minimum lot sizes in the development, the precise areas of all development lots and pads; density/intensity of various parts of the development; building coverage, and landscaping surface area ratio of all land uses; proposed staging; and any other plans required by the Plan Commission.
 - g. A statement of rationale as to why PD zoning is proposed. This statement shall list the standard base zoning district requirements that, in the applicant's opinion, would inhibit the development project and the opportunities for community betterment that are available through the proposed PD project.
 - h. A complete list of base zoning district standards that would not be met by the proposed SIP and the location(s) in which such violations would occur, and a complete list of zoning standards that would be more than met by the proposed PD and the location(s) of such occurrences.
 - i. Phasing schedule, if more than one development phase is intended.

11. Agreements, bylaws, covenants, and other documents relative to the operational regulations of the development and particularly providing for the permanent preservation and maintenance of common open areas and amenities.
 12. A written description that demonstrates how the SIP is consistent with the approved GDP and any and all variations between the requirements of the approved GDP and the proposed SIP.
 13. The applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development.
 14. The zoning administrator, or by majority vote of the Plan Commission may waive submittal information listed above, and/or may likewise require additional information beyond that listed above.
- (9) SIP Review Procedure. The process for review and approval of the SIP shall be identical to that for conditional use permits per section 90-472. If land is to be divided, review and approval shall be identical to that for preliminary and final plats of subdivision per the Municipal Code.
- (10) Expiration. All portions of an approved Planned Development not fully developed within ten years of final Common Council approval shall expire, and no additional Planned Development based development shall be permitted. The Common Council may extend this 10 year period by up to 5 additional years via a majority vote following a public hearing. Submitting a request for extension does not guarantee it will be granted.
- (11) Requirement to Depict all Aspects of Development. Only development which is explicitly depicted on the required site plan approved by the Common Council as part of the approved Planned Development shall be permitted, even if such development (including all aspects of land use, density, intensity, bulk, landscaping, parking, and loading) is otherwise listed as permitted in this Chapter. Requested exemptions from these standards shall be made explicit by the applicant in the application, and shall be recommended by the plan commission and approved explicitly by the Common Council. If not so requested and approved, such exemptions shall not be permitted.
- (12) Minor Changes to an Approved Planned Development. In the event that the applicant wishes to make a minor change to an approved Planned Development, depending on the type of request, it will go through one of the above described steps. This process is detailed as follows:
- (a) If the proposed project requires additional zoning ordinance flexibility for use, density, bulk, or performance standards that have not already been granted, the request shall go through Step 3: General Development Plan.
 - (b) If the proposed project requires more permissive operations than would be allowed for a permitted-by-right or conditional land use, the request shall go through Step 4: Specific Implementation Plan.
 - (c) If the proposed project is merely an adjustment of the arrangement (e.g. within the approved use, density, bulk, and performance standards requirements), and within the approved operational limits, the request shall obtain site plan approval per section 90-473.

Section 90-476: Zoning and Occupancy Permit

- (1) No vacant land shall be occupied or used, and no building shall be hereafter erected, structurally altered, relocated, used or occupied until a zoning and occupancy permit has been issued certifying that any such building, use or occupancy complies with the provisions of this Chapter. A like permit shall be obtained before any change is made in the type of use or before any legal nonconforming use is resumed, changed, extended or granted conditional use status.
- (2) Application.

- (a) Application for such permit shall be made to the zoning administrator prior to or at the same time as the application for a building permit or prior to the commencement of any use not involving a building permit.
 - (b) Such application shall state that the building or proposed use of a building or land complies with all the building and health laws and with the provisions of this Chapter, a statement by the applicant as to the intended use of the premises and buildings thereon.
 - (c) Within 10 days after the notification of the completion of the erection, alteration or relocation of the building or of intent to commence a use, the zoning administrator shall make an inspection of the premises and any building thereof and of the building and the intended use thereof, and if the proposed use of the premises complies with the requirements of this Chapter, a zoning and occupancy permit shall be issued.
 - (d) For the purpose of defraying the cost of inspection and administrative processing, such application shall be accompanied by such fee as established by the Common Council.
- (3) If, within 12 months of the date of application, no zoning and occupancy permit has been issued, any building permit related thereto shall lapse and the zoning administrator shall make immediate investigation to ascertain that no use or occupancy has, in fact, commenced without proper authority. Upon showing valid cause, the zoning administrator may grant an extension of such permit for a period not to exceed six months.
 - (4) Pending the issuance of a regular permit, a temporary permit may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this chapter to such a degree as to render it unsafe for the occupancy proposed.

Section 90-477: Sign Permit

Per the requirements of the Sign Ordinance.

Section 90-478: Variance

- (1) Purpose.
 - (a) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Chapter would cause undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
 - (b) The Board of Zoning Appeals may authorize upon appeal, in specific cases, such variance from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Chapter will result in unnecessary hardship and so that the spirit of this Chapter shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
 - (c) For the purposes of this section, the term “unnecessary hardship” shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.
- (2) Application. The application for variance shall be filed with the zoning administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application is available at the city clerk’s office.

- (3) Public Hearing.
 - (a) The application shall be referred to the Board of Zoning Appeals. The petitioner shall appear before the Plan Commission in order to answer questions.
 - (b) The Board of Zoning Appeals shall conduct at least one public hearing on the proposed variance. Notice of such hearing shall be given not more than 30 days and not less than 10 days before the hearing in one or more of the newspapers in general circulation in the city, and shall give due notice to the parties in interest and the zoning administrator. At the hearing, the appellant or applicant may appear in person, by agent or by attorney. The Board of Zoning Appeals shall thereafter reach its decision within 30 days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant, zoning administrator and Plan Commission.
- (4) Action of the Board of Zoning Appeals. For the Board of Zoning Appeals to grant a variance, it must find that:
 - (a) Denial of variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this Chapter should be changed.
 - (b) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (c) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
 - (d) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - (e) The proposed variation will not undermine the spirit and general and specific purposes of this chapter.
- (5) Conditions. The Board of Zoning Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section.

Section 90-479: Interpretation

- (1) Purpose. The purpose of this section is to assign responsibility for the official interpretation of the provisions of this Chapter, and to describe the required procedure for securing such interpretation.
- (2) Initiation of Request. Proceedings for an interpretation may be initiated by any of the following four methods: an application of the owner(s) of the subject property; a recommendation of the Plan Commission to the Common Council; by action of the Common Council; or by request of the zoning administrator.
- (3) Application. A zoning interpretation application contains all of the following:
 - (a) Clear indication of the text of this Chapter for which the interpretation is requested and the specific questions the applicant has regarding said text.
 - (b) If the requested interpretation relates to the application of this Chapter to a specific property, the additional following information shall be required (digital files should be submitted rather than paper copies whenever possible):
 - (c) A map of the subject property at a scale of 1" = 800' depicting:

1. All lands for which the interpretation is requested and all other lands within 200 feet of the boundaries of the subject property.
 2. Current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control.
 3. All lot dimensions of the subject property.
 4. A graphic scale and a north arrow.
- (d) Names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Columbia County.
 - (e) A written description of the reason for the requested interpretation and how the proposed interpretation relates to type of activities, buildings, and structures currently located on, and proposed for, the subject property.
 - (f) A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of section 90-474.
 - (g) If the requested interpretation relates to the classification or treatment of a particular land use under the provisions of this Chapter, a series of written responses to the following questions:
 - (h) How is the subject land use (in general) in harmony with the purposes, goals, objectives, policies and standards of the city's comprehensive plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the city?
 - (i) How is the subject land use in harmony with the purposes, goals, objectives, policies and standards of the pertinent zoning district for which the interpretation is being sought?
- (4) Staff Review.
 - (a) The zoning administrator shall review the application and evaluate and comment on the written justification for the proposed variance provided in the application to determine whether the requested variance is in harmony with the recommendations of city's comprehensive plan. If the zoning administrator determines that the proposal may be in conflict with the provisions of the comprehensive plan, the zoning administrator shall note this determination in the report.
 - (5) Standards for Review. This Chapter shall be interpreted in a manner which is consistent with the purposes intended by the Common Council as noted in this Chapter and the comprehensive plan. The intent of the standards and supporting definitions of this Chapter is to protect both individual property owners and the general public from adverse impacts that may result from a proposed, modified, or existing land use. To this end, those called upon to interpret this Chapter shall proceed as follows:
 - (a) Articulate certain public purpose(s) underlying the standard(s) for which an interpretation is required. (Rationale: Before any zoning interpretation is made, there must be an explicit discussion of certain purpose(s) for which the regulation was initially imposed. Each zoning regulation is intended to protect the interests of both present and future neighbors and the general public. Each standard is developed as a regulatory response to an identifiable potential negative impact. A sound interpretation of any standard cannot be ensured without careful analysis of the regulation and the end toward which it is directed. It is understood that there may be other public purposes underlying the interpretation which are not explicitly articulated.)
 - (b) Articulate the actual impact of various proposed interpretations, permitting flexibility in design and prohibiting any interpretation that lowers the protection afforded to the public. There is a critical distinction between an interpretation which provides a greater degree of design freedom to achieve a permitted land use, and an interpretation which permits a new or not previously permitted use, or which allows a use to be enlarged, or have its intensity increased beyond the degree specified in the Chapter. Design freedom is to be encouraged while a lowering of the standards of this Chapter is to be prohibited.

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- (c) Determine whether the proposed interpretation will ensure a just balance between the rights of the landowner and all others who will be affected by that person's land use proposal. If an interpretation would merely allow a design solution that is slightly different from the one expressly stated or permitted, and if it would result in a same or greater degree of protection to any affected party (i.e. the adjoining landowners, the public at large, and/or a future property owner or renter), such an interpretation may be appropriately made. Any interpretation which would result in any identifiable loss of protection for one group to the benefit of others is contrary to the spirit of this Chapter. Similarly, any interpretation which would either increase the nuisance potential of any use or alter the purpose for which the regulation was adopted shall be considered counter to the legislative intent of this Chapter. Any interpretation which will result in any loss of protection or increase in intensity beyond that already permitted shall only be made if the party interpreting this Chapter has the power to impose additional restrictions or requirements.
- (6) This Chapter has been carefully designed by the Common Council to combine maximum achievement of public goals, and the protection of adjoining property owners while providing flexibility for property owners to use their land for a variety of uses consistent with the goals and objectives of the comprehensive plan. Great care has been taken to balance the rights of competing groups while achieving maximum protection with flexibility and a range of use options. Persons interpreting this Chapter should not substitute their own judgments for the legislative acts of the Common Council.
- (7) In addition to the applicant's response to the questions required by subsection (5), above, the following standards shall govern the decision on the requested interpretation on land use interpretation matters:
- (a) No interpretation shall allow the establishment of any land use which was previously considered and rejected by the Common Council on an application for an amendment to the Zoning Ordinance, the Official Zoning Map, or a previously applied for appeal from a requested interpretation.
 - (b) No interpretation shall permit a land use listed as a use permitted by right, a special use, or a conditional use in another zoning district if the use is not listed as permitted in the zoning district of the subject property (see Article II).
 - (c) No interpretation shall permit a land use in a zoning district unless evidence is presented which demonstrates that the land use will comply with any and all regulations applicable to development in the subject property's zoning district (see Article II).
 - (d) No interpretation shall permit a land use in a particular zoning district unless such use is substantially similar to other uses permitted in that same district and is more similar to such other uses than to uses either not permitted in said district, or permitted in a more intensive district in the same zoning district category (see Article II).
 - (e) If the proposed land use is more similar to a land use permitted only as a conditional use in the subject property's district than to a use permitted by right, then an interpretation permitting such use shall be conditioned upon the approval of a conditional use pursuant to section 90-472.
- (8) Effect of a Favorable Land Use Interpretation. No interpretation finding a particular land use to be permitted or conditionally permitted in a specific zoning district shall authorize either the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure. A favorable interpretation merely authorizes the preparation, filing, and processing of applications for any permits and approvals which may be required by this Chapter. These permits and approvals include, but are not limited to, required site plans, special use permits, conditional uses, and certificates of occupancy.
- (9) Limitations on Favorable Land Use Interpretation.
- (a) No interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be valid for a period of more than 365 days from the date of

issuance of the interpretation, unless a building permit is issued and development has begun within that period, and is thereafter diligently pursued to completion, or a certificate of occupancy is obtained and a use commenced within that period.

- (b) An interpretation finding a particular land use to be permitted or conditionally permitted in a specified zoning district shall be deemed to authorize only that particular use at that particular location for which the interpretation was issued. The interpretation shall not be deemed to authorize any allegedly similar use for which a separate interpretation has not been issued. A favorable interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.

Section 90-480: Appeal of Zoning Interpretation

- (1) Purpose. The purpose of this section is to provide regulations which enable the city to hear and decide requests for appeals from the interpretations of the zoning administrator as provided for by Wisconsin Statutes 62.23(7)(e)(7).
- (2) Initiation of Request for Appeal.
 - (a) Appeals to the Zoning 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.
 - (b) Such appeal shall be taken within 30 days of the alleged grievance or judgment in question by filing with the officer from whom the appeal is taken and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the common council in the official city fee schedule on file in the city clerk's office.
 - (c) The officer from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all papers constituting the record of appeals upon which the action appeals from was taken.
- (3) Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the zoning administrator from whom the appeal is taken to the Board of Zoning Appeals determines that, by reason of facts state in the certificate, a stay would cause immediate peril to life or property. In such case, the 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 and on notice to the zoning administrator and on due cause shown.
- (4) Time Limit for Filing an Appeal. Any appeal under the provisions of this section shall be made per the requirements of this section, below, within a period not exceeding 30 days from the date of issuance of the interpretation by the zoning administrator. Failure to initiate this appeal procedure within this 30 day period shall constitute a final and binding waiver of the right to appeal said interpretation.
- (5) Public Hearing. Within 45 days of filing of a complete application, the Board of Zoning Appeals shall hold a public hearing in compliance with section 90-468 to consider the request.
- (6) Review and Action by the Board of Zoning Appeals.
 - (a) The Board of Zoning Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the zoning administrator.
 - (b) Conditions may be placed upon any zoning permit ordered or authorized by the Board of Zoning Appeals.
 - (c) Variances granted by the Board of Zoning Appeals shall expire within 6 months unless substantial work has commenced pursuant to such grant.
- (7) Review by Court of Record. Any person or persons aggrieved by any decision of the zoning board of appeals may present to a court of record a petition, duly verified, setting forth that such decision is

illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the zoning board of appeals.

Section 90-481: Violations

- (1) Violation of this Chapter. It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Common Council, zoning administrator, Plan Commission or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- (2) Remedial Action. Whenever an order of the zoning administrator has not been complied with within 30 days after written notice has been mailed to the owner, the resident agent or occupant of the premises, the Common Council, the zoning administrator or the city attorney may institute appropriate legal action or proceedings.
- (3) Penalties. Any person, firm, or corporation who fails to comply with the provisions of this Chapter or any order of the zoning administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in section 1-15 of the Municipal Code.

Article XI SIGNS, BILLBOARDS AND CANOPIES

Sec. 10-371. - Purpose of sign regulations.

(a) The purpose of this article is to create the legal framework to regulate, administer and enforce outdoor sign advertising and display within the city. This article recognizes the need to protect the safety and welfare of the public and the need for the well-maintained and attractive sign displays within the community and the need for adequate business identification, advertising and communication.

(b) This article authorizes the use of signs visible from public rights-of-way, provided the signs are:

- (1) Complying with the zoning regulations.
- (2) Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety.
- (3) Legible, readable and visible in the circumstances in which they are used.
- (4) Respectful of the reasonable rights of other advertisers whose messages are displayed.

(Code 1990, § 13-1-100)

Sec. 10-372. - Definitions.

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

Abandoned sign means a sign which no longer correctly advertises a bona fide business, lessor, owner, product or activity conducted or product available on the premises where the sign is displayed or elsewhere.

Area of copy means the entire area within a single, continuous perimeter composed of squares, rectangles or circles, which encloses the extreme limits of the advertising message, announcement or decoration of a wall sign.

Area of sign means the area of the largest single face of the sign within a perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the signs may be placed. If the sign consists of more than one section or module, all areas will be totaled. Any irregular-shaped sign area shall be computed using the actual sign face surface. In the case of wall signs, the area of copy will be used.

Billboard. See "Off-premises signs."

Bulletin board and identification signs means bulletin boards and identification signs for churches, schools and other permitted institutions and nonprofit organizations.

Canopy sign means any sign attached to or constructed in, on or under a canopy, marquee or awning.

Changeable message sign means a sign such as a manual, electronic or electric controlled time and temperature sign, message center or reader board, whether electronic, electric or manual, where copy changes.

Copy area means the geometric area in square feet that encloses the actual copy of the sign.

Directional sign means any sign which serves to designate the location or direction of any place or area. This includes, but is not limited to, such signs as those identifying restrooms, telephone, parking areas, entrances and exits.

Electric sign means any sign containing internal electrical wiring which is attached or intended to be attached to an electrical energy source.

Flashing sign means any sign which contains an intermittent or flashing light source or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source, not including changeable message signs.

Frontage means the length of the property line of any one premises parallel to and along each public right-of-way it borders.

Grade means the elevation or level of the street closest to the sign to which reference is made, measured at the street's centerline.

Ground sign means a sign erected on one or more freestanding supports or uprights and not attached to any building.

Gross area means the area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas will be totaled. If the modules are formed in the shape of letters or symbols, the rules for area of copy apply.

Height of sign means the vertical distance measured from the grade at the street right-of-way line where the sign is located to the highest point of such sign or structure.

Illuminated sign means a sign which is lighted by an artificial light source either directed upon it or illuminated from an interior source.

Integrated shopping center means a shopping center in single ownership or under unified control and containing three or more separate businesses.

Legal nonconforming sign means a nonconforming sign that did meet regulations when it was originally installed.

Multifaced sign means a sign with copy on two or more faces that are legible from more than one direction.

Nonconforming sign means a sign that does not meet Code regulations.

Off-premises sign means a sign which advertises goods, products, facilities or services not on the premises where the sign is located, or directs persons to a different location from which the sign is located.

On-premises sign means any sign identifying or advertising a business, person, activity, goods, products or services located on a premises where the sign is installed and maintained.

Portable sign means any sign not permanently attached to the ground or a building.

Projecting sign means a sign, normally double-faced, which is attached to and projects from a structure or building facade.

Roof sign means a sign erected upon, against or above a roof.

Sign means any emblem, painting, banner, pennant, placard, design, identification, description, illustration or device, illuminated or nonilluminated, to advertise, identify, convey information or direct attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise. Signs shall also include all sign structures.

Sign contractor means any person, partnership or corporation engaged in whole or in part in the erection or maintenance of signs, excluding the business which the sign advertises.

Sign structure means any device or material which supports, has supported or is capable of supporting a sign in a stationary position, including decorative covers.

Swinging sign means a sign installed on an arm or mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.

Wall sign means a sign attached to the wall or a building with the face in a parallel plane to the plane of the building wall. This includes signs painted directly on a wall.

Window sign means a sign installed in or on a window for purposes of viewing from outside the premises.

(Code 1990, § 13-1-101)

Cross reference— Definitions generally, § 1-2.

Sec. 10-374. - Permits, applications, fees, issuance and denial, appeals, indemnification, insurance.

(a) *Permits required.* It shall be unlawful for any person to erect, construct, enlarge or structurally modify a sign or cause the same to be done in the city without first obtaining a sign permit for each such sign from the zoning administrator as required by this section. Permits shall not be required for a change of copy of any sign, nor for the repainting, cleaning and other normal maintenance and repair of the sign and sign structure.

(b) *Application for a permit.* Application forms are available at the city clerk's office. Completed applications for a permit shall be filed with the zoning administrator.

(c) *Permit fees.* Application for a permit shall be filed with the zoning administrator, together with a permit fee for each sign shall be provided in the official fee schedule on file in the city clerk's office. Signs installed without a permit are subject to provisions of [section 90-37](#) and shall be removed after proper notice.

(d) *Permit issuance and denial.* The zoning administrator shall issue a permit for the erection, structural alteration, enlargement or relocation of a sign within the city when the permit application is properly made, all appropriate fees have been made, and the sign complies with the appropriate laws and regulations of the city. If the sign permit is denied by the zoning administrator, he shall give written notice of the denial to the applicant, together with a brief statement of the reasons for the denial, along with the return of all permit fees and papers.

(e) *Sign permit appeal.*

(1) In the event any of the requirements herein contained cause undue or unnecessary hardship on any person, firm or corporation, a variance from requirements may be applied for to the board of appeals. An application for variance must be made within ten days after receipt of notice that the sign involved does not conform to this article. In the event that the appeal is not made in writing to the appeals board within such ten-day period, a variance may not be granted. The board of appeals is to take action on any variance request within 60 days of receipt of the variance application. The zoning administrator shall comply with and enforce the zoning board of appeals' decision.

(2) The zoning administrator's failure to either formally grant or deny a sign permit within 15 days of the date an application meeting the requirements of this article is filed shall be cause for appeal to the zoning board of appeals.

(Code 1990, § 13-1-102)

Sec. 10-375. - Legal nonconforming signs.

(a) *Notification of nonconformance.* Upon determination that a sign is nonconforming, the zoning administrator shall use reasonable efforts to so notify, either personally or in writing, the use or owner of the property on which the sign is located of the following:

(1) The sign's nonconformity.

(2) Whether the sign is eligible for characterization as a legal nonconforming sign or is unlawful.

(b) *Signs eligible for characterization as legal nonconforming.* Any signs located within the city's limits of the date of adoption of the ordinance from which this chapter is derived, or located in an area annexed to the city, hereafter which does not conform with the provisions of this chapter is eligible for characterization as a legal nonconforming sign and is permitted, providing it also meets the following requirements:

(1) The sign was covered by a proper sign permit prior to the date of adoption of the ordinance from which this chapter is derived.

(2) No permit was required under applicable law for the sign in question and the sign was, in all respects, in compliance with applicable law on the date of adoption of the ordinance from which this chapter is derived.

(c) *Loss of legal nonconforming status.* A sign loses its nonconforming status if one or more of the following occurs:

(1) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this article than it was before alliteration.

(2) The sign is relocated.

(3) The sign fails to conform to the chapter regarding maintenance and repair, abandonment or dangerous or defective signs.

(4) The sign is destroyed by any means to the extent of more than 50 percent of its fair market value.

(5) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this chapter with a new permit secured therefor or shall be removed.

(d) *Legal nonconforming sign maintenance and repair.* Nothing in this chapter shall relieve the owner or user of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this chapter regarding safety, maintenance and repair of signs.

(Code 1990, § 13-1-103)

Sec. 10-375. - Removal and disposition of signs.

(a) *Maintenance and repair.*

(1) Every sign, including, but not limited to, those signs for which permits are required, shall be maintained in a safe, presentable and good structural condition at all times, including replacement of defective parts, painting (except when a weathered or natural surface is intended), repainting, cleaning and other acts required for the maintenance of said sign.

(2) The zoning administrator shall require compliance with all standards of this chapter. If the sign is not modified to comply with safety standards outlined in this chapter, the zoning administrator shall require its removal in accordance with this article.

(b) *Abandoned signs.* All signs or sign messages shall be removed by the owner or lessee of the premises upon which an on-premises sign is located when the business it advertises is no longer conducted or, for an off-premises sign, when lease payments and rental income are no longer provided. If the owner or lessee fails to remove the sign, the zoning administrator shall give the owner 60 days' written notice to remove said sign. Upon failure to comply with this notice, the city may cause removal to be executed, the expenses of which will be assessed to the tax roll of the property on which the abandoned sign is located.

(c) *Deteriorated or dilapidated signs.* The zoning administrator shall cause to be removed any deteriorated or dilapidated signs under the provisions of Wis. Stats. § 66.05.

(Code 1990, § 13-1-104)

Sec. 10-376. - Prohibited signs.

The following signs shall be prohibited within the city:

(1) Abandoned signs.

(2) Flashing or moving signs. All moving or flashing signs are prohibited. Changeable message signs are not subject to this restriction.

(3) Swinging signs.

(4) Floodlighted and illuminated signs. Signs may be floodlighted or illuminated, subject to the following restrictions:

a. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of a public right-of-way and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

b. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any residential property and which are of such intensity or brilliance as to cause a public nuisance are prohibited.

c. No sign shall be so floodlighted or illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device and signal or otherwise creates a nuisance.

(5) Unclassified signs. The following signs are prohibited which:

a. Bear or contain statements, words or pictures of obscene, pornographic or immoral subjects.

b. Signs which are an imitation of, or resemble in shape, size, copy or color an official traffic sign or signal.

(Code 1990, § 13-1-105)

Sec. 10-377. - Signs not requiring a permit.

The following signs shall not require a permit:

(1) *Construction signs.* Two construction signs per construction site, not exceeding 100 square feet in area each, shall be confined to the site of construction and shall be removed 30 days after completion of construction or prior to occupancy, whichever is sooner.

(2) *Direction and instructional nonelectric signs.* Direction and instructional nonelectric signs, which provide instruction or direction and are located entirely on a property to which they pertain and do not exceed eight square feet each in area and do not in any way advertise a business. This includes, but is not limited to, such signs as those identifying restrooms, telephone, parking areas, entrances and exits.

(3) *Identification signs and bulletin boards.*

(4) *Government signs.* Government signs for control of traffic and other regulatory purposes, danger signs, railroad crossing signs and signs of public

utilities including danger and aids to service and safety which are erected by or on the order of a public officer in the performance of his public duty.

(5) *House numbers and name plates.* House numbers and name plates not exceeding one square foot in area for each residential, commercial or industrial building.

(6) *Interior signs.* Signs located within the interior of any building or structure which are not visible from the public right-of-way. This does not, however, exempt such signs from the structural, electrical or material specifications of this chapter.

(7) *Memorial signs and plaques.* Memorial signs or tables, names of buildings and date of erection, which are cut into masonry surface or inlaid so as to be part of a building or when constructed of bronze or other noncombustible material not more than four square feet in area.

(8) *No trespassing or no dumping signs.* No trespassing and no dumping signs not to exceed 1½ square feet in area per sign.

(9) *Public notices.* Official notices posted by public officers or employers in the performance of their duties.

(10) *Public signs.* Signs required as specifically authorized for a public purpose by any law, statute or ordinance.

(11) *Political and campaign signs.* Political and campaign signs on behalf of candidates for public office or measures on election ballots provided that said signs are subject to the following regulations:

a. Said signs may be erected no earlier than 60 days prior to the primary election and shall be removed within seven days following said general election.

b. Each sign, except billboards, shall not exceed 16 square feet in nonresidential zoning districts and eight square feet in residential zoning districts.

c. No sign shall be located within 15 feet of the public right-of-way at a street intersection, over the right-of-way, nor on any publicly-owned property.

(12) *Real estate signs.* One real estate sales sign on any lot or parcel, provided such sign is located entirely within the property to which the sign applies and is not directly illuminated.

a. In residential districts and the central general business district, such signs shall not exceed eight square feet in area and shall be removed within 30 days after the sale, rental or lease has been accomplished.

b. In all other districts, such signs shall not exceed 32 square feet in area and shall be removed within 30 days after the sale, rental or lease has been accomplished.

(13) *On-premises symbols or insignia.* Religious symbols, commemorative plaques or recognized historic agencies or identification emblems of religious orders or historic agencies.

(14) *On-premises temporary signs.* Temporary signs not exceeding four square feet in area pertaining to drives or events of civic, philanthropic, education, religious organizations, provided such signs are posted not more than 30 days after the event.

(15) *Vehicular signs.* Truck, bus, trailer or other vehicles, while operating in the normal course of business which is not primarily the display of signs.

(Code 1990, § 13-1-106)

Sec. 10-378. - Construction specifications.

(a) Every sign or advertising structure hereafter erected shall have marked in a conspicuous place thereon the date of erection, the manufacturer's name, the permit number and the voltage of any electrical apparatus used in connection therewith.

(b) All signs shall comply with the provisions of the city building code and the current National Electrical Code and the additional construction standards hereinafter set forth.

(c) All ground and roof sign structures shall be self-supporting structures and permanently attached to sufficient foundations.

(d) Electrical service to ground signs shall be concealed wherever possible.

(e) All signs, except those attached flat against the wall of a building and those signs of which no portion exceeds a height of three feet and are no greater than nine square feet in area shall be constructed to withstand wind loads as follows, with correct engineering adjustments for the height of the sign above grade.

(1) For solid signs, 30 pounds per square foot of the sign and structure.

(2) For skeleton signs, 30 pounds per square foot on the total face cover of the letters and other sign surfaces or ten pounds per square foot of the gross area of the sign as determined by the overall dimensions of the sign, whichever is greater.

(f) No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections.

(g) Supports and braces shall be an integral part of the sign design. Angle irons, chain or wires used for supports or braces shall be hidden from public view to the extent technically feasible.

(Code 1990, § 13-1-107)

Sec. 10-379. - Special signs.

(a) *Subdivision development signs.* The zoning administrator may issue a special permit for a temporary sign in any zone in connection with the marketing of lots or structures in a subdivision, subject to the following restrictions:

(1) Such permits may be issued for a period of not more than one year and may be reviewed for additional periods of up to one year and upon written application at least 30 days prior to its expiration.

(2) Signs as used in this section refer to all types of signs except those excepted or prohibited by this chapter.

(3) The sign must be located on the property being developed and must comply with all applicable building setback requirements.

(4) The sign may not exceed 80 square feet.

(5) One sign is allowed for each major street adjacent to the subdivision.

(b) *Banners and pennants.*

(1) *Generally.* Banners and pennants shall not be used on a permanent basis. Banners and pennants may be permitted as special promotion in a commercial or industrial establishment for a total period not to exceed 30 days and will be allowed in residential zones in conjunction with an open house or model home demonstration conducted by a realtor for up to five days before the opening of such a demonstration or five days after and not to exceed a total period of 30 days. A special permit must first be obtained from the zoning administrator.

(2) *Over-the-street banners.* Unlighted special civic event banners not exceeding 150 square feet in area are permissible over a street right-of-way by special permit from the common council after presentation of proof of insurance along with installation specification.

(c) *Portable signs.*

(1) *Permit.* Any person wishing to place a portable sign on his premises or the premises of another shall first obtain a permit from the zoning administrator. Permits shall be issued for a period not to exceed 60 days in any calendar year. Any sign remaining on the premises for more than 60 days in any calendar year shall be deemed to be a permanent sign and shall meet all requirements for a permanent sign.

(2) *Size.* No portable sign shall exceed 32 square feet and no portable sign shall be over seven feet in height from grade level.

(3) *Setback.* All portable signs shall have a minimum setback from the front property line of ten feet or an additional setback as deemed necessary by the building inspector for the safe flow of vehicle or pedestrian traffic.

(d) *Integrated shopping center.* For integrated shopping centers in single ownership or under unified control and containing several businesses, the following regulations shall apply:

(1) Each business or office shall be eligible for one attached sign. The area of such sign shall not exceed, in square feet, two times the lineal front footage of the business or office.

(2) One ground sign for shopping center identification with the height limitation of 30 feet is permitted. If the shopping center is on a corner, either one corner sign or two signs, one on each street, is permitted. If two signs are installed, they must be placed at least 200 feet from the lot corner at the intersection. The area of such sign shall not exceed, in square footage, the lineal front footage of the lot or 300 square feet, whichever is less. No sign shall be closer than ten feet to a property line unless the adjacent property is a residential district, in which case the sign shall be set back 25 feet.

(Code 1990, § 13-1-108)

Sec. 10-680. - Permitted signs.

(a) *Residential signs.* All signs are prohibited in all residential districts, except the following (no permit is required for these excepted signs):

(1) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two square feet.

(2) Real estate signs not to exceed eight square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.

(3) Name, occupation and warning signs not to exceed six square feet located on the premises — unlighted.

(4) Bulletin boards for public, charitable or religious institutions not to exceed 20 square feet in area located on the premises.

(5) 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.

(b) *Business and industrial signs.* Signs are only permitted in business and industrial districts subject to the following restrictions:

(1) Wall signs placed against the exterior walls of buildings shall not extend more than 12 inches outside of a building's wall surface and shall not exceed 500 square feet in area for any one premises.

(2) Projecting signs fastened to, suspended from or supported by structures shall not:

a. Exceed 100 square feet in area for any one premises;

b. Extend more than six feet into any required yard;

c. Extend more than six feet into any public right-of-way or closer than 18 inches to the back of the curb;

d. Be less than five feet from all side lot lines;

e. Be less than 8½ feet above the sidewalk grade;

f. Be less than 15 feet above a driveway; and

g. Exceed a height of 25 feet above the mean centerline street grade.

(3) Ground signs shall not exceed 25 feet in height above the mean centerline street grade, shall meet all yard requirements for the district in which it is located, and shall not exceed 100 square feet on the side nor 200 square feet on all sides for any one premises.

(4) Roof signs shall not exceed ten feet in height above the roof, shall meet all the yard and height requirements for the district in which it is located and shall not exceed 300 square feet on all sides for any one premises.

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

(Code 1990, § 13-1-109)

Sec. 10-381. - Canopies and awnings.

(a) *Permit required.* No canopy or awning shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a canopy/awning permit.

(b) *Canopy and awning restrictions.* Canopies and awnings are permitted in all districts subject to the following restrictions: Where a canopy or awning extends over the public right-of-way, it shall not be less than 8½ feet above the sidewalk grade, shall not be less than 15 feet above a driveway and shall not extend more than seven feet into the public right-of-way. The canopy or awning shall meet all the structural requirements of the state building code.

(c) *Existing canopies and awnings.* Canopies and awnings lawfully existing at the time of adoption or amendment of this chapter may be continued although the use, size or location does not conform with the provisions of this section. However, they shall be deemed a nonconforming use or structure, and the provisions of [section 90-634](#) shall apply.

(Code 1990, § 13-1-110)

Secs. 10-682—10-700. - Reserved.