

CHAPTER 17
ZONING

<u>SECTION 17.0100 - INTRODUCTION</u>	1
17.0101 STATUTORY AUTHORITY	1
17.0102 TITLE	1
17.0103 PURPOSE	1
17.0104 INTENT	1
17.0105 ABROGATION AND GREATER RESTRICTIONS	2
17.0106 INTERPRETATION	2
17.0107 SEVERABILITY	2
17.0108 WARNING AND DISCLAIMER OF LIABILITY	2
17.0109 REPEAL	3
17.0110 EFFECTIVE DATE	3
<u>SECTION 17.0200 - GENERAL PROVISIONS AND ORDINANCE ADMINISTRATION</u>	3
17.0201 JURISDICTION	3
17.0202 PLAN COMMISSION	3
17.0203 ZONING ADMINISTRATOR DESIGNATED	4
17.0204 BUILDING AND/OR ZONING PERMIT REQUIRED	4
17.0205 FENCE AND OTHER SUPPLEMENTAL STRUCTURE PERMIT REQUIRED	6
17.0206 OCCUPANCY/USE PERMIT REQUIRED	6
17.0207 SITE AND BUILDING PLAN, AND PLAN OF OPERATIONS REVIEW	6
17.0208 SITE RESTRICTIONS	8
17.0209 USE RESTRICTIONS	10
17.0210 PRINCIPLES & STANDARDS FOR AESTHETIC EVALUATION	12
17.0211 REDUCTION OR JOINT USE	19
<u>SECTION 17.0300 – PERMIT AND IMPACT FEES</u>	19
17.0301 PERMIT FEES	19
17.0302 IMPACT FEES FOR PUBLIC SITE ACQUISITION, SPECIAL CITY CAPITAL IMPROVEMENTS OR FACILITIES	19
17.0303 VIOLATIONS	21
17.0304 PENALTIES	21
<u>SECTION 17.0400 - ZONING DISTRICTS</u>	22
17.0401 ESTABLISHMENT OF ZONING DISTRICT CLASSIFICATIONS	22
17.0402 ZONING DISTRICT MAPS	23
17.0403 A-1 AGRICULTURAL DISTRICT	24
17.0404 A-2 AGRICULTURAL DISTRICT	26
17.0405 RS-1 SINGLE-FAMILY RESIDENTIAL DISTRICT	28
17.0406 RS-2 SINGLE FAMILY RESIDENTIAL DISTRICT	30
17.0407 RS-3 SINGLE-FAMILY RESIDENTIAL DISTRICT	32
17.0408 RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICT	34
17.0409 RS-5 SINGLE-FAMILY RESIDENTIAL DISTRICT	36

17.0410	RS-6 SINGLE-FAMILY RESIDENTIAL DISTRICT--	38
17.0411	RS-7 SINGLE-FAMILY RESIDENTIAL DISTRICT --	40
17.0412	RD-1 TWO-FAMILY RESIDENTIAL DISTRICT	41
17.0413	RD-2 TWO-FAMILY RESIDENTIAL DISTRICT	43
17.0414	RM-1 MULTIPLE-FAMILY DISTRICT	45
17.0415	RM-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT	47
17.0416	RM-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT	50
17.0417	B-1 NEIGHBORHOOD BUSINESS DISTRICT	52
17.0418	B-2 COMMUNITY BUSINESS DISTRICT	54
17.0419	B-3 GENERAL BUSINESS DISTRICT	57
17.0420	B-4 OFFICE DISTRICT	60
17.0421	B-5 HIGHWAY BUSINESS DISTRICT	62
17.0422	B-6 MIXED USE BUSINESS DISTRICT	64
17.0423	M-1 GENERAL WHOLESALE BUSINESS/WAREHOUSE DISTRICT	66
17.0424	M-2 LIMITED INDUSTRIAL DISTRICT	68
17.0425	M-3 GENERAL INDUSTRIAL DISTRICT	70
17.0426	M-4 INDUSTRIAL PARK DISTRICT-	72
17.0427	M-5A LONG TERM MINERAL EXTRACTION DISTRICT	74
17.0428	M-5B SHORT TERM MINERAL EXTRACTION DISTRICT	76
17.0429	M-6 MIXED INDUSTRIAL USE DISTRICT	78
17.0430	I-1 URBAN INSTITUTIONAL DISTRICT	80
17.0431	I-2 RURAL INSTITUTIONAL DISTRICT	82
17.0432	P-1 PARK AND OPEN SPACE DISTRICT	84
17.0433	LC LOWLAND CONSERVANCY DISTRICT	87
17.0434	UC UPLAND CONSERVANCY DISTRICT	89
17.0435	F-1 FLOODPLAIN DISTRICT	91
17.0436	SO- SHORELAND OVERLAY DISTRICT	116

SECTION 17.0450 – FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS -----120

17.0451	FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS	120
17.0452	DEFINITIONS	120
17.0453	PERMITTED USE DISTRICT(S)	121
17.0454	SEPARATION DISTANCES	121

SECTION 17.0500 - CONDITIONAL USE REGULATION-----122

17.0501	PERMITS	122
17.0502	APPLICATION	122
17.0503	REVIEW AND APPROVAL	122
17.0504	SPECIAL CONDITIONAL USES NOT SET FORTH IN DISTRICT REGULATIONS MAY BE ALLOWED, INCLUDING:	123
17.0505	COMMON COUNCIL ACTION	123

SECTION 17.0600 - TRAFFIC, PARKING, LOADING, AND ACCESS-----124

17.0601	PARKING REQUIREMENTS	124
17.0602	LOADING REQUIREMENTS	127
17.0603	TRAFFIC VISIBILITY	127

17.0604	DRIVEWAYS - -----	127
17.0605	HIGHWAY ACCESS- -----	127

SECTION 17.0700 – SIGNS AND GRAPHICS ----- 128

17.0701	INTENT AND PURPOSE-----	128
17.0702	SIGNS PERMITTED IN ALL ZONING DISTRICTS <u>WITHOUT</u> A PERMIT -----	128
17.0703	SIGNS PERMITTED IN INDIVIDUAL ZONING DISTRICTS <u>WITH</u> A PERMIT -----	130
17.0704	SIGNS PERMITTED IN AGRICULTURAL ZONING DISTRICTS <u>WITH</u> A PERMIT -----	130
17.0705	SIGNS PERMITTED IN RESIDENTIAL DISTRICTS <u>WITH</u> A PERMIT -----	131
17.0706	SIGNS PERMITTED IN BUSINESS, INDUSTRIAL, PARK AND INSTITUTIONAL DISTRICTS <u>WITH</u> A PERMIT -----	131
17.0707	SIGNS PERMITTED IN CONSERVANCY AND FLOODPLAIN ZONING DISTRICTS <u>WITH</u> A PERMIT --- -----	133
17.0708	SPECIAL RESTRICTIVE PROVISIONS -----	133
17.0709	SEARCHLIGHTS AND BALLOONS-----	133
17.0710	FACING OF SIGNS - -----	134
17.0711	LIGHTING, DESIGN AND COLOR -- -----	134
17.0712	EXISTING SIGNS -----	134
17.0713	ADMINISTRATION -- -----	134
17.0714	INSPECTION AND REMOVAL OF SIGNS-- -----	135
17.0715	MAINTENANCE OF PERMANENT SIGNS - -----	135
17.0716	SIGN CONSTRUCTION STANDARDS -----	135
17.0717	PERMIT FEES -----	136

SECTION 17.0800 - NONCONFORMING USES, STRUCTURES, AND LOTS----- 137

17.0801	EXISTING NONCONFORMING USES-----	137
17.0802	ABOLISHMENT OR REPLACEMENT OF NON-CONFORMING <u>USES AND STRUCTURES</u> -----	137
17.0803	EXISTING NONCONFORMING <u>LAND AREAS</u> -----	137
17.0804	EXISTING NONCONFORMING <u>STRUCTURES</u> -----	137
17.0805	NONCONFORMING USES AND STRUCTURES IN FLOODPLAINS -----	137
17.0806	NONCONFORMING CHARACTERISTICS OF OLDER RESIDENTIAL STRUCTURES-----	138
17.0807	CHANGES AND SUBSTITUTIONS - -----	138
17.0808	CONDITIONAL USES NOT NONCONFORMING USES -----	138
17.0809	INADVERTANT NONCONFORMING PARCELS/STRUCTURES - -----	138
17.0810	EXISTING PARTIALLY NONCONFORMING PARCELS-----	138

SECTION 17.0900 – MODIFICATIONS AUTHORIZED BY PLAN COMMISSION ----- 139

17.0901	HEIGHT-----	139
17.0902	YARDS-----	139
17.0903	ADDITIONS TO STRUCTURES -----	141
17.0904	AVERAGE STREET YARDS NEXT TO EXISTING BUILDINGS --- -----	141
17.0905	CORNER LOTS -----	141
17.0906	EXISTING VACANT SUBSTANDARD LOTS-----	141
17.0907	NOISE -----	141

17.0908	SPECIFIC PLANNED PROJECT MODIFICATIONS -----	141
17.0909	USES PROPOSED TO BE ACCESSORY TO AN EXISTING PRINCIPAL USE WHICH ARE NOT COMMONLY PERMITTED ACCESSORY USES MAY REQUIRE PLAN COMMISSION REVIEW AND APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT AND MAY REQUIRE A CONDITIONAL USE PERMIT-----	141
17.0910	EXCEPTIONS TO REAR YARD SETBACKS -----	144
<u>SECTION 17.1000 - ZONING BOARD OF APPEALS</u> -----		145
17.1001	ESTABLISHMENT ---	145
17.1002	MEMBERSHIP -----	145
17.1003	ORGANIZATION -----	145
17.1004	POWERS-----	146
17.1005	APPEALS AND APPLICATIONS-----	146
17.1006	HEARINGS ---	147
17.1007	FINDINGS-----	147
17.1008	FLOODPLAIN MAPPING DISPUTES-----	148
17.1009	DECISION-----	149
17.1010	NOTICE TO WIS-DNR -----	149
17.1011	REVIEW BY COURT OF RECORD -	149
<u>SECTION 17.1100 - CHANGES AND AMENDMENTS</u> -----		149
17.1101	AUTHORITY--	149
17.1102	INITIATION ---	150
17.1103	PETITIONS ---	150
17.1104	RECOMMENDATIONS-----	150
17.1105	HEARINGS ---	150
17.1106	CITY COMMON COUNCIL ACTION -----	150
17.1107	REPEALED --	151
17.1108	FLOODPLAIN DISTRICT BOUNDARY LIMITED ----	151
17.1109	PROTEST -----	151
<u>SECTION 17.1200 - PERFORMANCE STANDARDS</u> -----		152
<u>SECTION 17.1300 - PUBLIC HEARINGS</u> -----		152
<u>SECTION 17.1400 - DEFINITIONS</u> -----		152
17.1401	GENERAL DEFINITIONS-----	152
17.1402	SPECIFIC WORDS AND PHRASES (Alphabetical order)---	152
<u>APPENDICES- VARIOUS FORMS, ETC.</u> -----		179
A-1	PLAN COMMISSION REVIEW PROCEDURE CHECKLIST AND FORMS -----	179
A-2	BUSINESS PLAN OF OPERATION APPLICATION -----	181
A-3	CHANGE IN ZONING CLASSIFICATION ---	184
A-4	CONDITIONAL USE PERMIT -----	188
A-5	WISCONSIN ADMINISTRATIVE CODE NR115, NR116 AND NR117-----	A5

Entire Chapter Repealed and Recreated - #12-12
SECTION 17.0100 INTRODUCTION

17.0101 STATUTORY AUTHORITY

These regulations are adopted under the authority granted by Sections 59.692, 62.23(7), 62.231, 62.234, and 87.30, of Wisconsin statutes as amended.

17.0102 TITLE

This Ordinance shall be known as, referred to, and cited as the "Zoning Ordinance" of the City of Pewaukee, Wisconsin.

17.0103 PURPOSE

It should be the purpose of every municipality and is the purpose of the governing body of the City of Pewaukee to develop and maintain a community that is, at once, physically and fiscally sound, physically attractive, diversified in types of land development based on an adopted long-range plan in order that the inhabitants of the City can enjoy the possibility to live, work, and play within the City, and be provided a reasonable level of local government services at a relatively low cost of such services. The specific purpose of this Zoning Ordinance is to help implement the adopted City plans and to promote the health, safety, and general welfare of the populace as well as the aesthetics of the City of Pewaukee. The City Plan Commission and the City Common Council shall continuously prepare a Comprehensive Plan (or Master Plan) to guide the orderly development of the city including planning objectives and policies to guide land use and development decisions. All comprehensive plan elements, in whatever degree of detail they may be presented, shall provide the basis for approval of all use and development of land under this Ordinance and the related Chapter 18, Land Division Ordinance and Section 10.06, Official Map, of Chapter 10 of the City Codes and Ordinances.

17.0104 INTENT

It is the general intent that this chapter of the Codes and Ordinances of the City of Pewaukee (Zoning Ordinance) be used in the regulation and mapping of zoning district classifications as set forth herein and in such mapping reflect the existing, most restrictive, or imminent use(s) within the mapped area at the time of initial mapping or amendments thereto. Imminent means commencing physical development of or construction on an individual property within a reasonable construction period--usually 12 to 18 months, following rezoning of the property for the proposed new use. It is not the intent that the zoning district maps, which are an integral part of this chapter, substitute in whole or in part for the long-range land use plan or other components of the comprehensive plan for the City. An officially adopted change in the zoning classification which provides for uses that are not reflected on the City's long-range land use plans will, however, automatically constitute a change to the long-range land use plan. The city's comprehensive plan includes, at least: neighborhood plans; general long-range land use plans; general and specific utility and transportation plans; park plans; and, flood, conservancy, and drainage or storm water management plans. Further, this chapter and its application should not be a substitute for other City plan implementation and regulatory devices such as detail development plans, the Land Division Ordinance, Storm Water Management Plan, Official Map, Building Code, Housing Code, and specific developer's agreements and applicable federal, state and county regulations.

More specifically, it is the intent of this Ordinance to regulate and restrict the use of all structures, lands, and waters within the City's jurisdiction; and to:

- a. Regulate Lot Coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, traffic circulation, and drainage;
- b. Regulate Population Density and Distribution so as to avoid sprawl or high concentrations that relate to congestion of streets and highways and over use of utility systems and to facilitate the provision of adequate public services, facilities, and utilities;
- c. Regulate Parking, Loading, and Access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- d. Secure Safety from fire, flooding, pollution, contamination and other dangers;
- e. Stabilize and Protect existing and potential property values;
- f. Preserve, Protect and enhance the beauty of the City of Pewaukee;
- g. Control and, Where Possible, Prevent erosion, sedimentation, and other pollution of the surface and subsurface waters;
- h. Further the Maintenance of safe and healthful surface and groundwater water conditions;
- i. Prevent Flood Damage to persons and property and minimize expenditures for flood relief and flood control projects;
- j. Provide for and Protect a variety of suitable commercial and industrial sites;
- k. Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- l. Prevent the mixing of incompatible uses.
- m. Implement those City, county, watershed, and regional comprehensive plans or components of such plans adopted by the City of Pewaukee; and,
- n. Provide for the administration and enforcement of this Ordinance; and provide penalties for the violation thereof.

17.0105 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws; however, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

17.0106 INTERPRETATION

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

17.0107 SEVERABILITY

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any application to a particular structure, parcel of land, or body of water is adjudged to be unconstitutional or invalid by a court of competent jurisdiction such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.

17.0108 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection provided by this Ordinance is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by man-made or natural causes such as ice dams or bridge openings restricted by debris. Therefore, this Ordinance does not imply

that areas outside of the delineated 100 year recurrence interval (base flood) floodplain or land uses permitted within the floodplain will be totally free from flooding and associated flood damages, nor shall this Ordinance create a liability on the part of or a cause of action against the City of Pewaukee or any officer or employee thereof for any flood damages that may result from reliance on this Ordinance (**see sub-section 17.0435 of this ordinance**).

17.0109 REPEAL

All other ordinances or parts of ordinances of the City inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

17.0110 EFFECTIVE DATE

This Ordinance and amendments thereto shall be effective after a public hearing, review and recommendation by the City Plan Commission and adoption by the Common Council, as provided by law (**see Sections 17.1100 and 17.1300**).

SECTION 17.0200 GENERAL PROVISIONS AND ORDINANCE ADMINISTRATION

17.0201 JURISDICTION

The jurisdiction of this Ordinance shall include all lands and waters within the incorporated municipal boundary of the City of Pewaukee, Wisconsin as well as any land or water for which extraterritorial rights have been granted to and claimed by the City pursuant to Wisconsin statutes and Chapter 18 of City Ordinances.

17.0202 PLAN COMMISSION (Rep. & Rec. 14-14)

The City of Pewaukee Plan Commission, created by the Common Council in accordance with Wisconsin statutes, shall have the duty of making reports and recommendations relating to the planning and development of the City to the Common Council, other public officials, agencies, public utility companies, civic, educational, professional and other organizations, and citizens. The Plan Commission, including its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys related to the planning and development of the City. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote planning, development and redevelopment of the City and environs. The Plan Commission shall hold all required public hearings on matters relating to the City's comprehensive plan components and their implementation.

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.

The Plan Commission shall not:

- a. grant variances to the terms of the ordinance in place of action by the Zoning Board of Appeals; or
- b. amend the text or zoning maps in place of official action by the governing body.

17.0203 ZONING ADMINISTRATOR DESIGNATED

There is hereby designated a Zoning Administrator who, working under the direction of the City Planner, shall be the principal enforcement officer for the provisions of this Zoning Ordinance. The Zoning Administrator shall be appointed by the Common Council upon recommendation of the City Planner. The duty of the Zoning Administrator is to assist the City Planner in interpreting and administering this Ordinance. The Zoning Administrator, or his duly appointed deputy, shall issue, after on-site inspection, all zoning permits required by this Ordinance. The Zoning Administrator shall further:

- a. Maintain records of all permits issued, inspections made, work approved, and other official actions.
- b. Record the Lowest Floor Elevations of all structures erected, moved, altered, or improved in the designated floodplain districts.
- c. Establish That All Necessary Permits that are required for floodplain uses by state and federal law have been secured.
- d. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.
- e. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters; give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises; and, report uncorrected violations to the City Planner and City Attorney in a manner specified.
- f. Assist the City Planner, Building Inspector, and City Attorney in the prosecution of ordinance violations.
- g. Be Permitted Access to premises and structures during reasonable hours to make those inspections deemed necessary to ensure compliance with this Ordinance. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Wisconsin statutes.
- h. Prohibit the use or erection of any structure, or development of land or water until he is satisfied that such use or erection is in compliance with this ordinance and directives of the Plan Commission.
- i. Request Assistance and cooperation from Law Enforcement and the City Attorney as deemed necessary.

17.0204 BUILDING AND/OR ZONING PERMIT REQUIRED

No structure, land, or water shall hereafter be used; no existing use changed; and no permanent or temporary structure, 'pod' or similar container or enclosure shall hereafter be located, placed, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located and until after the owner or his agent has secured a Building and/or Zoning permit from the Building Inspector, Zoning Administrator or his duly appointed deputy. Applications for Building and/or Zoning permits shall be made in duplicate to the Building Inspector or Zoning Administrator on forms furnished by the City and shall include at least the following where applicable:

- a. Names and Addresses of the applicant, owner of the site, architect, professional engineer, surveyor and contractor.
- b. Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address or tax key number, type of structure; existing and proposed operation or use of the structure or site; number of employees if any; and the current zoning district within which the subject site lies. **(Please see sub-sections 17.0207 and 17.0210)**
- c. Plat of Survey or Certified Survey Map (CSM) prepared by a registered land surveyor, or a location sketch drawn to scale showing the locations, boundaries, dimensions, elevations, uses, and sizes of the subject site; 100 year recurrence interval (base flood) floodplain and floodway boundaries; current wetland boundaries; existing and proposed structures; existing and proposed easements, streets, and other public ways; existing and proposed off-street parking, loading areas, and driveways; existing and proposed street, side, and rear yards. In addition, the survey or CSM or sketch shall show the locations, elevations, and uses of any abutting lands and their structures within 40 feet of the subject site, the elevation of the lowest floor (basement) 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), data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether the requirements of section 17.0435 are met; and data to determine if the proposed development will cause an obstruction to flow or an increase in the regional flood height or discharge according to 17.0435. (Also see Chapter 18 of City Codes and Ordinances)
- d. Proposed Plan for the Grading, Filling or Excavation of land as preparation for future, yet approved land development must be approved by the Plan Commission prior to the commencement of such activity.
- e. Proposed Sewage Disposal Plan if public sewerage service is not available. A description and sketch plan of onsite sewage disposal, collection or treatment facilities proposed to serve the site and copy of the Waukesha County Health and Human Services Department permit shall accompany the application. Such a plan shall be prepared in accordance with any City, county or state codes, regulations or ordinances and shall include a copy of any permit issued by the county or state health agencies for the installation of an onsite soil absorption sanitary sewage disposal system or other County Health and Human Services Department approved means of waste collection or disposal.
- f. Proposed Water Supply Plan if public water service is not available. A description and sketch of onsite water supply systems proposed to serve the site shall accompany the application along with any required state or county permit. Such a plan shall be in accordance with the Wisconsin Administrative Code.
- g. Additional Information as may be required by the Plan Commission, City Planner, Zoning Administrator, City Engineer, City Attorney, or Building Inspector.
- h. A Building and/or Zoning Permit shall be granted or denied in writing by the Building Inspector or Zoning Administrator within 35 business days from the

date of receipt of the application or from the date of City Plan Commission or Common Council final actions, if any, which ever comes last. The permit shall expire if no construction shall have taken place for a twelve (12) month period after the date of application. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

- i. Payment of Fees Required. No building permit or zoning permit or occupancy permit shall be granted or issued unless all fees required under the City's Ordinances have been paid.

17.0205 FENCE AND OTHER SUPPLEMENTAL STRUCTURE PERMIT REQUIRED

With the exception of agricultural fences, no fence, porch, deck, storage building or other accessory structure shall be erected or constructed in the City of Pewaukee until a permit is issued by the Building Inspector or Zoning Administrator. A sketch, picture or design of the structure, together with the location plot plan in duplicate, the name of the builder written list of material to be used, and the cost shall accompany the application (**Please also see sub-section 17.1402**).

17.0206 OCCUPANCY/USE PERMIT REQUIRED

No vacant or undeveloped land shall be occupied, used, or developed for dwelling, commercial, industrial, storage, institutional, or other nonagricultural or non-conservancy purposes; no building or premises shall be occupied, altered, moved, placed or substantially improved; no change in use shall be created; and, no nonconforming use shall be renewed, changed, or extended until an Occupancy/Use permit shall have first been issued by the Building Inspector or Zoning Administrator as follows:

- a. Such permit, which shall be an integral part of the building zoning permit process, shall show that prior to occupancy the building or premises or use thereof is in compliance with the provisions of this Ordinance.
- b. Application for an Occupancy/Use permit shall be made in the same manner as for a Building and/or Zoning permit pursuant to sub-section 17.0204 of this Ordinance; or, where the construction or structural rehabilitation of, addition to, moving or removal of a building require a Building and/or Zoning permit as set forth in Chapter 30 of the Codes and Ordinances of the City, the procedures for occupancy permit applications set forth therein shall be followed.
- c. No land within a floodplain zoning district shall be occupied or used until the floodplain regulations set forth in sub-section 17.0435 of this ordinance have been fully met.
- d. A Business Plan of Operations for the use of the premises submitted on the City forms may be substituted for an Occupancy/Use permit when approved by both the City Planner and the Zoning Administrator.

Please Note: *It is the responsibility of a permit applicant to secure all other necessary permits required by any federal, state, or local agency. This includes but is not limited to, a permit pursuant to all City ordinances, the Federal Water Pollution Control Act, or floodplain, shoreland or water use permits pursuant to Wisconsin statutes or Administrative Rules.*

17.0207 SITE AND BUILDING PLAN, AND PLAN OF OPERATIONS REVIEW

For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property value, no person shall commence any use or erect any structure, except standard one and two family dwellings, without first obtaining from the Plan Commission, review and approval of detailed site and architectural plans and, in the case of commercial, industrial or

institutional uses, or a Wisconsin statute authorized community based residential facility (CBRF), a Business Plan of Operations as set forth in this section and in sub-section 17.0210 and on forms provided by the City. Site and building plans and business plans of operation shall be submitted to the City Planner prior to the Plan Commission meeting in a time frame determined by the City Planner. The Plan Commission members shall familiarize themselves with the site, existing and proposed structures, architecture, neighboring uses, parking areas, driveway locations, loading and unloading in the case of commercial and industrial uses, highway access, traffic generation and circulation, drainage, landscaping, sewerage and water systems, as well as plans of proposed operation. The Plan Commission may delegate the responsibility for review and approval of Business Plans of Operation jointly to the City Planner and Zoning Administrator. The applicant for permits for site and building activity will be responsible for final grading and landscaping of all single and two-family building sites and for assuring that there is adherence to all applicable plans, ordinances and statutes. Design and construction of individual one and two family dwellings will be reviewed and approved by the Building Inspector and/or City Planner.

a. Compliance

- (1) Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all uses. Variances may only be granted as provided in Section 17.1000 of this ordinance. Conditions such as landscaping, architectural design, type of construction, flood-proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, landscape screening, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Plan Commission upon its finding that such regulation or restrictions are necessary to fulfill the purpose and intent of this ordinance.
- (2) The Plan Commission, in its determinations, may require that applicants for approval provide a cash bond or letter of credit to ensure timely performance in completing their project or specific portions thereof. **(Also see sub-section 17.0204).**

b. Review and Findings.

The Plan Commission shall review the referred plans and Business Plan of Operations at a regularly scheduled Plan Commission meeting. The Plan Commission shall not approve any plans unless they find after viewing the application that uses and structure(s), as planned, will meet all regulations and standards set forth by the City and will not violate the intent and/or use and purpose of this Ordinance. The Plan Commission will approve said plans only after determining that the proposed building or buildings will not impair an adequate supply of light or air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety. **Any approval by the Plan Commission and its staff will become null and void if the structure, site development, or planned use is not commenced within 24 months from the date of approval and no requested extension has been granted by the Plan Commission.** The Plan Commission may designate the City Planner and Zoning Administrator or a committee of the Plan Commission to review and jointly approve written Business Plans of Operation when site or building plans are not proposed or have already been approved by the Plan Commission. **(Please see Appendix**

for standard Business Plan of Operation Forms). (Also, the City web site is www.cityofpewaukee.us)

c. Appeals

Any person or persons aggrieved by any decision of the Plan Commission related to site, building and/or Plan of Operation review may appeal the decision to the Zoning Board of Appeals, City Common Council or Circuit Court. Such appeal shall be filed with the City Clerk/Treasurer or the Clerk of Courts no more than thirty (30) days following the final decision of the Plan Commission or its staff. (See Section 17.1000 and sub-section 17.1402 in this ordinance)

17.0208 SITE RESTRICTIONS

No land shall be used or structure erected where the land is unsuitable for such use or structure 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 the City and its inhabitants. The City Engineer, or any other official acting on behalf of the City, in applying the provisions of this section, shall in writing recite the particular facts upon which he bases his conclusion that the land is not suitable for a certain use and/or structure. The applicant shall have an opportunity to present evidence to the Plan Commission contesting such determination of unsuitability. Thereafter the Plan Commission may affirm, modify or withdraw the determination of unsuitability. In any event, the following requirements must be met:

- a. All lots or parcels shall abut upon a public street, road, or highway for a minimum frontage width of 33 feet or as otherwise required in the City Land Division Ordinance (Chapter 18), if more restrictive. In hardship circumstances related to parcels of land existing prior to August 1982, the Plan Commission may, at their discretion, allow one (1) or two (2) residential principal uses on separate parcels to have access to a public street via a common easement as long as such easement is at least 33 feet in width and is wholly contained within one parcel.
- b. All Principal Structures shall be located on a lot or building space; and only one (1) principal structure shall be located, erected, or moved onto a lot or building space in a single-family residential district, with the exception of a condominium arrangement in which two or more single-family houses are located on a parcel of land held in common by all the owners of the individual single-family houses as a conditional use and the net density (dwelling unit to land ratio) of the condominium development is no greater than allowed under the zoning classification of the parcel. **Construction of accessory structures on a lot with no principal use will not be permitted.** The Plan Commission may permit more than one principal structure per lot in districts where more than one structure is either needed or suitable for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, open space or landscaping requirements, or parking requirements, or require a larger minimum separation distance between principal structures.
- c. No Building or Zoning Permit shall be issued for a lot or parcel which abuts a public street dedicated to only a portion of its proposed right-of-way width and is located on that side of the proposed street from which the required dedicated right-of-way has not been secured.

- d. Lots Abutting More Restrictive zoning districts shall provide side and rear yard setbacks not less than those required in the more restrictive abutting district. If the boundary of the more restrictive district is encompassed within railroad or street right-of-way, the more restrictive yard requirements may be waived by the City Planner.
- e. No River or Stream shall be Altered or Relocated until such alteration has been applied for and granted in accordance with the requirements of Section 17.1100 of this ordinance, federal agencies, Wisconsin statutes and codes and regulations or other codes and ordinances of the City. **(Also see sub-sections 17.0435 and 17.0436 of this ordinance)**
- f. Structures or plantings proposed to be located within the defined "Horizontal Area of Solar Detriment" of an existing use having an operational active solar system may not be placed so as to intrude into the defined "Vertical Area of Solar Detriment" of the existing use. **(Please see sub-section 17.0909).**
- g. Soil Limitations: Certain soil types within the City as shown on the operational soil survey maps prepared by the U.S.D.A., Soil Conservation Service (SCS) in cooperation with the Southeastern Wisconsin Regional Planning Commission, have severe or very severe limitations for onsite soil absorption sanitary sewage disposal facilities due to one or more of the following reasons: high or fluctuating water table, flooding, groundwater contamination, silting, slow permeability, steep slopes, or proximity to bedrock. Such soil data will be considered by the Plan Commission when development requiring onsite soil absorption sanitary sewage disposal facilities are proposed on those soil types which have the above characteristics.
- h. No Topsoil or Subsoil shall be removed from any land development site or from individual agricultural, commercial, industrial, institutional, or recreation sites or from land within the designated 100 year base flood floodplain without the proper review and approval of an application for such removal by the Plan Commission. If topsoil removal is permitted by the Plan Commission, enough topsoil must be retained on the site to provide a minimum of six (6) inches of topsoil to be spread over all future grassed or landscaped areas on the site. Screening, sifting or other processing of topsoil will not be allowed without permission of the Plan Commission. Likewise, no land, water or wetland area of the City shall be filled, ditched, drained or inundated without the approval of the Plan Commission and/or Common Council pursuant to this or other City Ordinances. No lands within the designated 100 year base flood floodplain may be filled, ditched, drained or inundated with the exception of the construction of required public utility and transportation facilities which would require adherence to regulations as set forth in this sub-section and by FEMA and NR116. **(Also see sub-sections 17.0435 and 17.0436).**
- i. No trees or shrubs shall be removed from any land development site encompassing two or more dwelling unit parcels or encompassing more than four acres unless and until a plan is prepared by the owner or developer and approved by the Plan Commission or City Planner showing the location, type and size of all such wood growth and indicating which such growth will be removed and where and how it will be replaced or substituted for on the final development plan. Such plan must be submitted to the City Planner for review and recommendation to the Plan Commission. Any site or building plan approval is contingent upon such a 'wood growth' plan being submitted and

approved. If wood growth is removed without such approved plan, the owner or developer will be required to replace such wood growth on the basis of three specimens for each one removed.

- j. Any area of a development or construction site on which bare earth has been exposed to the elements and which will not be included within the building or structure envelope shall be seeded or sodded at the direction of the City Planner, City Engineer or Zoning Administrator so as to reduce erosion of soil on and off the site. All permanent stormwater facilities or improvements will be accomplished in accordance with the City stormwater management plan and plan implementation measures. (**See Chapter 19 of the Municipal Code**).

17.0209 USE RESTRICTIONS

The following use restrictions and regulations shall apply:

- a. Principal Uses. Only those principal uses as specified in zoning district regulations set forth herein, their essential services, and the following uses shall be permitted in that zoning district. Principal residential units located within a residential zoning district may not be used for retail or service commercial, institutional or industrial purposes except for an approved home occupation as defined in Section 17.1400 or a Community Based Residential Facility (CBRF), and such residential units may not be rented or leased by the owner or occupant to a second party for a period of time less than 28 consecutive days. (Also see definition of residential unit in Section 17.1400).
- b. Accessory Uses and structures are permitted in any district but not until their principal use and/or structure is present or under construction and a building or zoning permit is obtained. Residential accessory uses shall not involve the conduct of any business, trade, or industry except approved home occupations and home offices as defined in this ordinance, and accessory buildings shall not be used for residential purposes, except as noted below. Accessory uses also include incidental repairs to the principal structure; storage structures; parking structures and areas; home use gardening; private swimming pools; and private emergency shelters. Mobile homes and recreation vehicles designed or configured to be driven or towed are not principal or accessory structures and may not be used for habitation or storage except in approved mobile home parks and RV campgrounds or in the case of officially recognized emergencies. One such vehicle owned by the owner of the premises and less than 30 feet in length, including draw bar or 'tongue', may be temporarily stored outside within the buildable area of a residential property for no more than 45 days in a calendar year if property deed restrictions/covenants allow, but may not be used as a living unit or extra bedroom. Storage units such as dumpsters and portable-on-demand (pod) storage units are not accessory structures. Watchmen quarters in industrial or commercial districts and quarters of itinerant agricultural laborers in an agricultural district may be accessory structures upon granting of a conditional use permit for such specific use by the Plan Commission. Small accessory structures or 'garden' buildings intended for the storage of yard maintenance equipment having not more than 120 square feet in floor space may be located within rear or side yard areas but not closer than ten (10) feet to a property line or other building and not within designated easements. All accessory structures larger than 120 square feet shall be constructed using the same type and color of exterior materials, including roofing, as the principal structure on the property.

- c. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Plan Commission and Common Council in accordance with section 17.0500 of this ordinance, and when approved, requiring special zoning district map delineation in accordance with section 17.0400. In addition to those uses specified elsewhere herein, the following uses may be deemed to be conditional uses by the Plan Commission: Any principal use in addition to the first such use on a single building parcel or space; any parcel proposed to be divided so as to create a 'flag lot'; any proposed use or development within 500 feet of the existing or proposed rights-off-way of freeways, expressways, and other controlled access highway; within 1,500 feet of an existing or proposed freeway or expressway interchange or turning lane right-of-way; or, any proposed use within 500 feet of the existing or proposed intersections of two or more arterial streets or highways which requires a rezoning of the parcel or a reconfiguration of the points of ingress/egress. Such uses, when designated a conditional use, shall be specifically reviewed and approved by the Plan Commission and Common Council as provided in section 17.0500 of this ordinance and once issued may not be rescinded except by Plan Commission and Common Council action unless the use is discontinued for a period of twelve (12) months.
- d. Unclassified or Unspecified Uses may be permitted by the Plan Commission provided that such uses are similar in character to the principal uses permitted in the zoning district and create no circumstances that would detrimentally affect adjacent properties.
- e. Legal Non-conforming Uses existing at the time of adoption of this ordinance revision may be continued until the specific use is discontinued, at which time any subsequent use of the premises involved must be in conformance with this ordinance.
- f. Temporary Uses or Structures, such as shelters for materials and equipment or construction office trailers being used in the construction of a permanent structure, may be permitted for a period not to exceed 12 months while construction is in progress and such uses or structures must be screened from public view when physically possible to do so. Movable or portable-on-demand storage (pods) units and 'dumpsters' may not be used as permanent outdoor storage facilities unless enclosed from view within a City Plan Commission approved permanent enclosure and may only be used as temporary storage in the event of an emergency or as a material and equipment shelter during moving of personal home or business items or construction of a building. All temporary structures/units shall be removed when directed by the Building Inspector or Zoning Administrator. Commercial or business trucks, truck trailers, vans, trailers, recreation vehicles or mobile homes are not accessory uses and may not be used as permanent or temporary storage units or as signs or sign supporting structures and shall not be parked in the open in residential districts. **(Also see 'b', above and sub-section 17.0601 and Chapter 5.00).**
- g. Conceptual Approval of Planned Unit Development (PUD), group housing, CBRF's, multiple family development, commercial, industrial, institutional, or mixed-use projects may be granted by the Plan Commission. Such conceptual approval shall serve as a notice of intent to formally approve a project when detailed plans and/or zoning petitions meeting the requirements of this Ordinance and conditions set by the Plan Commission are submitted in a

formal proposal or application. ***Conceptual approval shall not, however, be binding on the Plan Commission or the Common Council.*** In such cases, the Plan Commission may require a public hearing conforming to the review procedures set forth in sections 17.0500 and 17.1300 of this ordinance.

17.0210 PRINCIPLES AND STANDARDS FOR THE AESTHETIC EVALUATION OF SITE AND BUILDING PROJECTS

a. Introduction and Intent. The process of private building and development in a community may be simple or complex depending upon the size of the project, the number of participants, the ease of communication among the various private and public parties involved, and the content and clarity of the public rules and regulations. While the community representatives cannot usually directly affect either the project size or the number of project participants; they can have a direct affect on the content and clarity of rules and regulations as well as the communication, and indeed, interpretation of any such rules and regulations.

Like inhabitants of most developing communities, Pewaukee City officials and citizens have legitimate concerns about both the future character of the community and the integrity of existing and historic development. One such concern is in regard to land uses or the mix of land uses, both existing and planned. Another concern is the financial capability of development (developers) to provide the required and promised improvements and, the financial capability of the community to provide the necessary and requested services. A third major concern, importantly, is in regard to the visual impact or image of the community by people living within or only traveling through the City. The intent or purpose of this sub-section is to provide principles and standards for use by property owners, potential developers and City officials in the preparation and review of site and building plans proposed within the City with emphasis on and the primary objective of heightening the visual character and quality and, therefore, the value of the sites and buildings proposed and, thereby, the entire community. It is understood that such visual enhancement is also expected to be maintained over time and not be only an initial accomplishment to be forgotten.

The proponents of any single or multiple use development (other than an individual single-family or two-family building) proposed to be undertaken within the City of Pewaukee, must, pursuant to sub-section 17.0207, present a site and building plan to the Plan Commission for review and approval. Such approval along with any conditions must be granted prior to receipt by the owner/builder/developer of a permit to commence building or site development activity. The intent of this sub-section of the zoning ordinance is twofold: to provide a systematic, equal basis for review and discussion of projects; and, to provide general guidelines to be used in the review of a development or building project. In order to identify specific standards for the visible elements of site and building design which embody the general desires of the community, a set of agreed upon principles have been established which form the foundation for the standards which will follow.

b. Site Planning and Design Principles. It must be noted that a principle is a truth or tenet -- a statement of fact as relates to a particular topic, in this case site planning and design. Following is a list of principles, which should be utilized by everyone concerned in any Site Planning and Design Project in the City of Pewaukee:

- (1) The development or building site must be viewed as only one element of the total developed and undeveloped environment in the vicinity of the

site. Therefore, attention must be given to how the site and the development on the site will ultimately fit into the total environment.

- (2) Site planning and design is the process by which site features and uses on the site are made to be compatible, functional and visually pleasing.
- (3) All elements and aspects of the site, both natural and man-made, are important to the aesthetic character of the site.
- (4) Adjacent or contiguous uses or facilities may have a major affect on the site or site uses.
- (5) Major changes in elevations and land forms on the site, which, thereby change the character and/or physical capabilities of the site are not, generally, conducive to good site development unless such changes are well planned and are necessary, as an example; a quarry, to final development/redevelopment of the quarry site.
- (6) The specific location of site access is critical to both the future use of the site and the safety and convenience of persons traveling on adjacent public ways.
- (7) Site grading, landscaping, paving, fencing, lighting, signage, storm water drainage and other site enhancement are an integral part of any building and development project.

c. Building, Design, Layout and Construction Principles Following is a list of principles which should be utilized by everyone concerned in any Building, Design, Layout and Construction project in the City:

- (1) No side or facade of a building or structure is exempt from public view and, consequently, all sides or facades should be visually pleasing and architecturally and aesthetically compatible.
- (2) The shape, size, dimension, architectural style, facade material, texture and color, building landscaping, building signage, and, the setting of the building within its immediate environment are all elements of the building structure design addressed by the designer, both individually and in concert.
- (3) Each color, texture or material of which the exterior of a building is composed may, individually, present a visual statement to the viewer and, therefore, in order not to present a conflicting or complex visual statement, the arrangement and mix of colors, textures and materials should be carefully considered and the number of such elements minimized.
- (4) Some building materials present a visual statement of strength and permanence to the immediate environment and to the community and should be encouraged, while other materials which make a building or structure appear temporary should be avoided.
- (5) Individual buildings may be attractive but when duplicated on the same or adjacent parcels or on the same horizontal plane may detract from the visual character of the overall development.

- (6) Some use elements of a building structure, such as outside mechanical equipment, loading docks and areas, trash storage areas, and raw material, vehicle or equipment storage areas are not, usually, attractive and often detract from the visual appearance of the building unless careful attention is given to placement, construction, structural and/or landscape screening of such areas.
- (7) Building landscaping, that is landscaping which is or appears to be an integral part of the building facade design, needs to be carefully planned and the appropriate grading and plant materials used so as not to detract from the architecture of the building.
- (8) Building signage, that is signage which is or appears to be an integral part of the building facade design, needs to be carefully planned and the appropriate sign materials, size, message wording, sign lighting and color used so as not to detract from the architecture of the building or be disruptive.

d. **Site Planning and Design Standards**

A standard (or criteria) is either a quantitative or qualitative model or value level by or against which all related actions or activities are measured. In this regard a standard is sometimes referred to as a "yardstick". Moreover, quantitative standards are those which, when applied, will reveal a quantitative difference, or similarity between the standard and the action or activity being measured by the standard. For example; the action related to a site planning standard that states that, "No man-made slope or disturbed natural slope shall be greater than 3:1, when 3 is the horizontal measurement", can be measured quantitatively to determine if, indeed, the standard has been met.

A qualitative standard, on the other hand, is a standard which, when applied, involves a judgment, usually subjective, that the action or activity has met or can meet the stated standard. For example; a site planning standard that states that "All parking areas shall be screened in a visually pleasing manner to soften the visual presentation of parked cars and paved area", requires that the person(s) making the determination as to whether or not the standard is met actually looks at the screening structure, device or plant materials and makes a qualitative judgment. If it can be concluded that the materials, device or structure as designed or constructed are individually or collectively visually pleasing, there should be no problem making such a judgment. If, however, the materials are different in character the judgment is usually more difficult. Even the arrangement of several individually pleasing materials may not, in concert, be pleasing. Whenever possible we try to avoid purely qualitative standards.

Following are both quantitative and qualitative standards related to site development, which will be used by the Plan Commission in the review of every site or development plan:

- (1) STANDARD NO. SD-1
 - (a) The natural landscape of a development site, including topography, ponds, drainage ways, vegetation, and soils shall be disturbed to the least extent possible to accomplish ultimate site development and to ensure such protection the Plan Commission may require a specific survey and presentation of vegetation encompassed within the site.

- (b) Final man-made site grades on a continuous slope of more than 100 feet in horizontal distance shall not exceed 3:1 on any part of the site where 3 is the horizontal dimension, and shall not exceed a 4:1 grade on more than 20 percent of the site.

- (2) STANDARD NO. SD-2
 - (a) The drainage pattern on the site shall not be changed significantly and no change to the drainage pattern on lands in the immediate vicinity of the site shall be allowed.

 - (b) Storm drainage outfall from the completely developed site and generated from a 100 year recurrence interval (base flood) rain storm event shall not exceed the physical ability of the streams, drainage ways or storm sewer immediately adjacent and downstream from the site to accommodate such periodic storm drainage and shall be in compliance with all WisDNR and FEMA rules and regulations.

- (3) STANDARD NO. SD-3
 - (a) All streets interior to the development site, whether private or public, and all public utilities shall be constructed to City construction standards in terms of cross-section, grades and construction materials.

 - (b) No segment of any public or private street within the overall development site shall exceed 10 percent vertical grade and no segment of any such street shall exceed 8 percent vertical grade for a continuing horizontal distance of more than 200 feet. **(See Chapter 18 of City ordinances)**

 - (c) Approved points of access between streets within the development site and intersecting arterial or collector streets shall be designed to accommodate a minimum four (4) lane divided entry for a minimum distance of 250 feet into the development site when the average daily traffic (ADT) on such entry is expected to exceed 500.

- (4) STANDARD NO. SD-4
 - (a) No more than 60 percent of any lot, parcel or total development site shall be covered with buildings, paving, gravel or other covering materials which are impervious to surface water absorption. **(Also see sub-section 17.0434)**

 - (b) No less than 40 percent of the development site shall be retained in either an undisturbed natural state or in attractive, planned and arranged ground cover and landscape plantings, earthen berms and natural or man-made water impoundments.

 - (c) Except in single and two-family residential areas, no impervious surface, including graveled area, shall be placed closer than ten (10) feet from a property boundary.

 - (d) An existing designated wetland or designated 100 year recurrence interval (base flood) floodplain may comprise no more than 20 percent of the total 'green space' requirement on any parcel as set forth in (4)(b), above, or no more than two square feet of each required ten square feet.

- (5) STANDARD NO. SD-5

- (a) Fencing designed to visually screen areas of the site from passersby shall be of a type and quality and constructed of materials that will be aesthetic and compatible with the building structure(s).
 - (b) Site fencing shall be designed and constructed to be readily maintained in a safe and aesthetic manner.
- (6) STANDARD NO. SD-6
- (a) Lighting of the site shall be of a type, design, color, height and intensity to blend with the site and landscaping, but in no case shall light poles be taller than 20 feet measured from ground level.
 - (b) Lighting of the site shall be of a design and height and be located and/or shielded so as to illuminate only the site and not be a beacon of distraction or potential hazard to traffic or to people working or living in the vicinity of the site and, specifically, the individual light source and the direct radiation from lights with wattage greater than 150 shall not be visible from adjacent streets or residential property unless specifically approved by the Plan Commission.
- (7) STANDARD NO. SD-7
- Signage of uses and buildings on the site shall be limited by the Plan Commission in number, size, height and type so as not to detract from the visual attractiveness of the site or architecture, or be a distraction to the traveling public or the neighborhood in general. (**See section 17.0700**)

e. **Building Design Standards**

Standards must be related to the various Principles which, in turn, are related to the overall Objective which, in this case, is to "Heighten the visual character of sites and buildings in the City of Pewaukee". It should be noted that the visual aspects of building design are difficult to relate to quantitative standards and, therefore, many of the building design standards must be qualitative. Following are both quantitative and qualitative standards related to the visual aspects of building construction which will be used by the Plan Commission in the review of every site plan or development.

- (1) STANDARD NO. BD-1
- Principle and accessory buildings presented for review shall be carefully designed so as to compatibly integrate architectural style, size, shape, building material, color and texture, landscaping, lighting and signage.
- (2) STANDARD NO. BD-2
- (a) All buildings on a property shall be designed to integrate the principal building materials, color and texture on all sides of the buildings.
 - (b) Each side of a building shall be designed to be individually visibly pleasing.
- (3) STANDARD NO. BD-3
- (a) The number of materials, textures or colors that visually change the appearance of the building shall be limited to no more than three.
 - (b) Painted, unpainted or anodized metal panels used as a facade material shall not be extended or have the appearance of extending to within four

(4) feet of the ground elevation and shall comprise no more than ten (10) percent of the facade of any side of a building.

- (c) Bright or fluorescent colors which attract or detract the eye shall not be used except as incidental trim comprising no more than 5 percent of the facade of any side.

(4) STANDARD NO. BD-4

- (a) Architectural types or styles which are unorthodox or which are considered to be incompatible with surrounding buildings shall not be allowed, except where adjacent buildings or structures do not meet the standards.

- (b) Buildings constructed within a development shall not be so similar in exterior appearance that they appear to be the duplicate of the other unless placed on different horizontal planes or widely different vertical elevations.

(5) STANDARD NO. BD-5

- (a) Building appurtenances such as loading docks, solid waste storage areas, and mechanical or utility equipment shall not be located on the street side of any building and shall be permanently screened from general view on all other sides (or roofs) of the building by use of compatible building materials, dense landscaping or both.

- (b) Building landscaping, lighting and signage shall be presented as an integral part of the building design and shall not be so large or distinct as to detract from the architecture of the building.

(6) STANDARD NO. BD-6

Structural expansion or rehabilitation of existing buildings shall be designed to comply with the standards set forth herein.

f. Overriding considerations

The foregoing standards are required to be met by all builders and developers in the City of Pewaukee. In certain or specific situations, however, the strict application or adherence to established standards is not possible. For example, where a physical hardship would be created by strict adherence to a standard and where there is no alternative which could meet the standards, good sense would dictate that the specific standard be reduced or, perhaps, waived by the Plan Commission or Common Council in that individual case. Following are a series of considerations which may be reviewed and, if found to apply to a specific situation should be applied and, thereby, either override or enhance the standard(s) involved in that specific case:

- (1) The natural terrain of a site may be so diverse or severe that total adherence to pertinent standards is not possible. In such cases the standard should be met to the extent possible or a suitable alternative found as approved by the Plan Commission.
- (2) The landscaping of a site and even the fencing and building structures on the site should be so arranged as to attractively screen from the general view of the traveling public those areas on the site not enclosed within a building which are not inherently attractive, such as auto parking areas, truck and construction equipment parking areas, large paved areas, trash

- receptacles, building related mechanical equipment, above-ground utility facilities, and raw material storage.
- (3) In most cases the use of one or two building materials, or colors or textures is sufficient to establish the visual character of a building. In a limited number of cases the design of the building requires the use of several exterior materials, each of which, in turn, may have differing textures and colors. In such cases care must be taken by the designer/builder/developer to clearly identify the necessity for such diversion from the standards.
 - (4) Many types of totally or partially metal-clad buildings do not give the visual impression of permanence and, in addition, such buildings are often vulnerable to both physical and visual decay within a relatively short period. There are those cases, however, where buildings have been or may be designed using special metallic panels which are at once both durable and visually attractive and not merely an inexpensive method of building construction. In such cases, when it can be demonstrated to the satisfaction of the Plan Commission that a building having more than ten (10) percent of the building facade covered with such metal panels is both attractive and provides a visual permanence within the community, the Plan Commission may reduce or waive those standards which relate to such cases.
 - (5) In some cases the existing buildings in a partially developed area do not meet the standards set forth herein or have deteriorated to such an extent that they are visually displeasing and may even appear blighted or dilapidated. In such cases the introduction into the area of a new building which meets the standards, may appear to be incompatible with the existing development but should be construed as the initial redevelopment of the area even though not in visual conformance with its surroundings.
 - (6) The arrangement of like or similar structures on a site or on contiguous parcels at different elevations, different planes, or at different angles may visually change the appearance of the individual structure. Such arrangement should be carefully considered in the review of building plans. On the other hand, simply changing the facade color, texture or material on like or similar buildings may not be sufficient to change the overall exterior appearance. Also, the Plan Commission, in reviewing plans for a development proposal encompassing several buildings, may find it desirable for the buildings to have the same architectural style or the same exterior building materials in order to visually tie the individual buildings to each other to form a cohesive grouping or cluster.
 - (7) In specifically defined sections of neighborhoods (called sub-neighborhoods) or arterial street or highway corridors, it may be in the special or increased interest of the City to establish site and/or building standards that are more stringent than the standards set forth in previous subsections of this ordinance. When it is deemed necessary to establish more stringent standards in specific areas of the City for a specifically defined purpose(s), the Plan Commission shall publish a notice and hold a public hearing pursuant to Section 17.1300 to hear comments and questions regarding the proposed standards after which the Plan Commission shall make a recommendation to the Common Council. Following such recommendation, the Common Council may adopt the standards as proposed; reject the proposed standards; or, adopt the proposed standards with modification. Special standards so adopted shall take effect immediately following posting of a Common Council resolution enacting such special standards. Special standards so

adopted shall be in effect within the prescribed area until such time as they are rescinded or changed by the Common Council after a public hearing is conducted following the same procedures as set forth above.

17.0211 REDUCTION OR JOINT USE

No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as to not meet the provisions of this ordinance. No part of any lot, yard, parking area, or other space required for a principal and accessory structure(s) or use shall be used for any other structure or use.

SECTION 17.0300 PERMIT AND IMPACT FEES

17.0301 PERMIT FEES

All persons, firms or corporations performing work or requesting a text or district map change, an audience with the Zoning Board of Appeals or a special meeting which by this Ordinance requires the issuance of a permit or grant of permission, shall pay a fee for such permit or permission to the City of Pewaukee Clerk/Treasurer to help defray the cost of administration, investigation, advertising, notification and processing of changes and variances. Specific fees for the following planning and zoning related activities have been established as a part of the City's comprehensive fee schedule and are subject to periodic review and change by action of the Common Council:

- a. Zoning ordinance or district map change.
- b. Conditional Use Permit.
- c. Zoning Variance or Appeal.
- d. Special meeting of the Plan Commission.
- e. Site or Building Plan Review by Plan Commission.

Please see Appendix A.

In addition, applicants for permits will be billed for any cost incurred by the City to hire engineers, attorneys or other professional consultants to assist in administering this ordinance and, prior to any approvals by the City, shall acknowledge responsibility for such cost in writing.

17.0302 IMPACT FEES FOR PUBLIC SITE ACQUISITION, SPECIAL CITY CAPITAL IMPROVEMENTS OR FACILITIES (Rep. & Rec. 12-05)

- a. An impact fee for public site acquisition special City capital improvement or equipment as set forth in the City Public Facility Needs Assessment dated January 2012, shall be required to be paid upon application for a building permit for construction of a building within the City in accordance with the following schedule:

1. Impact Fee to be used for Parks, playgrounds and athletic fields:

Residential buildings: \$1,000/dwelling unit

2. Impact Fee to be used for Fire and rescue facilities:

Non-residential buildings: \$0.11/square foot
Residential buildings: \$324/dwelling unit

3. Impact Fee to be used for Hike/Bike Trails:

Non-residential buildings: \$0.05/square foot

Residential buildings: \$129/dwelling unit

4. In order to account for future increases in construction costs and interest costs, and in order to ensure that the fees are equitably distributed between current and future Builders, Developers or property owners, the impact fees described herein shall automatically adjusted annually, beginning on January 1, 2013, by the percentage increase or decrease in the United States Bureau of Labor Statistics Midwest Region All Items Consumer Price Index for All Urban Consumers from January 1 of the preceding year.
- b. The impact fees set forth herein shall be collected by the City Building Inspector or his designee at the time of the building permit application. Such fee payment shall be made in the exact amount of the fee, payable to the City of Pewaukee and transmitted by the Building Inspector to the City Clerk/Treasurer on a daily basis.
- c. Revenues from each impact fee imposed shall be placed in a separate segregated, interest-bearing account by the City Treasurer and shall be accounted for separately from the other funds of the City of Pewaukee. Impact fee revenues and interest earned on impact fee revenues may be expended only for the particular capital costs for which the impact fees were imposed, unless the fee is refunded as provided herein or by statute.
- d. Impact fees that are collected by the City of Pewaukee within 7 years of the effective date of the ordinance must be spent within 10 years, unless extended 3 years by resolution, from the date the fee is collected, pursuant to §66.0617(9), Stats. Fees collected more than 7 years from the effective date of the ordinance must be spent in a reasonable time or be refunded. In either event, refunds shall be made to the then-current owner of the property with respect to which the impact fees were imposed with accumulated interest.
- e. The reasonable time frame within which the impact fee must be spent or refunded is 10 years, unless extended for 3 years by resolution due to extenuating circumstances or hardship in meeting the deadline.
- f. The Ordinance shall be interpreted in conjunction with §66.0617, Wis. Stats., including but not limited to the following definitions, including any future revisions thereto:
 - “Builder” means a person or company that contracts with a property owner to build a building;
 - “Developer” means a person that constructs or creates a land or building development;
 - “Land or Building development” means the construction or modification of improvements to real property that creates additional residential dwelling units within a political subdivision or that result in nonresidential building uses that create a need for new, expanded or improved public facilities within a political subdivision.
- g. Impact fees collected may not be expended until approved by the Common Council in accord with Wisconsin statutes and City ordinances.
- h. Any person subject to imposition of a fee under this section who feels aggrieved may appeal to the Common Council which may reduce the fee if

it determines that the impacts created by the proposed development do not reasonably justify the amount of the fee.

17.0303 VIOLATIONS

It shall be unlawful to construct or use any structure, land or water in violation of any of the provisions of this Ordinance. Failure to secure the necessary permits or permission prior to commencing excavation, filling, construction, or taking occupancy shall also constitute a violation. In case of any violation, the Common Council, the Plan Commission, the Zoning Administrator, the Building Inspector, City Planner, or any property owner who would be specifically damaged by such violation, may institute appropriate action or proceedings to enjoin a violation of this ordinance.

17.0304 PENALTIES

Any person, firm or corporation that violates or fails to comply with the provisions of this Ordinance shall, upon notice by the Zoning Administrator or his duly appointed deputy, pay a fee of twice the regular fee or, upon conviction thereof, shall be subject to fines and forfeitures pursuant to Chapter 26 of the City Code plus costs of prosecution for each offense; shall pay documented costs to the City to alleviate or rectify any problem relating to the violation; and shall remove any structure or use placed in violation of this Ordinance, and in default of payment of such forfeiture and costs or removal of structure or use in violation of this ordinance shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues after notification shall constitute a separate offense.

SECTION 17.0400 ZONING DISTRICTS

17.0401 ESTABLISHMENT OF ZONING DISTRICT CLASSIFICATIONS

a. For the purpose of this Ordinance, the City of Pewaukee hereby establishes 33 basic use/zoning district mapping classifications and one (1) overlay district as follows:

A-1	Agricultural District
A-2	Agricultural District
Rs-1	Single-Family Residential District
Rs-2	Single-Family Residential District
Rs-3	Single-Family Residential District
Rs-4	Single-Family Residential District
Rs-5	Single-Family Residential District
Rs-6	Single-Family Residential District
Rs-7	Single-Family Residential District
Rd-1	Two-Family Residential District
Rd-2	Two-Family Residential District
Rm-1	Multiple-Family Residential District
Rm-2	Multiple-Family Residential District
Rm-3	Multiple-Family Residential District
B-1	Neighborhood Business District
B-2	Community Business District
B-3	General Business District
B-4	Office District
B-5	Highway-Business District
B-6	Mixed Use Business District
M-1	General Wholesale Business/Warehouse District
M-2	Limited Industrial District
M-3	General Industrial District
M-4	Industrial Park District
M-5A	Long Term Mineral Extraction District
M-5B	Short Term Mineral Extraction District
M-6	Mixed Use Industrial District
I-1	Urban Institutional District
I-2	Rural Institutional District
P-1	Park and Recreation District
LC	Lowland Conservancy District
UC	Upland Conservancy District
F-1	Floodplain District
SO	Shoreland Overlay District

b. Boundaries of These Districts are established as may be depicted on nine individual maps entitled "Zoning District Map No. ____, City of Pewaukee, Wisconsin along with any maps designated as 'Supplement to Zoning District Map No. ____ of the City of Pewaukee, Wisconsin,'" which compliment and are herein made a part of this Ordinance. Unless otherwise noted on the Zoning District Maps and with the exception of LC, UC, F-1 and SO district boundaries, district boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property lines; or the centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended.

- c. The Boundaries of the F-1 Floodplain District shall be determined by the Floodplain limits shown as the approximate boundary of the designated 100 year recurrence interval (base flood) floodplain on the City Zoning District Maps. The floodplain limits shown on the City Zoning District Maps were taken from the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Administration dated November 19, 2008. **Please see sub-section 17.0435 of this section of this zoning ordinance.**
- d. Vacated Public Streets and Public Ways shall be automatically placed in the same district as the district(s) in which the land lies.

17.0402 ZONING DISTRICT MAPS

A copy of the Zoning District Maps together with any supplementary maps, shall be maintained in the City hall offices for inspection and sale and shall bear upon their face the date the maps were last updated to reflect any prior rezoning actions. Changes in the delineation of zoning district boundaries shall be recorded in the minutes of the Common Council meeting at which such changes were approved as well as in the minutes of the public hearing(s) held before the Plan Commission and the petitions and description of such changes shall be kept in the files of the City Clerk. Such minutes and files shall constitute the written documentation of such changes.

Changes or amendments to the general zoning district maps shall not be effective until approved by the Common Council and the date of such approval entered in the approved minutes of the Common Council meeting and, where applicable, the Plan Commission meeting. Changes in the Floodplain District boundary shall not become effective until approved by the Common Council and any other regulatory unit of government having jurisdiction, including the WisDNR and FEMA.

If adjacent, separate owners of parcels of land that lie within separate zoning classification districts wish to detach a portion of land from one parcel and attach it to the adjacent parcel pursuant to Wis. Stat. 236.45, thereby moving the boundary between the two parcels, and the land being transferred does not represent a buildable parcel under this ordinance, or would not require a change to an existing plat or a certified survey map (CSM), or would not render either original parcel 'non-conforming' as set forth in this ordinance, said transferred land will, upon recording of the transaction with the County Register of Deeds, automatically be changed in zoning classification to be the same as the buildable parcel to which it is being attached.

17.0403 A-1, AGRICULTURAL DISTRICT

The A-1, Agricultural District is intended to provide for the continuation of general farming and related uses in those areas of the City that are not committed to urban development. It is further the intent of this district to protect rural lands in the City from urban development until their orderly and planned transition into urban-oriented districts is either required or desired and as set forth on the City Land Use Plan.

a. Permitted Principal Uses

- (1) Apiculture (beekeeping).
- (2) Dairy farming.
- (3) Floriculture (Cultivation of ornamental flowering plants).
- (4) Grazing or pasturing.
- (5) Livestock raising, except commercial feedlot and fur farms.
- (6) Orchards.
- (7) Paddocks.
- (8) Plant nurseries.
- (9) Poultry raising, except where conducted principally as a retail enterprise.
- (10) Raising of grain, grass, mint, and seed crops.
- (11) Raising of tree fruits, nuts, and berries.
- (12) Sod farming.
- (13) Vegetable or fruit raising.
- (14) Viticulture (grape growing).
- (15) Dwelling units remaining from the consolidation of two farms.
- (16) Barns and other non residential buildings necessary for farm operations.
- (17) Commercial and Hobby Kennels. (Cr. 13-09)

b. Permitted Accessory Uses

- (1) Forest and game management.
- (2) Home occupations and professional home offices as defined herein.
- (3) One (1) roadside stand for selected farm products produced on the premises and not exceeding 150 square feet in floor area, the location of which shall be approved by the Zoning Administrator.(Also see section 17.0700).
- (4) One (1) single-family farm dwelling and attached or detached automobile garage(s).

c. Conditional Uses (Also See Section 17.0500)

- (1) Animal hospitals and shelters. (Amend 13-09)
- (2) Commercial broiler and egg production.
- (3) Commercial feedlots.
- (4) Commercial fur farms.
- (5) Housing for farm laborers not permitted in the principal use section.
- (6) Intensive pig and other livestock raising/fattening operations.
- (7) Housing for seasonal or migratory farm workers.
- (8) Livestock sales facilities.
- (9) Sportsmen's hunting or fishing clubs.
- (10) A second single-family residential dwelling, if the need for more than one (1) single-family dwelling to support and carry on the principal or approved conditional use can be established to the satisfaction of the Plan Commission before issuance of a Building/Zoning permit. If approval for a second farm dwelling is granted, the additional dwelling shall be placed on a separate parcel from the farm property created by a

certified survey map, provided that any parcel so created conforms with all regulations set forth in Section 17.0405 of this ordinance, is properly zoned, and does not reduce the main farm property to less than 35 acres in size.

- (11) Seasonal storage of recreational vehicles and boats if stored inside a farm building.

d. Lot Area and Width

- (1) Farm uses as provided herein including farm structures hereafter erected, moved, or structurally altered shall be located on a contiguous single parcel area of not less than 35 acres, and no farm parcel shall be less than 330 feet in width at the right of way of the principal abutting public street, road or highway.
- (2) Existing residential structures and farm dwellings remaining after the consolidation of existing farms shall provide a separate lot area of not less than five (5) acres that has a lot width at the street, road, or highway of not less than 250 feet. Such lot shall meet all the requirements set forth in section 17.0405 of this ordinance, including zoning.
- (3) When lands in the LC, UC and/or F-1 District lie adjacent to lands in the A-1 District and under the same ownership, such lands may be used to meet up to 80 percent of the lot area requirements of the A-1 District.

e. Building Height and Size

- (1) Buildings or parts of buildings (excepting barns, elevators, grain dryers, and silos) shall not exceed 45 feet in height. (See sub-section 17.0901)
- (2) Farm dwellings or other residential units shall have not less than 1,200 square feet in total floor area per unit.

f. Setbacks and Yards

- (1) There shall be a minimum building (or street) setback of 50 feet from the established street, road, or highway right-of-way.
- (2) There shall be yards of not less than 25 feet on each side of a detached farm dwelling unit.
- (3) There shall be a minimum rear yard of 50 feet on detached farm buildings.
- (4) There shall be yards of not less than 30 feet in width on each side of other detached principal use structures.
- (5) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435).
- (6) Intensive farm operations involving animals permitted as a conditional use shall have a minimum set back of 100 feet from any abutting property, including street and highway right-of-way.

g. Parking Space

No on-street parking will be allowed in an Agricultural Zoning District.

h. Minimum Utility Service

- (1) Electricity.
- (2) If a dwelling unit is present, an approved private water supply and on-site soil absorption sanitary sewage disposal system. (All on-site soil absorption sanitary sewage disposal systems must be approved by the Waukesha County Health and Human Services Department prior to installation).

17.0404 A-2, AGRICULTURAL DISTRICT

The A-2, Agricultural District is intended to provide for, maintain, preserve, and enhance agricultural lands historically utilized for crop production but which are not included within the A-1 Agricultural District primarily because of size and which are generally best suited for small farm uses, including truck farming, horse farming, hobby farming, orchards, and other similar agriculture or horticulture activity.

a. Permitted Principal Uses

- (1) Those principal agricultural uses permitted in the A-1 Agricultural District.
- (2) Agricultural warehousing.
- (3) Contract sorting, grading, and packaging of fruits and vegetables not less than 300 feet from an existing residential subdivision.
- (4) Corn shelling, hay baling, and threshing services not less than 300 feet from an existing residential subdivision.
- (6) Horticultural services.
- (7) Stables, but not more than (1) horse/acre or stall not less than 300 feet from an existing residential subdivision.
- (8) Commercial and Hobby Kennels. (Cr. 13-09)

b. Permitted Accessory Uses

- (1) Those accessory uses permitted in the A-1 Agricultural District.
- (2) Non-rental living quarters within permitted uses for watchmen, caretakers, and hired farm workers and their family.
- (3) Off street parking and loading areas related to the farm operation. (Also see section 17.0700).

c. Conditional Uses (Also See Section 17.0500)

- (1) Bird seed and grain processing.
- (2) Drying and dehydrating of fruits and vegetables.
- (3) Poultry and small game dressing and packing incidental to farm operations providing that all operations are conducted within an enclosed building.
- (4) Production of sausages incidental to farm operations providing that all operations are conducted within an enclosed building.
- (5) Seasonal recreational vehicle and boat storage if completely enclosed within a building.
- (6) Other agricultural crop uses.

d. Lot Area and Width

- (1) No agriculture-related activity and/or structure shall be hereafter erected, moved, enlarged or structurally altered on a parcel of land less than 10 acres in area and no such activity shall be conducted on a parcel that is less than 250 feet in width at the building setback line.
- (2) When lands in the LC, UC and/or F-1 Districts lie adjacent and contiguous to lands in the A-2 District, on the same parcel and under the same ownership, such lands may be used to meet up to 70 percent of the lot area requirements of the A-2 District.

e. Building Height and Size

- (1) No building or parts of a building shall exceed 40 feet in height.
- (2) Farm dwellings or other residential units shall have not less than 1,200 square feet in total floor area per unit.

f. Setback and Yards

- (1) There shall be a minimum farm building setback of 100 feet from any abutting property, including street and highway right-of-way.
- (2) There shall be a minimum set back for all dwellings and related accessory buildings of 50 feet from any abutting property, including street and highway right-of-way.
- (3) There shall be a yard of not less than 25 feet in width on each side of all detached structures.
- (4) There shall be a minimum rear yard of 50 feet on detached farm buildings.
- (5) There shall be yards of not less than 25 feet in width on each side of other detached principal use structures.
- (6) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435).

g. Parking Space

No on-street parking will be allowed in an Agricultural Zoning District.

h. Minimum Utility Service

- (1) Electricity
- (2) If a dwelling unit is present, an approved private water supply and on-site soil absorption sanitary sewage disposal system. (All on-site soil absorption sanitary sewage disposal systems must be approved by the Waukesha County Health and Human Services Department prior to installation.)

17.0405 Rs-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

The Rs-1, Single-Family Residential District is intended to provide for only detached single-family residential development in predominantly rural areas, at densities not to exceed 0.20 dwelling unit per net acre.

a. Permitted Principal Uses

- (1) Single-family dwelling with attached or detached garages as defined in section 17.1402.
- (2) Foster homes and community living arrangements, **including CBRFs**, as set forth in Wisconsin Statutes.
- (3) Family day-care home as set forth in Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) Home occupations and professional home offices as defined in sub-section 17.1402.
- (2) The keeping of certain pets in outdoor pens or detached buildings when adjacent parcels are not less than five (5) acres in size, as follows:
 - (a) Not more than (1) horse more than six (6) months of age per two (2) acres.
 - (b) Hobby Kennels. (Rep & Rec 13-09)
- (3) Yard and gardening equipment storage structures not exceeding 192 square feet in area. (Also see section 17.0700)

c. Conditional Uses (Also See Section 17.0500)

- (1) Raising of poultry or fowl for eggs, meat or meat by-products for family consumption, and not for sale on the premises, but not in a platted subdivision.
- (2) Raising of animals for meat or meat by-products for family consumption, and not for sale on the premises, but not in a platted subdivision.
- (3) Raising of fish for meat or meat by-products for family consumption, and not for sale on the premises, but not in a platted subdivision.
- (4) Operation of small animal indoor training and grooming facility, but not in a platted subdivision.

d. Lot Area and Width

- (1) Lots shall have a minimum area of five (5) net acres.
- (2) Lots shall have a width of not less than 220 feet at the building setback line.
- (3) When lands in the LC, UC and/or F-1 District lie adjacent to lands in the Rs-1 District, on the same parcel and under the same ownership, such lands may be used to meet up to 50 percent of the lot area requirements of the Rs-1 District.

e. Building Height and Size

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
- (2) No accessory structure shall exceed 18 feet in height.
- (3) The minimum floor area of a one or two-story dwelling unit shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Area	Minimum First Floor Area
One	1,200 square feet	1,200 square feet
Two	1,300 square feet	1,200 square feet
Three	1,500 square feet	1,200 square feet
Four or More	1,700 square feet	1,200 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (4) The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 2.5 percent of the lot area.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 50 feet from the right-of-way of all public streets, roads, or highways.
- (2) There shall be a side yard on each side of all structures not less than 30 feet in width.
- (3) There shall be a rear yard of not less than 35 feet.
- (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)
- (5) There shall be a minimum setback of 100 feet from any abutting property for any building primarily used for housing or sheltering animals.

g. Parking Space

See Section 17.0600

h. Minimum Utility Service

Electricity, approved private water supply, and an approved on-site soil absorption sanitary sewage disposal system. All on-site soil absorption sanitary disposal systems must be approved by the Waukesha County Health and Human Services Department prior to installation. **Note: If public sanitary sewerage and/or water supply facilities are available to the property, no on-site sewage disposal system or private water supply system will be permitted to be constructed.**

17.0406 Rs-2, SINGLE-FAMILY RESIDENTIAL DISTRICT

The Rs-2, Single-Family Residential District is intended to provide for only detached single-family residential development in predominantly rural areas where historic development patterns or lack of public utilities make impractical the use of the Rs-1 or Rs-3 district regulations, and at densities not to exceed 0.50 dwelling unit per net acre.

a. Permitted Principal Uses

- (1) One Single-family dwelling with attached or detached garages as defined in section 17.1402.
- (2) Foster homes and community living arrangements, including CBRFs, as set forth in Wisconsin Statutes.
- (3) Family day-care home as set forth in Section 66.1017 of Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) Home occupations and professional home offices as defined herein.
- (2) Yard and gardening equipment storage structures not exceeding 192 square feet in area. (Also see section 17.0700).
- (3) Hobby Kennels. (Cr. 13-09)

c. Repealed 13-09

d. Lot Area and Width

- (1) Lots shall have a minimum area of 2.0 net acres.
- (2) Lots shall have a width of not less than 220 feet at the building setback line.

e. Building Height and Size

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
- (2) No accessory structure shall be more than 18 feet in height.
- (3) The minimum floor area of one or two-story dwelling unit shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Area	Minimum First Floor Area
One	1,200 square feet	1,200 square feet
Two	1,300 square feet	1,200 square feet
Three	1,500 square feet	1,200 square feet
Four or More	1,700 square feet	1,200 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (4) The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 6.0 percent of the lot area.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 45 feet from the right-of-way of all public streets, roads, or highways.
- (2) There shall be a side yard on each side of all structures not less than 25 feet in width.
- (3) There shall be a rear yard of not less than 35 feet.
- (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)
- (5) There shall be a minimum set back of 100 feet from any abutting property for any building primarily used for housing or sheltering animals.

g. Parking Space

See Section 17.0600

h. Minimum Utility Service

Electricity, approved private water supply, and an approved on-site soil absorption sanitary sewage disposal system. All on-site soil absorption sanitary disposal systems must be approved by the Waukesha County Health and Human Services Department prior to installation. **Note: If public sanitary sewerage and/or water supply facilities are available to the property, no on-site sewage disposal system or private water supply system will be permitted to be constructed.**

17.0407 Rs-3, SINGLE-FAMILY RESIDENTIAL DISTRICT

The Rs-3, Single-Family Residential District is intended to provide for only detached single-family residential development at densities not exceeding 1.00 dwelling unit per net acre and serviced by City sewer and water facilities*.

a. Permitted Principal Uses

- (1) Single-family dwelling with attached or detached garages as defined in section 17.1402.
- (2) Foster homes and community living arrangements, **including CBRFs**, as set forth in Wisconsin Statutes.
- (3) Family day-care home as set forth in Section 66.1017 of Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) Home occupations and professional home offices as defined herein.
- (2) Yard and gardening equipment storage structures not exceeding 192 square feet in area. (Also see section 17.0700).
- (3) Hobby Kennels. (Cr. 13-09)

c. Conditional Uses (Also See Section 17.0500)

Residential planned unit development (PUD) such as cluster developments or detached condominiums. The district lot size and frontage and yard requirements may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design and all common structures, facilities, utilities, access and open spaces shall be assured by deed, plat restrictions, and/or condominium declaration, enforceable by the City. All PUD's shall comply with the following minimum standards:

- (1) The minimum PUD development area shall be 25 gross acres.
- (2) The minimum PUD lot or space area shall be two thirds (2/3) acre (29,041 sq. ft.) per dwelling unit.
- (3) The minimum PUD lot or space width at the building set back line shall be 100 feet.
- (4) The minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in 'f'1 and 3 below, may be reduced by up to 33 percent.
- (5) No detached structure shall be located closer than 40 feet to another structure within the PUD development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.

d. Lot Area and Width

- (1) Lots shall have a minimum area of one (1) acre.
- (2) Lots shall have a width of not less than 150 feet at the building setback line.

e. Building Height and Size

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
- (2) The minimum floor area of a one or two-story dwelling unit shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Area	Minimum First Floor Area
One	1,200 square feet	1,200 square feet
Two	1,300 square feet	1,200 square feet
Three	1,500 square feet	1,200 square feet
Four or More	1,700 square feet	1,200 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (3) No accessory structure shall be more than 18 feet in height.
- (4) The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 10.0 percent of the lot area.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 45 feet from the right-of-way of all public streets, roads, or highways.
- (2) There shall be a side yard on each side of all structures not less than 20 feet in width.
- (3) There shall be a rear yard of not less than 35 feet.
- (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

g. Parking Space

See Section 17.0600

h. Minimum Utility Service*

Electricity and public sanitary sewerage and water supply facilities except as noted elsewhere in this subsection.

*- Lots of record prior to August 1982 and less than two (2) acres in size may be served by approved on-site soil absorption sewage disposal systems and private water supply systems if approved by the Waukesha County Health and Human Services Department and the City Plan Commission and no public sanitary sewerage system or public water supply system is available to the property.

17.0408 Rs-4, SINGLE-FAMILY RESIDENTIAL DISTRICT

The Rs-4, Single-Family Residential District is intended to provide for only detached single-family residential development at densities not exceeding 2.18 dwelling units per net acre and served by municipal sewer and water supply facilities.

a. Permitted Principal Uses

- (1) Single-family dwelling with attached or detached garages as defined in section 17.1402.
- (2) Foster homes and community living arrangements, **including CBRFs**, as set forth in Wisconsin Statutes.
- (3) Family day-care home as set forth in Section 66.1017 of Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) Home occupations and professional home offices as defined herein.
- (2) Yard and gardening equipment storage structures not exceeding 192 square feet in area. (Also see section 17.0700).
- (3) Hobby Kennels. (Cr. 13-09)

c. Conditional Uses (Also See Section 17.0500)

Residential planned unit development (PUD) such as cluster developments and detached condominiums. The district lot size and frontage and yard requirements may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design and all common structures, facilities, utilities, access and open spaces shall be assured by deed, plat restrictions, and/or condominium declaration, enforceable by the City. All PUD's shall comply with the following minimum standards:

- (1) Minimum PUD development area shall be 25 acres.
- (2) Minimum PUD lot or space area shall be 14,000 square feet.
- (3) Minimum PUD lot or space width at the street setback line shall be 80 feet.
- (4) Minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in 'f' 1 and 3 below may be reduced by up to 30 percent.
- (5) No detached structure shall be located closer than 40 feet to another structure within the PUD development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.

d. Lot Area and Width

- (1) Lots shall have a minimum area of 20,000 square feet.
- (2) Lots shall have a width of not less than 110 feet at the building setback line.

e. Building Height and Size

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
- (2) No accessory structure shall be more than 18 feet in height.
- (3) The minimum floor area of a one of two-story dwelling unit shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Area	Minimum First Floor Area
One	1,200 square feet	1,200 square feet
Two	1,300 square feet	1,200 square feet
Three	1,500 square feet	1,200 square feet
Four or More	1,700 square feet	1,200 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (4) The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 25 percent of the lot area.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 40 feet from the right-of-way of all public streets, roads, or highways.
- (2) There shall be a side yard on each side of all structures not less than 20 feet in width.
- (3) There shall be a rear yard of not less than 35 feet.
- (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland.
 (Also see sub-section 17.0435)

g. Parking Space

See Section 17.0600

h. Minimum Utility Service

Electricity and public sanitary sewerage and water supply facilities.

17.0409 Rs-5, SINGLE-FAMILY RESIDENTIAL DISTRICT

The Rs-5, Single-Family Residential District is intended to provide for only detached single-family residential development at densities not exceeding 2.90 dwelling units per net acre and served by municipal sewer and water facilities.

a. Permitted Principal Uses

- (1) Single-family dwelling with attached or detached garages as defined in section 17.1402.
- (2) Foster homes and community living arrangements, **including CBRFs**, as set forth in Wisconsin Statutes.
- (3) Family day-care home as set forth in Section 66.1017 of Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) Home occupations and professional home offices as defined herein.
- (2) Yard and gardening equipment storage structures not exceeding 192 square feet in area. (Also see section 17.0700).
- (3) Hobby Kennels. (Cr. 13-09)

c. Conditional Uses (Also See Section 17.0500)

Residential planned unit development (PUD) such as cluster developments and detached condominiums. The district lot size and frontage and yard requirements may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design and all common structures, facilities, utilities, access and open spaces shall be assured by deed, plat restrictions, and/or condominium declaration, enforceable by the City. All PUD's shall comply with the following minimum standards:

- (1) Minimum PUD development area shall be 25 acres.
- (2) Minimum PUD lot or space area shall be 10,000 square feet.
- (3) Minimum PUD lot or space width shall be 80 feet.
- (4) Minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in 'f' 1 and 3 below may be reduced by up to 30 percent.
- (5) No detached structure shall be located closer than 40 feet to another structure within the PUD development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.

d. Lot Area and Width

- (1) Lots shall have a minimum area of 15,000 square feet.
- (2) Lots shall have a width of not less than 100 feet at the building setback line.

e. Building Height and Size

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
- (2) The minimum floor area of a one of two-story dwelling unit shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Area	Minimum First Floor Area
One	1,200 square feet	1,000 square feet
Two	1,300 square feet	1,000 square feet
Three	1,500 square feet	1,000 square feet
Four or More	1,700 square feet	1,000 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (3) No accessory structure shall be more than 18 feet in height.
- (4) The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 30 percent of the lot area.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 40 feet from the right-of-way of all public streets, roads, or highways.
- (2) There shall be a side yard on each side of all structures not less than 15 feet in width.
- (3) There shall be a rear yard of not less than 35 feet.
- (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

g. Parking Space

See Section 17.0600

h. Minimum Utility Service

Electricity and public sanitary sewerage and water supply facilities.

17.0410 Rs-6, SINGLE-FAMILY RESIDENTIAL DISTRICT

The Rs-6, Single-Family Residential District is intended to provide for only detached single-family residential development at densities not exceeding 3.49 dwelling units per net acre and served by municipal sewer and water facilities.

a. Permitted Principal Uses

- (1) Single-family dwelling with attached or detached garages as defined in section 17.1402.
- (2) Foster homes and community living arrangements, **including CBRFs**, as set forth in Wisconsin Statutes.
- (3) Family day-care home as set forth in Section 66.1017 of Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) Home occupations and professional home offices as defined herein.
- (2) Yard and gardening equipment storage structures not exceeding 192 square feet in area. (Also see section 17.0700).
- (3) Hobby Kennels. (Cr. 13-09)

c. Conditional Uses (Also See Section 17.0500)

Residential planned unit development (PUD) such as cluster developments and detached condominiums. The district lot size and frontage and yard requirements may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design and all common structures, facilities, utilities, access and open spaces shall be assured by deed, plat restrictions, and/or condominium declaration, enforceable by the City. All PUD's shall comply with the following minimum standards:

- (1) Minimum PUD development area shall be 25 acres.
- (2) Minimum PUD lot or space area shall be 9,000 square feet.
- (3) Minimum PUD lot or space width shall be 70 feet.
- (4) Minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in "f" 1 and 3 below may be reduced by up to 33 percent.
- (5) No detached structure shall be located closer than 40 feet to another structure within the PUD development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.

d. Lot Area and Width

- (1) Lots shall have a minimum area of 12,500 square feet.
- (2) Lots shall have a width of not less than 90 feet at the building setback line.

e. Building Height and Size

- (1) No principal building shall exceed 35 feet in height.
- (2) No accessory building shall exceed 18 feet in height.
- (3) The minimum floor area of a one and two-story dwelling unit shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Area	Minimum First Floor Area
One	1,100 square feet	900 square feet
Two	1,200 square feet	900 square feet
Three	1,300 square feet	900 square feet
Four or More	1,400 square feet	900 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (4) The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 30 percent of the lot area.
- f. Setback and Yards
- (1) There shall be a minimum building (or street) setback of 30 feet from the right-of-way of all public streets, roads, or highways.
 - (2) There shall be a side yard on each side of all structures not less than 12 feet in width.
 - (3) There shall be a rear yard of not less than 35 feet.
 - (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all streams and bodies of water and 25 feet from any designated wetland. (Also see subsection 17.0435)
- g. Parking Space
See Section 17.0600
- h. Minimum Utility Service
Electricity and public sanitary sewerage and water supply facilities.

17.0411 Rs-7, SINGLE-FAMILY RESIDENTIAL DISTRICT (Renamed 13-09)

a. The Rs-7, Single-Family Residential District is intended to accommodate only existing single-family residential uses or parcels within the older, established areas of the City where such uses are located on lots or parcels of land which are within predominantly residential areas, do not conform to the restrictions set forth in the Rs-6 district, and were "lots of record" prior to August 1982. Any single-family residential use or structure existing in the Rs-7 Zoning District shall be considered to be a conforming use but may not be altered to change the principal use and may only be structurally altered in conformance with the requirements set forth in sub-section 17.0410 with the exception that the setback and yard requirements may be changed as follows:

The street yard setback may be reduced to the average of the yards on each side within the same block but to not less than 20 feet. The existing side yard on each side of the structure may be considered the side yard for purposes of structural expansion; and, the rear yard may be reduced to 20 feet unless adjacent to a designated 100 year recurrence interval (base flood) floodplain (see 17.0435).

In addition, existing non-conforming parcels of land in the older, established areas of the City (particularly the Lake Pewaukee shore area) may be placed in this district if no other residential district is appropriate, but may not be altered in any way or a residence constructed thereon except in conformance with the requirements set forth in Section 17.0410 and 17.0436, with the exception that the setback and yard requirements set forth in Section 17.0410 may be reduced as follows:

The street yard setback may be reduced to the average of the nearest residences on each side of the parcel in question but to not less than 20 feet; the side yard requirement on lots 60-89 feet in width may be reduced by one (1) foot for each ten (10) feet less than 90 feet; and, lots less than 60 feet in width may be reduced by an additional one (1) foot for each five (5) feet less than 60 feet, but to not less than five (5) feet and with the exception that residences over one story in height must have a side yard setback of at least eight (8) feet. The rear yard may be reduced to 20 feet unless adjacent to a designated 100 year recurrence interval (base flood) floodplain (See 17.0435 and 17.0436). (See table below.)

Further, any such existing uses which lie within the shoreland or floodplain areas in the City must comply with all Waukesha County Shoreland regulations or sub-section 17.0436 of this ordinance, whichever is more restrictive.

b. Permitted Accessory Uses: Hobby Kennels. (Cr. 13-09)

SIDE YARD REDUCTION ON EXISTING PARCELS IN THE Rs-7 ZONING DISTRICT			
LOT WIDTH	MINIMUM SIDE YARD	LOT WIDTH	MINIMUM SIDE YARD
90 ft. - 99.9 ft.	12 ft.	55 ft. – 59.9 ft.	8 ft.
80 ft. - 89.9 ft.	11 ft.	50 ft. – 54.9 ft.*	7 ft.
70 ft. - 79.9 ft.	10 ft.	45 ft. – 49.9 ft.*	6 ft.
60 ft. - 69.9 ft.	9 ft.	Less than 45 ft.*	5 ft.

* **Residences on these lots over one story in height must have a side yard setback of at least eight (8) feet.**

17.0412 Rd-1, TWO-FAMILY RESIDENTIAL DISTRICT

The Rd-1, Two-Family Residential District is intended to provide for only two-family residential building construction at densities not exceeding 3.96 dwelling units per net acre and served by municipal sewer and water facilities.

a. Permitted Principal Uses

- (1) Two-family dwelling structure with two 2-car attached or detached private garages as defined in section 17.1402.
- (2) Foster homes and community living arrangements as set forth in Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) Yard and gardening equipment storage structures not exceeding 192 square feet in area and compatible in exterior design and building material with the principal structure. (Also see section 17.0700).
- (2) Hobby Kennels. (Cr. 13-09)

c. Conditional Uses (See Section 17.0500)

- (1) Home occupations and professional home offices as defined herein.
- (2) Residential planned unit development (PUD) such as cluster development, two-story townhouses, and condominiums. The district lot size and frontage and yard requirements may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design and all common structures, facilities, utilities, access and open spaces shall be assured by deed, plat restrictions, and/or condominium declaration enforceable by the City. All PUD's shall comply with the following minimum standards:
 - (a) The minimum PUD development area shall be 25 developable acres.
 - (b) The minimum PUD lot or space area shall be 15,000 square feet (or 7,500 square feet per unit).
 - (c) The minimum average PUD lot or space width shall be 80 feet.
 - (d) The minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in 'f' 1 and 3 below may be reduced by 25 percent.
 - (e) No detached principal structure shall be located closer than 40 feet to any other structure within the development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.

d. Lot Area and Width

- (1) Lots shall have a minimum area of 22,000 square feet, with not less than 11,000 square feet per dwelling unit.
- (2) Lots shall have a width of not less than 130 feet at the building setback line.

e. Building Height and Size

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
- (2) No accessory building shall be more than 18 feet in height.
- (3) The minimum floor area of a one- or two-story dwelling unit shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Area	Minimum First Floor Area
One or less	900 square feet	900 square feet
Two	1,100 square feet	900 square feet
Three or more	1,200 square feet	900 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (4) The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 35 percent of the lot area.

- f. Setback and Yards
 - (1) There shall be a minimum building (or street) setback of 40 feet from the right-of-way of all public streets, roads, or highways.
 - (2) There shall be a side yard on each side of all structures not less than 20 feet in width.
 - (3) There shall be a rear yard of not less than 30 feet.
 - (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

- g. Parking Space
 There shall be a minimum of three (3) off-street parking spaces provided for each residential unit of which two (2) must be in a garage. (see Section 17.0600)

- h. Minimum Utility Service
 Electricity and public sanitary sewerage and water supply facilities.

17.0413 Rd-2, TWO-FAMILY RESIDENTIAL DISTRICT

The Rd-2, Two-Family Residential District is intended to provide for only two-family residential building construction at densities not exceeding 4.84 dwelling units per net acre and served by municipal sewer and water facilities.

a. Permitted Principal Uses

- (1) Two-family dwelling structure with two 2-car attached or detached garages as defined in section 17.1402.
- (2) Foster homes and community living arrangements as set forth in Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) Yard maintenance equipment storage structure not exceeding 192 square feet in area and compatible in design and building material with the principal structure. (Also see section 17.0700).
- (2) Hobby Kennels. (Cr. 13-09)

c. Conditional Uses (See Section 17.0500)

- (1) Home occupations and professional home offices as defined herein.
- (2) Residential planned unit development (PUD) such as cluster development, two-story townhouses, and condominiums. The district lot size and frontage and yard requirements may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design and all common structures, facilities, utilities, access and open spaces shall be assured by deed, plat restrictions, and/or condominium declaration enforceable by the City. All PUD's shall comply with the following minimum standards:
 - (a) The minimum PUD development area shall be 10 developable acres.
 - (b) The minimum PUD lot or space area shall be 12,000 square feet (or 6,000 square feet per unit).
 - (c) The minimum average PUD lot or space width shall be 40 feet.
 - (d) The minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in 'f' 1 and 3 below may be reduced by 25 percent.
 - (e) No detached principal structure shall be located closer than 40 feet to another structure within the development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.

d. Lot Area and Width

- (1) Lots shall have a minimum area of 18,000 square feet, with not less than 9,000 square feet per dwelling unit.
- (2) Lots shall have a width of not less than 120 feet at the building setback line.

e. Building Height and Size

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
- (2) All accessory buildings shall be no more than 18 feet in height.
- (3) The minimum floor area of a one or two-story dwelling unit shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Area	Minimum First Floor Area
One or less	900 square feet	900 square feet
Two	1,100 square feet	900 square feet
Three or more	1,200 square feet	900 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (4) The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 40 percent of the lot area.

- f. Setback and Yards
 - (1) There shall be a minimum building (or street) setback of 40 feet from the right-of-way of all public streets, roads, or highways.
 - (2) There shall be a side yard on each side of all structures not less than 20 feet in width.
 - (3) There shall be a rear yard of not less than 30 feet.
 - (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

- g. Parking Space
 There shall be a minimum of three (3) off street parking spaces provided for each residential unit of which two (2) must be in a garage. (see Section 17.0600)

- h. Minimum Utility Service
 Electricity and public sanitary sewerage and water supply facilities.

17.0414 Rm-1, MULTIPLE-FAMILY RESIDENTIAL DISTRICT

The Rm-1, Multi-Family Residential District is intended to provide for multiple-family residential development at densities not exceeding 6.00 dwelling units per net acre and served by municipal sewer and water facilities.

a. Permitted Principal Uses

- (1) Three to eight unit multiple-family structure(s) with one 2-car attached or detached private garages per unit as defined in section 17.1402.
- (2) Foster homes and community living arrangements as set forth in Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) A yard maintenance equipment structure not exceeding a total of 192 square feet in area and compatible in design and exterior material with the principal structure. (Also see section 17.0700).

c. Conditional Uses (See Section 17.0500)

Residential planned unit development (PUD) such as cluster developments, and two-story townhouses and condominiums. The district lot size and frontage and yard requirements may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design and all common structures, facilities, utilities, access and open spaces shall be assured by deed, plat restrictions, and/or condominium declaration enforceable by the City. All PUD's shall comply with the following minimum standards:

- (1) The minimum PUD development area shall be 25 acres.
- (2) The minimum PUD lot or space area shall not be less than 0.33 acre with not less than 4,840 square feet per dwelling unit.
- (3) The minimum average PUD lot or space width shall be 80 feet per detached three or four-unit structure and 20 feet for each unit of a townhouse or attached condominium complex.
- (4) The minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in 'f' 1 and 3 below may be reduced by 30 percent.
- (5) No detached principal structure shall be located closer than 40 feet to another structure within the development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.

d. Lot Area and Width

- (1) Lots shall have a minimum area of 0.5 acre, with not less than 7,260 square feet per dwelling unit.
- (2) Lots shall have a width of not less than 120 feet at the building setback line.

e. Building Height and Size (See subsection 17.0210)

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
- (2) No accessory building shall be more than 18 feet in height.
- (3) The minimum floor area of a principal structure shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Floor Area per Dwelling Unit	Minimum Total Floor Area per Structure
Efficiency	400 square feet	1,200 square feet
One	650 square feet	1,950 square feet
Two	800 square feet	2,400 square feet
Three or more	1,000 square feet	3,000 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (4) The sum total of the first floor of the principal building and all accessory buildings shall not exceed 20 percent of the lot area.

- f. Setback and Yards
 - (1) There shall be a minimum building (or street) setback of 35 feet from the street right-of-way.
 - (2) There shall be a side yard on each side of all structures not less than 25 feet in width.
 - (3) There shall be a rear yard of not less than 35 feet.
 - (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

- g. Parking Space
There shall be a minimum of two and one-half (2-1/2) 200-square-foot off-street parking spaces provided for each residential unit, of which at least two (2) must be located in a garage as defined in sub-section 17.1402 (Also see Section 17.0600)

- h. Minimum Utility Service
Electricity and public sanitary sewerage and water supply facilities.

- i. Special Regulations
Every builder of any building hereafter erected or structurally altered for multiple-family use shall, before a Building and/or Zoning permit is issued, present detailed plans and specifications of the proposed site and structure(s) to the City Plan Commission, which will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or traffic congestion or otherwise endanger the public health or safety or substantially diminish or impair property values within the neighborhood. (Also see sub-section 17.0210)

17.0415 Rm-2, MULTIPLE-FAMILY RESIDENTIAL DISTRICT

The Rm-2, Multi-Family Residential District is intended to provide for multiple-family residential development at densities not exceeding 9.00 dwelling units per net acre and served by municipal sewer and water facilities.

a. Permitted Principal Uses

- (1) Three to eight unit multiple-family structure(s) with one 2-car attached or detached garages per unit as defined in section 17.1402.
- (2) Foster homes and community living arrangements as set forth in Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) A yard maintenance equipment structure not exceeding a total of 192 square feet in area and compatible in design and exterior material with the principal structure. (Also see Section 17.0700)

c. Conditional Uses (See Section 17.0500)

- (1) Residential planned unit development (PUD) such as cluster developments, townhouses, and condominiums. The district lot size and frontage and yard requirements may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design and all common structures, facilities, utilities, access and open spaces shall be assured by deed, plat restrictions, and/or condominium declaration enforceable by the City. All PUD's shall comply with the following minimum standards:
 - (a) The minimum PUD development area shall be 25 acres.
 - (b) The minimum PUD lot or space area shall not be less than 0.22 acre with not less than 3,227 square feet per dwelling unit.
 - (c) The minimum average PUD lot or space width shall be 100 feet per detached three or four-unit structure and 20 feet for each unit of a townhouse or attached condominium complex.
 - (d) The minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in "f" 1 and 3 below may be reduced by 30 percent.
 - (e) No detached principal structure shall be located closer than 40 feet to another structure within the development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.
- (2) Mobile Home Parks provided that each such park complies with the following standards:
 - (a) The minimum park size shall be ten (10) acres.
 - (b) The minimum park width shall be 450 feet at the building setback line.
 - (c) The maximum number of mobile home sites shall be nine (9) per net acre.
 - (d) A minimum of 40 percent of the development area shall be comprised of grass and/or live landscape plantings, exclusive of mobile home unit sites, streets, roads, and public or general purpose parking.
 - (e) The minimum lot area for a single module mobile home shall be 4,840 square feet and such mobile home lot shall be a minimum of 50 feet in width.

- (f) The minimum lot area for a double module mobile home shall be 6,000 square feet and such mobile home lot shall be a minimum of 60 feet in width.
 - (g) The minimum setback for a mobile home park building, structure, or unit shall be 75 feet from the right-of-way line of a street, road or highway, which abuts the development.
 - (h) The minimum distance between any park structure, mobile home unit, or accessory storage structures and all other exterior park lot lines shall be 40 feet.
 - (i) The minimum distance between mobile home units and access streets shall be 25 feet.
 - (j) The minimum side yard distance between mobile home units shall be 40 feet.
 - (k) There shall be two off-street parking spaces provided for each mobile home unit and all interior streets and general parking areas shall be constructed to City specifications and all mobile home unit parking areas and all walkways shall be surfaced pursuant to City specifications.
 - (l) No mobile home sales office, business, or other commercial use shall be located on the mobile home park site, however, laundries, washrooms, recreation rooms, maintenance equipment storage areas, and one mobile home park office necessary for the use of mobile home park residents are permitted.
 - (m) Each mobile home park shall be screened, except for permitted entrances and exits, with a permanent evergreen planting, the individual trees to be of such a number and size and so arranged that within five (5) years they will have formed a dense screen. Such permanent plantings shall be grown or maintained to a height of not less than 10 feet.
 - (n) All mobile homes shall meet the construction standards of the Mobile Home Manufacturers Association.
 - (o) Each mobile home shall be anchored by connecting the under-frame directly to a minimum of six (6), two and one-half (2-1/2)-foot-long, one (1) inch diameter "eye" bolt anchors permanently imbedded in concrete piers of not less than three (3) feet in length which shall be an integral part of a six (6) inch thick concrete pad upon which the mobile home must be placed.
 - (p) No mobile home site shall be rented for a period of less than six months.
 - (q) All mobile homes shall be fully "skirted" to at least within one foot of the pad with the same siding material as on the mobile home.
- d. Lot Area and Width
- (1) Lots shall have minimum area of 0.33 acre, with not less than 4,840 square feet per dwelling unit.
 - (2) Lots shall have a width of not less than 120 feet at the building setback line.
- e. Building Height and Size (See subsection 17.0210)
- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
 - (2) No accessory building shall exceed 18 feet in height.
 - (3) The minimum floor area of a principal structure shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Floor Area per Dwelling Unit	Minimum Total Floor Area per Structure
Efficiency	400 square feet	1,200 square feet
One	650 square feet	1,950 square feet
Two	800 square feet	2,400 square feet
Three or more	1,000 square feet	3,000 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

(4) The sum total of the first floor area of the principal building and all accessory buildings shall not exceed 20 percent of the lot area.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 35 feet from the street right-of-way.
- (2) There shall be a side yard on each side of all structures not less than 25 feet in width.
- (3) There shall be a rear yard of not less than 35 feet.
- (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

g. Parking Space

There shall be a minimum of two and one-half (2-1/2) 200-square-foot off-street parking spaces provided for each residential unit, of which at least two (2) must be located in a garage as defined in Section 17.1402. (Also see section 17.0600)

h. Minimum Utility Service

Electricity and public sanitary sewerage and water supply facilities.

i. Special Regulations

Every builder of any building hereafter erected or structurally altered for multiple-family use shall, before a Building and/or Zoning permit is issued, present detailed plans and specifications of the proposed site and structure to the City Plan Commission, which will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or traffic congestion or otherwise endanger the public health or safety or substantially diminish or impair property values within the neighborhood. (Also see subsection 17.0210)

17.0416 Rm-3, MULTIPLE-FAMILY RESIDENTIAL DISTRICT

The Rm-3, Multi-Family Residential District is intended to provide for multiple-family residential development at densities not exceeding 12.00 dwelling units per net acre and served by municipal sewer and water facilities.

a. Permitted Principal Uses

- (1) Three to eight unit multiple-family structure(s) with one 2-car attached or detached garage per unit as defined in Section 17.1402.
- (2) Foster homes and community living arrangements as set forth in Wisconsin Statutes.

b. Permitted Accessory Uses

- (1) A yard maintenance equipment structure not exceeding a total of 192 square feet in area and compatible in design and exterior material with the principal structure. (Also see Section 17.0700).

c. Conditional Uses (See Section 17.0500)

- (1) Residential planned unit development (PUD) such as cluster developments, townhouses, and condominiums with no individual building containing more than 40 dwelling units. The district lot size and frontage and yard requirements may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design and all common structures, facilities, utilities, access and open spaces shall be assured by deed, plat restrictions, and/or condominium declaration enforceable by the City. All PUD's shall comply with the following minimum standards:
 - (a) The minimum PUD development area shall be 25 acres.
 - (b) The minimum PUD lot or space area shall not be less than 0.17 acre with not less than 2,420 square feet per dwelling unit.
 - (c) The minimum average PUD lot or space width shall be 110 feet per detached three to eight unit structure and 20 feet for each unit of a townhouse or attached condominium complex.
 - (d) The minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in "f"1 and 3 below may be reduced by 30 percent.
 - (e) No detached structure shall be located closer than 40 feet to another structure within the development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.
- (2) Housing for the Elderly or Assisted Living Housing units, provided that each such housing structure complies with the following standards:
 - (a) The minimum development area shall be three (3) acres.
 - (b) The minimum lot area shall be one (1) acre.
 - (c) The minimum net lot area per dwelling unit shall be 2,420 square feet.
 - (d) The maximum number of dwelling units in an individual building shall not exceed 40.
 - (e) The minimum average lot width shall be 150 feet.
 - (f) No dwelling unit shall have more than two (2) bedrooms.
 - (g) The minimum total floor area for each dwelling unit shall be 250 square feet for efficiency units, 400 square feet for one (1) bedroom units, and 550 square feet for two (2) bedroom units.

- (h) There shall be a minimum of two (2) paved off-street parking spaces provided for each dwelling unit, of which one shall be inside a garage as defined in Sec 17.1402.
- (i) All regulations of this district shall be complied with.

d. Lot Area and Width

- (1) Lots shall have minimum area of 0.25 acres, with not less than 3,630 square feet per dwelling unit.
- (2) Lots shall have a width of not less than 150 feet at the building setback line.

e. Building Height and Size (See subsection 17.0210)

- (1) No principal building or parts of a principal building shall exceed 35 feet in height.
- (2) No accessory building shall exceed 18 feet in height.
- (3) The minimum floor area of a principal structure shall be as follows:

Number of Bedrooms Per Dwelling Unit	Minimum Total Floor Area per Dwelling Unit	Minimum Total Floor Area per Structure
Efficiency	350 square feet	1,050 square feet
One	525 square feet	1,575 square feet
Two	650 square feet	1,950 square feet
Three or more	750 square feet	2,250 square feet
Four or More	850 square feet	2,550 square feet

No bedroom shall be less than 100 square feet in area exclusive of closets.

- (4) The sum total of the first floor area of the principal and all accessory buildings shall not exceed 25 percent of the developable lot area.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 35 feet from the street right-of-way.
- (2) There shall be a side yard on each side of all structures not less than 30 feet in width.
- (3) There shall be a rear yard of not less than 35 feet.
- (4) There shall be a minimum building setback of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

g. Parking Space

There shall be a minimum of two and one-half (2-1/2) off-street parking spaces provided for each residential unit, of which at least two (2) must be located in a garage as defined in Section 17.1402 per unit. (Also see Section 17.0600)

h. Minimum Utility Service

Electricity and public sanitary sewerage and water supply facilities.

i. Special Regulations

Every builder of any building hereafter erected or structurally altered for multiple-family use shall, before a Building and/or Zoning permit is issued, present detailed plans and specifications of the proposed site and structure to the City Plan Commission, which will approve said plans only after determining that the proposed building will not impair an adequate supply light and air to adjacent property or substantially increase the danger of fire or traffic congestion or otherwise endanger the public health or safety or substantially diminish or impair property values within the neighborhood. (Also see Section 17.0210)

17.0417 B-1, NEIGHBORHOOD BUSINESS DISTRICT

The B-1, Neighborhood Business District is intended to provide for individual or small groups of retail and customer service retail establishments catering to the general public in a 'shopping center' or 'strip' development setting having limited hours of operation and with one or more principal buildings. This district is generally separated from other major commercial areas but near residential development and include such amenities as increased open space and ample off-street parking and loading areas and architectural or landscape screening from adjacent non-business uses, making such retail centers more compatible with the character of adjacent or nearby residential districts.

a. Permitted Principal Uses

- (1) The following retail or service establishments selling services or selling and storing primarily new merchandise for sale to the general public:
 - (a) Art, dance, or music teaching studios.
 - (b) Architects, engineers, or other similar professional offices.
 - (c) Bakery goods stores.
 - (d) Banks, savings and loan associations, and other financial institutions.
 - (e) Barber and beauty shops.
 - (f) Candy/confectionary stores.
 - (g) Clothing stores.
 - (h) Delicatessens (with restricted hours of operations set by the Plan Commission).
 - (i) Dentist, physician, or other similar professional health offices.
 - (j) Drug stores. (Pharmacies)
 - (k) Dry cleaning pickup and delivery establishments.
 - (l) Florists (Retail).
 - (m) Fruit stores.
 - (n) General public bookstores.
 - (o) General public gift stores.
 - (p) Grocery stores (with restricted hours of operation set by the Plan Commission). (Also see c-3, below)
 - (q) Hardware stores.
 - (r) General public hobby shops.
 - (s) Meat, fish, or poultry markets.
 - (t) Optical stores.
 - (u) Photo and film pickup stores.
 - (v) Shoe repair shops.
 - (w) Shoe stores.
 - (x) Soda and ice cream stores.
 - (y) Sporting goods stores.
 - (z) General public variety stores.
 - (aa) Vegetable stores.

b. Permitted Accessory Uses

- (1) Garages for storage of licensed vehicles used in conjunction with the operation of a business.
- (2) Off-street parking and loading areas. (Also see Section 17.0700).

c. Conditional Uses (See Section 17.0500)

- (1) Any use similar in character to the permitted uses listed above conducted as a permanent retail or service business on the premises, catering to the general public, and compatible with the residential character of adjacent areas.

- (2) Temporary or seasonal uses on vacant or principal use parcels.
- (3) Permitted Principal Use Establishments selling alcoholic beverages.
- (4) Tobacco stores

d. Lot Area and Width

- (1) Lots shall have a minimum area of five (5) acres.
- (2) Lots shall be not less than 200 feet in width at the building setback line.

e. Building Height and Size

- (1) No building or parts of a building shall exceed two stories or 35 feet in height.
- (2) No individual store, shop or office shall have a total floor area of more than 15,000 square feet or less than 450 square feet except as a conditional use.
- (3) The sum total of the first floor area of all principal and accessory uses shall not exceed 25 percent of the total lot area. (Also see subsection 17.0210)

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 100 feet from the street right-of-way.
- (2) There shall be a side yard on either side of principal buildings of not less than 40 feet in width.
- (3) There shall be a rear yard of not less than 40 feet.
- (4) All structures shall be set back 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see subsection 17.0435)

g. Parking and Loading Space

- (1) There shall be adequate off-street parking provided on the site. Parking of vehicles will not be allowed on streets and highways in the vicinity of the site. (Please see subsection 17.0210 and section 17.0600).
- (2) There shall be adequate loading and unloading space.
- (3) All parking and loading space shall be visually screened from passersby using either permanent year-round landscaping and/or walls or decorative fencing compatible with the site and buildings. (Also see Sec. 17.0700).
- (4) There shall be no paved area within 30 feet of a street right-of-way except for an access driveway.

h. Minimum Utility Service

Electricity and public sanitary sewerage and water supply facilities.

i. Special Regulations

To encourage a business use environment that is compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the B-1 Neighborhood Business District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with relationship to surrounding existing or planned development, site layout, building plans, ingress, egress, parking, loading and unloading, lighting, drainage, signage, screening and landscape plans, plans for the provision of public and private utilities, and plans of business operation. The development may also require a rezoning and/or conditional use hearing.

17.0418 B-2, COMMUNITY BUSINESS DISTRICT

The B-2, Community Business District is intended to provide for individual or large groups of retail and customer service retail establishments catering to the general public in a 'shopping center' or 'strip' development setting. This district is usually located at or near the intersections of two arterial streets or highways but separated from the traditional central business district and designed for the convenience of weekly or monthly one-stop shopping and includes such amenities as increased open space and ample off street parking and loading areas and architectural or landscape screening.

a. Permitted Principal Uses

- (1) All principal uses permitted in the B-1 Neighborhood Business District.
- (2) The following uses providing services or selling merchandise to the general public:
 - (a) Antique Stores
 - (b) Appliance and electronics stores.
 - (c) Bakeries including the baking of goods for local sales.
 - (d) Book stores
 - (e) Bowling/pool establishments.
 - (f) Business offices.
 - (g) Caterers.
 - (h) Clock/watch shops.
 - (i) Clothing repair shops.
 - (j) Crockery stores.
 - (k) Department stores.
 - (l) Electrical supply stores.
 - (m) Food lockers.
 - (n) Furniture stores.
 - (o) Furniture upholstery shops.
 - (p) Furriers.
 - (q) Heating supply stores.
 - (r) Indoor tennis/racket ball establishments.
 - (s) Indoor theaters.
 - (t) Jewelry stores.
 - (u) Laundry and dry-cleaning establishments employing not more than seven (7) persons.
 - (v) Lodges and fraternal clubs.
 - (w) Music or musical instrument stores.
 - (x) Natatoriums.
 - (y) Newspaper/magazine stores.
 - (z) Paint, glass, and wallpaper stores.
 - (aa) Pet shops.
 - (bb) Photographic supplies and camera stores.
 - (cc) Plumbing supply stores.
 - (dd) Quick printing shops.
 - (ee) Radio broadcasting studios.
 - (ff) Stationery stores.

b. Permitted Accessory Uses

- (1) Garages for storage of licensed vehicles used in conjunction with the operation of a business.
- (2) Off-street parking and loading areas.

- c. Conditional Uses (See Section 17.0500)
- (1) Any use similar in character to the permitted uses listed above conducted as a retail business on the premises, catering to the general public, and compatible with adjacent residential areas.
 - (2) Fast food stores and restaurants.
 - (3) Residential quarters for the owner or proprietor provided that such quarters are in the principal building, not on the ground level floor, and that entrances and exits to such quarters are direct to the exterior of the building. There shall also be a minimum floor area of 400 square feet for an efficiency unit, 600 square feet for a one-bedroom unit, and 750 square feet for a two-bedroom unit. A dwelling unit with more than two (2) bedrooms shall not be allowed. Residential quarters in a B-2 District shall be reviewed by the City Plan Commission in the same manner provided for in Section 17.0416 of this Ordinance.
 - (4) Taverns or any other establishment selling alcoholic beverages.
 - (5) Petroleum service stations with or without convenience stores and selling no alcoholic beverages (see Section 17.0500).
 - (6) Hotels or motels.
 - (7) Indoor Health and Recreation Establishments.
 - (8) Temporary and seasonal uses on vacant or principal use parcels.
- d. Lot Area and Width
- (1) Lots shall have a minimum area of 20 acres.
 - (2) Lots shall be not less than 400 feet in width at the building setback line.
- e. Building Height and Size.
- (1) No principal building or parts of a building shall exceed three (3) stories or 45 feet in height. No individual store, shop or offices shall have a total floor area of more than 25,000 square feet or less than 450 square feet except as a conditional use.
 - (2) The sum total of the first floor area of all principal and accessory uses shall not exceed 25 percent of the total lot area. (Also see sub-section 17.0210).
 - (3) No accessory building shall exceed 18 feet in height.
- f. Setbacks and Yards
- (1) There shall be a minimum building (or street) set back of 100 feet from any street right-of-way.
 - (2) There shall be a side yard on either side of principal buildings of not less than 40 feet in width.
 - (3) There shall be a rear yard of not less than 40 feet.
 - (4) All structures shall be set back 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)
- g. Parking and Loading Space
- (1) There shall be adequate paved off-street parking space provided on the site and on-street parking will not be allowed on streets and highways in the vicinity of the site. (Please see subsection 17.0210 and section 17.0600).
 - (2) There shall be adequate off-street loading and unloading space.
 - (3) All parking and loading areas shall be visually screened from passersby using either permanent year-round landscaping and/or decorative fencing compatible with the site and building. (Also see Section 17.0700).

- (4) There shall be no parking or loading areas within 30 feet of a street right-of-way.
- h. Minimum Utility Service
Electricity and public sanitary sewerage and water supply facilities.
- i. Special Regulations
To encourage a business use environment that is compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the B-2 Community Business District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with relationship with surrounding existing or planned development, site layout, building plans, ingress, egress, parking, loading and unloading, lighting, drainage, signage, screening and landscaping plans, plans for the provision of public and private utilities, and plans of business operations. The development may also require a rezoning or conditional use hearing.

17.0419 B-3, GENERAL BUSINESS DISTRICT

The B-3, General Business District is intended to provide for the orderly continuation and revitalization of the older established business areas of the City where existing uses are not exclusively of one type but, rather, include retail sales shops, wholesale and warehousing outlets, and institutional, recreational, and even residential uses. Many of the existing businesses in this district may not meet the requirements of the B-1 or B-2 Business Districts or may be non-conforming as described in Section 17.0800. It is the intent of this district to provide minimum requirements for all new uses of land within the district and a guide for the redevelopment or revitalization of existing uses of land within the district.

a. Permitted Principal Uses

- (1) Existing residential structures and any conforming and compatible residential additions.
- (2) Uses existing before August 1982.
- (3) Commercial and Hobby Kennels. (Cr. 13-09)

b. Permitted Accessory Uses

- (1) Garages for storage of licensed vehicles used in conjunction with the operation of a business.
- (2) Off-street parking and loading areas.
- (3) (See Section 17.0700).

c. Conditional Uses (See Section 17.0500)

- (1) Permitted and conditional uses allowed in the B-1, B-2 and B-4 districts and uses similar in character to the above-permitted uses and conducted as business on the premises and catering to the general public.
- (2) The following general uses:
 - (a) Auto accessory sales and service.
 - (b) Auto repair shops and towing service.
 - (c) Auto and truck rental.
 - (d) Boarding houses.
 - (e) Body shops.
 - (f) Petroleum service stations selling no alcoholic beverages.
 - (g) New and used auto and truck sales and service.
 - (h) New and used marine sales and services.
 - (i) Night clubs and taverns.
 - (j) Places of entertainment for the general public.
 - (k) Public and private institutional uses such as public buildings; churches.
 - (l) Second hand stores.
 - (m) Existing residential uses or their replacement.
 - (n) Upholsterer's shop.
- (3) Residential quarters for the owner or proprietor provided that such quarters are in the principal building, not on the ground level floor, and that entrances and exits to such quarters are direct to the exterior of the building. There shall also be a minimum floor area of 400 square feet for an efficiency unit, 600 square feet for a one (1)-bedroom unit, and 750 square feet for a two (2)-bedroom unit. A dwelling unit with more than two (2) bedrooms shall not be allowed. Residential quarters in a B-3 District shall be reviewed by the City Plan Commission in the same manner provided for in Section 17.0416 of this ordinance.
- (4) Animal hospitals, provided all principal structures and uses are not less than 100 feet from any residential use.

- (5) Clubs, fraternities, lodges, and meeting places, provided all principal structures and uses are not less than 25 feet from any lot line.
 - (6) Commercial recreation facilities, which may include arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf facilities, physical culture facilities, pool and billiard halls, skating rinks, and theaters.
 - (7) Construction services including general building contractors; carpentering services; masonry, stonework, tile setting and plastering services; roofing and sheet metal services, experimental testing and research laboratories, provided all principal structures and uses are not less than 100 feet from residential uses and any outside storage is screened from view.
 - (8) Millwork and lumber yards screened from view from adjacent property.
 - (9) Mortuaries.
 - (10) Processing and manufacturing of feeds prepared for animals and fowl; wholesale and/or retail warehousing of animals feeds, fertilizer, seeds, garden and lawn supplies, animal health products, and lawn equipment provided that all operations are conducted within an enclosed building.
 - (11) Rest homes, nursing homes, and elderly housing at densities not exceeding 12 units per net acre; clinics and children's nurseries provided all principal structures and uses are not less than 40 feet from any lot line.
 - (12) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
 - (13) Temporary and seasonal uses on vacant or principal use parcels.
 - (14) Bed and breakfast inns.
- d. Lot Area and Width
- (1) Lots shall have a minimum area of 7,200 square feet,
 - (2) Lots shall be not less than 60 feet in width at the building setback line.
- e. Building Height and Size (See subsection 17.0210)
- (1) No building or parts of a building shall exceed three stories or 45 feet in height.
 - (2) No individual store, shop, or business establishment shall have a total floor area of less than 300 square feet or more than 20,000 square feet.
 - (3) No accessory building shall exceed 18 feet in height.
- f. Setback and Yards
- (1) There shall be a minimum building (or street) setback from each adjacent street equal to the average of the setback of existing buildings on either side of the proposed building, but not less than 25 feet; or, if there are no buildings on adjacent properties, not less than 25 feet. Accessory buildings or additional principal buildings on the same parcel as an existing building shall be setback no less than the existing building.
 - (2) There shall be a minimum side yard equal to the side yard on the adjacent property but not less than 20 feet; or, if there is no building on adjacent property, not less than 10 feet.
 - (3) There shall be a rear yard of not less than 25 feet.
 - (4) All structures shall be set back a minimum of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

g. Parking and Loading Space.

- (1) There shall be adequate paved off-street parking provided for every structure/use approved by the City Plan Commission after August 1982 (see Section 17.0600).
- (2) There shall be a minimum of two (2) indoor parking spaces for each dwelling unit erected in the district after the original (June 1982) date of adoption of this Ordinance (see Section 17.0600).
- (3) There shall be adequate paved off-street loading space provided for every structure/use approved after August 1982.
- (4) All parking and loading areas shall be adequately screened as determined by the Plan Commission. (Also see Section 17.0700).

h. Minimum Utility Service

Electricity, public water supply and an approved sanitary waste water collection, treatment and/or disposal system. All uses shall be connected to public utility facilities when made available to the site.

i. Special Regulations

To encourage a business use environment that is compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the B-3 General Business District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with adjacent existing and planned uses, general site layout, building and operation plans, ingress, egress, parking, drainage, lighting, signage, loading and unloading, and screening and landscape plans.

17.0420 B-4, OFFICE DISTRICT

The B-4, Office District is intended to provide for Individual or limited office, professional, and special service uses where the office activity would be compatible with neighborhood residential uses and not necessarily exhibit the intense activity of other business districts.

a. Permitted Principal Uses

- (1) Administrative and public service offices.
- (2) Banks and financial or tax consultants.
- (3) Interior decorators.
- (4) Professional offices of an architect, landscape architect, lawyer, doctor, dentist, clergy, engineer, or other similarly recognized profession.
- (5) Real estate and insurance offices.
- (6) Studios for photography, painting, music, sculpture, dance, or other recognized fine art.

b. Permitted Accessory Uses

- (1) Accessory garages for storage of licensed vehicles used in conjunction with the operation of the business or for occupants of the premises.
- (2) Off-street parking areas.

c. Conditional Uses (See Section 17.0500)

- (1) Office uses similar in character to the above permitted residential compatible uses and conducted as a business on the premises and catering to the general public.
- (2) Residences when in conjunction with a principal use and not more than 50 percent of the floor area of the principal building.

d. Lot Area and Width

- (1) Lots shall have a minimum area of two (2) acres.
- (2) Lots shall have a minimum width of 140 feet at the building setback line.

e. Building Height and Size (See Section 17.0210)

- (1) No principal building or parts of a principal building shall exceed four (4) stories or 55 feet in height.
- (2) No accessory building shall exceed 18 feet in height.
- (3) The sum total of the floor area of the principal building and all accessory buildings shall not exceed 35 percent of the lot area.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback equal to the average of the required setback of the adjacent district on each side of the proposed use, but not less than 25 feet.
- (2) There shall be a minimum side yard equal to the required side yard in the adjacent district, but not less than 20 feet.
- (3) There shall be a rear yard of not less than 25 feet.
- (4) All structures shall be set back a minimum of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

- g. Parking and Loading Space
 - (1) There shall be adequate paved off-street parking and loading space provided for every structure/use approved by the City Plan Commission after August 1982 and such parking and loading areas shall be adequately screened as determined by the Plan Commission.
 - (2) There shall be no parking or loading area within 30 feet of a street right-of-way. (See sections 17.0600 and 17.0700).

- h. Minimum Utility Service

Electricity and public sanitary sewerage and water supply facilities.

- i. Special Regulations

To encourage a business use environment that is compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the B-4 Office District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with adjacent existing and planned uses, general site layout, building and operation plans, ingress, egress, parking, loading and unloading, drainage, lighting, signage, screening and landscape plans.

17 .0421 B-5, HIGHWAY BUSINESS DISTRICT

The B-5, Highway Business District is intended to provide for the orderly and attractive grouping at appropriate locations along principal highway routes of those businesses and customer service establishments which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.

a. Permitted Principal Uses

- (1) Auto sales/service (indoor).
- (2) Auto and truck accessory sales.
- (3) Building supply stores (enclosed storage).
- (4) Motels and hotels.
- (5) Restaurants. (no drive-thru)
- (6) Transit station.
- (7) Commercial Kennels. (Cr. 13-09)

b. Permitted Accessory Uses

- (1) Accessory garages for storage of licensed vehicles used in conjunction with the operation of the business or for occupants of the premises.
- (2) Off-street parking and loading areas.
- (3) (see Section 17.0700).

c. Conditional Uses

Uses similar in character to the above permitted uses and conducted as a business on the premises and catering to the general public. Also the following uses:

- (1) "Drive-in" and "fast food" establishments.
- (2) Fuel service stations with or without convenience stores and with no alcoholic beverage sales.
- (3) Motor vehicle sales and/or service.
- (4) Temporary or seasonal uses on vacant or principal use parcels.
- (5) Truck stop not for the purpose of transferring goods between trucks.
- (6) Trailer and tractor sales, rental and service.

d. Lot Area and Width

- (1) Lots shall have a minimum area of two (2) acres.
- (2) Lots shall be not less than 160 feet in width at the building setback line.

e. Building Height and Size (See Section 17.0210)

- (1) No principal building or parts of a principal building shall exceed one (1) story or 18 feet in height.
- (2) No accessory building shall exceed 18 feet in height.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 40 feet from the right-of-way of all streets.
- (2) There shall be a minimum side yard equal to the required side yard in the adjacent district, but not less than 15 feet.
- (3) There shall be a rear yard of not less than 25 feet.
- (4) All structures shall be set back a minimum of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from a designated wetland. (Also see subsection 17.0435)

g. Parking and Loading Space

- (1) There shall be adequate paved off-street parking and loading space provided for every building/use approved by the City Plan Commission after August 1982 and such parking and loading areas shall be adequately screened as determined by the Plan Commission.
- (2) There shall be no parking or loading area within 30 feet of a street right-of-way.
- (3) (See Section 17.0600).

h. Minimum Utility Service

Electricity and public sanitary sewerage and water supply facilities.

i. Special Regulations

To encourage a business use environment that is compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the B-5 Highway Business District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with adjacent existing and planned uses, need for public or private water supply and sanitary sewage disposal facilities, general site layout, building site and operation plans, ingress, egress, parking, loading and unloading, drainage, lighting, signage, screening and landscape plans.

17.0422 B-6, MIXED USE BUSINESS DISTRICT

The B-6, Mixed Use Business District is intended to provide for the orderly and attractive grouping of buildings which encompass more than one type of non-industrial business use which are compatible from a traffic, density and general use standpoint.

- a. Permitted Principal Uses
All B-4 and B-5 uses having no outside storage of equipment, materials or vehicles.
- b. Permitted Accessory Uses
None
- c. Conditional Uses
 - (1) All principal and accessory uses permitted in the B-4 and B-5 districts with outside storage.
 - (2) Any retail, service or office use that is compatible with those uses listed above as determined by the Plan Commission.
- d. Lot Area and Width
 - (1) Lots in a Mixed Use development shall be not less than two (2) acres in net area.
 - (2) The lot or parcel width along any abutting street shall be no less than 160 feet.
- e. Building Height and Size (See Section 17.0210)
 - (1) No part of a principal structure shall exceed three stories or 45 feet in height and no accessory structure shall exceed 18 feet in height.
 - (2) The sum total of the first floor area of all principal and accessory buildings shall not exceed 35 percent of the total parcel area.
 - (3) The sum total of the first floor area of all principal and accessory buildings and all paved or gravel surfaces not within a principal building shall not exceed 60 percent of the total parcel area.
- f. Setback and Yards
 - (1) There shall be a minimum building (or street) setback of 55 feet from any street or highway right-of-way or not less than 30 feet from any other parcel boundary.
 - (2) Except for ingress/egress points, all paved area shall be not less than ten (10) feet from any property boundary.
 - (3) Signs and fences may be located as set forth in Section 17.1700.
 - (4) All structures shall be set back a minimum of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from a designated wetland. (Also see subsection 17.0435)
- g. Parking and Loading Space
 - (1) Off-street parking and loading space adequate to meet the initial and projected needs of the principal use(s) shall be provided for individual lot development within the "park" or development (see section 17.0600).
 - (2) No parking, loading or unloading will be allowed on streets or access ways within the development or on adjacent public streets, roads, or highways.

- (3) All parking and loading areas shall be adequately screened as determined by the Plan Commission.
 - (4) There shall be no parking or loading area within 30 feet of a street right-of-way.
- h. Minimum Utility Service
Public sanitary sewerage and water supply facilities, electricity.
- i. Special Regulations
- (1) The owner or developer of the Mixed Use Business, who shall also be the applicant for a conditional use permit, shall submit with such application, for review and approval, large scale, detail site plan showing building location, landscaping, paved areas, drainage facilities, lighting, signage and other visible on-site appurtenances and as set forth in sub-sections 17.0207 and 17.0210, prior to approval of a conditional use permit and issuance of a building permit.
 - (2) If the development is proposed to be completed in phases or divided into saleable parcels, the owner/developer of each phase or separate parcel will be required to submit, and receive approval of a detailed site and operations plan, as set forth herein and in sub-sections 17.0207 and 17.0210, prior to issuance of a building permit.
 - (3) Parking and loading areas and any permitted outside storage areas shall be appropriately screened from view of the general motoring public.
 - (4) Any division of the overall development parcel shall be accomplished in accordance with Chapter 18 of the City Codes and Ordinances.

17.0423 M-1, GENERAL WHOLESALE BUSINESS/WAREHOUSE DISTRICT

The M-1, General Wholesale Business/Warehouse District is intended to provide for the orderly and attractive grouping at appropriate locations of wholesale business or warehousing activities including storage and distribution of both wholesale and retail goods, but including no retail sales on the premises except as permitted by the Plan Commission.

a. Permitted Principal Uses

- (1) Establishments for the wholesale sale of goods and materials (other than chemical, flammable liquid, gaseous, vaporous, or explosive substances) where such goods or materials are temporarily stored inside a permanent building or within an open area attractively and effectively visually screened from public streets, roads, or highways and adjacent uses and where the individual goods or materials are not reduced in size or basically changed in character.
- (2) Buildings or yards for the storage of wholesale goods and materials (other than chemicals, flammable liquids, and gaseous, vaporous, or explosive substances) where such goods or materials are temporarily stored inside a permanent building or within an open area attractively and effectively visually screened from passersby, public streets, roads, or highways and adjacent uses, and where the individual goods or materials are not reduced in size or basically changed in character.
- (3) Commercial Kennels. (Cr. 13-09)

b. Permitted Accessory Uses

- (1) Offices, or garages for storage of licensed vehicles used in conjunction with the operation of the business or for occupants of the premises.
- (2) Screened off-street parking and loading access, including parking ramps and garages.
- (3) (See Section 17.0700).
- (4) The storage of not more than 10,000 gallons of fuel and petroleum products for use incidental to the principal use and upon specific approval of the Plan Commission after recommendation by the Fire Chief.

c. Conditional Uses

- (1) Establishments for the temporary storage of vehicles used in the transport of goods and materials.
- (2) Establishments for the transfer of wholesale goods and materials from one transport vehicle to another.
- (3) Buildings, structures, or tanks used for the storage of chemicals, flammable liquids, and gaseous or vaporous substances, other than permitted accessory uses, upon specific approval of the Plan Commission after recommendation by the Fire Chief.
- (4) Yards and structures used for the temporary storage or holding of animals not for slaughter.
- (5) Warehouses used, or designed to be used, for the storage of domestic household goods, "dead" files and other limited time and use storage.
- (6) Residential quarters for the owner or hired caretaker provided that such quarters are in the principal building, not more than 750 square feet in area, no more than two (2) bedrooms, and not for rent, lease or separate sale.
- (7) Yards for the storage of bulk construction products when screened from view.

d. Lot Area and Width

- (1) Lots shall have a minimum area of two (2) acres.
- (2) Lots shall not be less than 200 feet in width at the building setback line.

e. Building Height and Size (See Section 17.0210)

- (1) No principal building, no part of a principal building, and no goods or materials stored shall exceed 35 feet in height.
- (2) No accessory building shall exceed 18 feet in height.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 30 feet from the right-of-way of all streets, roads, or highways.
- (2) There shall be a side yard on each side of all buildings not less than 25 feet in width and buildings shall be no closer than 50 feet from another building.
- (3) There shall be a rear yard of not less than 25 feet.
- (4) All structures and storage yards shall be set back a minimum 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see subsection 17.0435)

g. Parking and Loading Space

- (1) There shall be adequate paved off-street parking space provided for the intended use of the property and no on-street parking or on-street vehicle maneuvering will be allowed in the vicinity of the property. (Also see subsection 17.0210 and section 17.0600).
- (2) There shall be adequate paved off-street loading area provided to accommodate all necessary loading and unloading activities on the premises, and no loading dock or area shall be located closer than 100 feet from the right-of-way of a public access street.
- (3) All parking and loading areas shall be adequately screened as determined by the Plan Commission.
- (4) There shall be no driveway, parking or loading area within 25 feet of a street right-of-way or 15 feet of an adjacent property.

h. Minimum Utility Service

Electricity, and where available, public sewer and water supply.

i. Special Regulations

To encourage wholesale business use environment that is compatible with the residential character of the City, a Building and/or Zoning permits for permitted uses in the M-1 District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with existing and planned adjacent uses, need for public or private water supply and sanitary sewage disposal facilities, general site layout, building and operation plans, ingress, egress, drainage, lighting, signage, parking, loading and unloading, screening and landscape plans.

17.0424 M-2, LIMITED INDUSTRIAL DISTRICT

The M-2, Limited Industrial District is intended to provide for manufacturing or fabrication operations and related offices, which, on the basis of physical and operational characteristics, would not be detrimental to the immediate surrounding area or to the City as a whole by reason of smoke, odor, noise, dust, liquid, flash, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably insure compatibility with the surrounding area in these respects. All uses in this district must meet the State of Wisconsin industrial standards. (See subsection 17.0210).

a. Permitted Principal Uses

- (1) All uses involving the manufacture of goods within the confines of a permanent building and in which any smoke, noise, dust, flash, liquid, or odor produced in the manufacturing process is either not produced or is confined within the building.
- (2) All uses involving the fabrication of materials within the confines of a permanent building and in which any smoke, dust, flash, liquid, noise, or odor produced in the fabrication process is either not produced or is confined within the building.
- (3) All uses involving the provision of an office or service which is either manufacturing or fabrication-related and not permitted in business/commercial districts, confined within a permanent building, and in which any smoke, dust, flash, heat, noise, liquid or odor produced by such service uses is either not produced or is confined within the building.
- (4) Commercial Kennels. (Cr. 13-09)

b. Permitted Accessory Uses

- (1) Enclosed as well as screened areas for the storage of materials, other than explosive or flammable materials or substances, used in the manufacturing or fabrication process.
- (2) Offices normally auxiliary to the principal uses.
- (3) Garages for the storage of licensed vehicles used in conjunction with the operation of the industrial uses.
- (4) Auxiliary power generators.
- (5) Screened off-street parking and loading areas.
- (6) Non-flashing signs (see Section 17.0700).
- (7) The storage of not more than 10,000 gallons of fuel and petroleum products for use incidental to the principal use, and upon specific approval of the Plan Commission.
- (8) Residential quarters for the owner or hired caretaker provided that such quarters are in the principal building, not more than 750 square feet in area, no more than two (2) bedrooms, and not for rent, lease or separate sale.
- (9) Retail outlets for goods manufactured or fabricated on the premises as long as such outlet comprises no more than five (5) percent of the total floor area, and manufacturing/fabrication related training/educational classes as long as such classes comprise no more than 50 percent of the total floor space.

c. Conditional Uses

- (1) Storage of explosive or flammable materials, other than permitted accessory uses, related to the permitted principal use, upon specific approval of the Plan Commission.

- (2) Day care operations, wellness centers, physical fitness and training centers.

- d. Lot Area and Width
 - (1) Lots shall have a minimum area of two (2) acres.
 - (2) Lots shall be not less than 200 feet in width at the building setback line.

- e. Building Height and Size
 - (1) No principal building or parts of a principal building shall exceed 35 feet in height.
 - (2) No accessory building shall exceed 18 feet in height.

- f. Setback and Yards (See Section 17.0210)
 - (1) There shall be a minimum building (or street) setback of 45 feet from the right-of-way of all streets.
 - (2) There shall be a minimum side yard equal to the required side yard in the adjacent district, but not less than 25 feet and buildings shall be no closer than 50 feet from another building.
 - (3) There shall be a rear yard of not less than 25 feet.
 - (4) All structures and storage yards shall be set back a minimum 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

- g. Parking and Loading Space
 - (1) There shall be adequate paved off-street parking space provided for intended use of the property and no on-street parking or on-street vehicle maneuvering will be allowed in the vicinity of the property. (see subsection 17.0210 and section 17.0600).
 - (2) There shall be adequate paved off-street loading areas to accommodate all necessary loading or unloading activities on the premises, and no loading dock or area shall be located closer than 100 feet from the right-of-way of a public access street.
 - (3) All parking and loading areas shall be adequately screened as determined by the Plan Commission.
 - (4) There shall be no driveway, parking or loading area within 15 feet of an adjacent property or within 25 feet of a street right-of-way.

- h. Minimum Utility Service

Electricity and public sanitary sewerage and water supply facilities.

- i. Special Regulations

To encourage a business use environment that is compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the M-2 Limited Industrial District shall not be issued without prior review by and approval of the Plan Commission. Said review and approval shall be concerned with adjacent existing and planned uses, general site layout, operation plans, need for public sewer and water facilities, storm water drainage, ingress, egress, parking, loading and unloading, signage, lighting, screening and landscape plans.

17.0425 M-3, GENERAL INDUSTRIAL DISTRICT

The M-3, General Industrial District is intended to provide for the same type of manufacturing and fabricating operations and uses as in the M-2 Industrial District plus more intensive uses but within those areas where the relationships to surrounding land use would create fewer problems of compatibility. The M-3 Industrial District also permits those activities generally perceived as being of a nuisance nature or considered to be hazardous. All uses in this district must meet State of Wisconsin industrial standards as well as performance standards set forth in sub-section 17.0210 & section 17.0800. Such district should not normally abut directly upon residential, commercial, or institutional districts.

a. Permitted Principal Uses

- (1) All uses as permitted in the M-2 District.
- (2) All other manufacturing, fabricating, and industrial storage uses not permitted in any other industrial district (except the manufacture or fabrication of explosives, flammable liquids, chemicals, and gaseous or vaporous substances) as long as such permitted uses are conducted within an enclosed permanent structure or within a totally screened yard area.

b. Permitted Accessory Uses

- (1) Accessory uses permitted in the M-2 district.
- (2) Enclosed as well as screened open storage of industrial materials other than explosive or flammable materials or substances used in the manufacturing or fabrication process.
- (3) Offices normally auxiliary to the principal use.
- (4) Garages for the storage of vehicles used in conjunction with the operation of the industrial use.
- (5) Auxiliary power generators.
- (6) Screened off-street parking and loading areas.
- (7) Non-flashing signs (see Section 17.0700).
- (8) The storage of not more than 10,000 gallons of fuel and petroleum products for use incidental to the principal use, upon specific approval of the Plan Commission.
- (9) Residential quarters for the owner or hired caretaker provided that such quarters are in the principal building, not more than 750 square feet in area, no more than two (2) bedrooms, and not for rent, lease or separate sale.

c. Conditional Uses (see Section 17.0500)

- (1) Storage, manufacture, or fabrication of chemicals, explosives, flammable liquids, and gaseous or vaporous substances, other than permitted accessory uses, with volumes and quantities, and time of operation to be set by the Plan Commission and approved by the Fire Chief.
- (2) Landfills, solid and other waste disposal and recovery uses.

d. Lot Area and Width

- (1) Lots shall have a minimum area of two (2) acres.
- (2) Lots shall not be less than 200 feet in width at the building setback line.

e. Building Height and Size

- (1) No building or part of a building shall exceed 40 feet in height.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 35 feet from the right-of-way of all streets, roads, or highways.
- (2) There shall be a side yard on each side of all buildings of not less than 25 feet in width and buildings shall be no closer than 50 feet from another building.
- (3) There shall be a rear yard of not less than 25 feet.
- (4) All structures and storage yards shall be set back a minimum of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams or bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)

g. Parking and Loading Space

- (1) There shall be adequate paved off-street parking space provided for the intended use of the property and no on-street parking or on-street vehicle maneuvering will be allowed in the vicinity of the property. (see subsection 17.0210 and section 17.0600).
- (2) There shall be adequate paved off-street loading area to accommodate all necessary loading or unloading activities on the premises, and no loading dock or area shall be located closer than 100 feet from the right-of-way of public access street.
- (3) All parking and loading areas shall be adequately screened as determined by the Plan Commission.
- (4) There shall be no driveway, parking or loading area within 25 feet of a street right-of-way or within 15 feet of an adjacent property with the exception of property ingress/egress.

h. Minimum Utility Service

Electricity and public water supply and waste water treatment and disposal systems.

i. Special Regulations

To encourage an industrial use environment that is compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the M-3 General Industrial District shall not be issued without prior review by and approval of the Plan Commission. Said review and approval shall be concerned with adjacent existing and planned uses, general site layout, operation plans, building materials, ingress, egress, storm water drainage, signage, lighting, parking, loading and unloading, and screening and landscape plans.

17.0426 M-4, INDUSTRIAL PARK DISTRICT

The M-4, Industrial Park District is Intended to provide for the orderly and attractive grouping, in appropriately landscaped grounds, of manufacturing or other industrial operations which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reason of noise, dust, flash, smoke, odor traffic, physical appearance, or other similar factors; and to establish such restrictions as will reasonably insure compatibility with the surrounding area in this respect.

a. Permitted Principal Uses

Those uses that are permitted in the B-4 and M-2 districts within the confines of a building and have no outdoor storage of materials or equipment.

b. Permitted Accessory Uses

None.

c. Conditional Uses (See subsection 17.0210 and section 17.0500)

All principal, accessory, and conditional uses permitted in the M-1, M-2, and M-3 districts as long as such uses are wholly contained within a building or buildings arranged in a compatible grouping and a visually attractive “park like” setting.

d. Lot Area and Width

- (1) The area of the total "park" development shall be not less than 25 acres.
- (2) Lots shall have a minimum area of three (3) acres.
- (3) The width of the total “park” development parcel at the principal street or highway access shall be not less than 600 feet.
- (4) Lots shall be not less than 300 feet in width at the building setback line.

e. Building Height and Size

- (1) No structure or parts of a principal structure shall exceed 35 feet in height and no accessory structure shall exceed 18 feet in height.

f. Setback and Yards

All structures, employee parking, signs, storage areas, and fences shall be located not less than 45 feet from the right-of-way of a street, road, highway, or a park boundary, not less than 45 feet from any other parcel boundary, not less than 50 feet from another building and not less than 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. Loading docks or areas shall be located not less than 100 feet from the right-of-way of a public access street and shall be screened from view from the street. (Also see subsection 17.0435)

g. Parking and Loading Space

Paved off-street parking and loading space adequate to meet the initial and projected needs of the principal use shall be provided for individual lot development within the “park” (see Section 17.0600).

- (1) No parking, loading, unloading or on-street vehicle maneuvering will be allowed on streets or access ways within the ‘park’ or on adjacent streets or highways.
- (2) All parking and loading areas shall be adequately screened as determined by the Plan Commission.

- (3) There shall be no driveway, parking or loading area within 30 feet of a street right-of-way or within 20 feet of an adjacent property.

h. Minimum Utility Services

Public sanitary sewerage and water supply systems, electricity.

i. Special Regulations

- (1) The owner or developer of an industrial park, who shall also be the applicant for a zoning request, shall submit with such application a site plan and/or plat which shall be prepared in accordance with Plan Commission requirements.
- (2) All streets or access ways within the “park” development shall meet the construction requirements of the City.
- (3) Owners of individual parcels shall be required to submit a site and operations plan of the site and where appropriate a conditional use request for Plan Commission review and approval and Common Council approval prior to receipt of a building or occupancy permit.
- (4) If the parcels shown on the required “park” development plat area are to be sold, the owner/applicant shall be required to submit a final plat or certified survey map (CSM) of the “park” development or parcel pursuant to the City Land Division Ordinance prior to the sale of the parcel(s).

17.0427 M-5A, LONG TERM MINERAL EXTRACTION DISTRICT

The M-5A, Long Term Mineral Extraction District is intended to provide for the orderly continuation or restoration of existing long term quarries or other extractive and related uses expected to be in operation for a period of at least five (5) years and to provide for the location in appropriate places of new such extractive operations that provide maximum protection to the natural environment. This district further provides for the restoration of quarries in a manner that will not deteriorate the natural environment and operation of the extractive use shall comply with NR135 of Wisconsin Administrative Code.

- a. Permitted Principal Uses
None.
- b. Permitted Accessory Uses
None (See section 17.0700).
- c. Conditional Uses (See subsection 17.0210 and section 17.0500)
 - (1) Mining or extraction of rock, slate, gravel, sand, topsoil, and other minerals.
 - (2) Processing, refining, and washing of rock, slate, sand, or minerals.
 - (3) Processing or storage of topsoil.
 - (4) Storage of any of the aforesaid mineral products.
 - (5) The onsite processing, conversion, or packaging of the materials extracted including manufacturing of concrete products, lime, gypsum, or plaster of paris, and the initial preparation of concrete as a “ready mix”.
 - (6) Accessory buildings and equipment incidental to the primary use.
- d. Lot Area and Width
 - (1) Lots shall provide sufficient area for the principal structure and its accessory structures, the extractive industrial operation, off-street parking and loading, and yards and “green space” as required herein. See subsection 17.0210.
 - (2) Lots shall be not less than 80 feet in width at the principal street access.
- e. Building Height and Size
 - (1) No structure, building, or parts of a building shall exceed 75 feet in height above original land elevation of the parcel.
 - (2) The sum total of the first floor area of all buildings shall not exceed five (5) percent of the total area of the lot or parcel.
- f. Setback and Yards
 - (1) The extractive operation, including buildings, shall be set back a minimum of 200 feet from the right-of-way line of all highways, streets, or roads, and all exterior property lines.
 - (2) Uses accessory to the extractive operations such as offices, parking and loading areas, and stockpiles of materials shall be set back a minimum of 100 feet from the right-of-way line of all highways, streets or roads and from all property lines and not less than 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see subsection 17.0435)
 - (3) Transitional grading of the site shall be conducted not less than 50 feet from a property boundary.

g. Parking and Loading Space

All vehicles used in the extractive operation and employee and visitor vehicles shall be accommodated within the area of the parcel encompassed by the setback lines as set forth above (see section 17.0600).

h. Minimum Utility Service

Electricity

i. Special Regulations

- (1) The application for a conditional use permit in the M-5A Extractive District shall be made by the property owner or long-term lessee, who shall be directly responsible for the operation of the quarry or other extractive operation-related activity. The application shall include:
 - (a) An adequate description of the operational methods and a plat or certified survey of the proposed site;
 - (b) A list of equipment, machinery, and structures to be used;
 - (c) The source, quantity, and disposition of water to be used;
 - (d) A topographic map of the site showing all existing structures, trees, and existing contours at a maximum interval of two (2) feet;
 - (e) Proposed and existing access roads;
 - (f) The depth of all existing and proposed excavations.
 - (g) Approved method of controlling water runoff, traffic, noise, and air-borne materials;
 - (h) Methods of assuring safety of the public;
 - (i) The proposed seasonal phasing of the operation;
 - (j) A restoration plan for the site.
 - (k) The restoration plan provided by the applicant prior to issuance of any required permission shall include:
 - (l) Proposed contours at a maximum interval of two (2) feet after grading, filling or restoration;
 - (m) Depth of the restored topsoil;
 - (n) Type and location of fill, planting, or reforestation;
 - (o) Restoration commencement phasing and completion dates; and
 - (p) The proposed use(s) of the site after restoration, portrayed on a scaled conceptual development plan.
 - (q) The applicant shall pay the necessary fees to provide for the City inspection and administration costs, based on the actual cost of such inspection and administration.
 - (r) The applicant and/or owner of the land from which the material, gravel, sand, rock, slate, or topsoil is being removed or extracted shall furnish the necessary sureties in the form of cash or irrevocable letter of credit, which will enable the City to perform the planned restoration of the site in the event of default by the applicant. The amount of the sureties shall be based upon cost estimates prepared by the City Engineer including a reasonable inflation factor, and the form and type of such sureties shall be approved by the City Attorney. In addition, any agreements between or among the owner(s) and the City shall be formally approved by the Common Council at a meeting open to the general public.

17.0428 M-5B, SHORT TERM MINERAL EXTRACTION DISTRICT

The M-5B, Short Term Mineral Extraction district is intended to provide for the location in appropriate places of new short term extractive uses that are expected to be in operation for less than five (5) years and provide maximum protection to the natural environment. This district further provides for the restoration of quarries in a manner that will not deteriorate the natural environment and operation of the extractive use shall comply with NR135 of Wisconsin Administrative Code.

a. Permitted Principal Uses

None.

b. Permitted Accessory Uses

None (see Section 17.0700).

c. Conditional Uses (See subsection 17.0210 and section 17.0500)

- (1) Extraction of rock, gravel, sand, topsoil, and other minerals.
- (2) Grading of rock, sand, or minerals.
- (3) Temporary storage of any of the aforesaid mineral products.
- (4) Temporary equipment incidental to the primary use.

d. Lot Area and Width

- (1) Lots shall provide sufficient area for the extractive operation, paved off-street parking and loading, and yards as required herein.
- (2) Lots shall be not less than 80 feet in width at the principal street access.

e. Building Height and Size

No equipment shall exceed 40 feet in height above original land elevation of the parcel.

f. Setback and Yards

- (1) The extractive operation, including structures, shall be set back a minimum of 100 feet from the right-of-way line of all highways, streets, or roads, and all exterior property lines.
- (2) Uses accessory to the extractive operations such as parking and loading areas, and stockpiles of materials shall be set back a minimum of 100 feet from the right-of-way line of all streets and highways or roads and from all property lines and not less than 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see subsection 17.0435)
- (3) Transitional grading of the site shall be conducted not less than 50 feet from a property boundary.

g. Parking and Loading Space:

All vehicles used in the extractive operation and employee and visitor vehicles shall be accommodated within the area of the parcel encompassed by the setback lines as set forth above (see Section 17.0600).

h. Minimum Utility Service

Electricity

i. Special Regulations

The application for a conditional use permit in the M-5B Extractive District shall be made by the property owner or lessee, who shall be directly responsible for

the operation of the quarry or other extractive operation-related activity. The application shall include:

- (1) An adequate description of the operational methods and a plat or certified survey of the proposed site;
- (2) A list of equipment and machinery to be used;
- (3) The source, quantity, and disposition of water to be used;
- (4) A topographic map of the site showing all existing structures, trees, and existing contours at a maximum interval of two (2) feet;
- (5) Proposed and existing access roads;
- (6) The depth of all existing and proposed excavations;
- (7) Approved method of controlling water runoff, traffic, noise and air-borne materials;
- (8) Methods of assuring safety of the public;
- (9) The proposed seasonal phasing of the operations;
- (10) A restoration plan provided by the applicant which shall include:
 - (a) Proposed contours at a maximum interval of two (2) feet after filling or restoration;
 - (b) Depth of the restored topsoil;
 - (c) Type of fill, planting or reforestation;
 - (d) Restoration commencement, phasing and completion dates; and,
 - (e) The proposed use(s) of the site after restoration portrayed on a scaled conceptual development plan.
 - (f) The applicant shall pay the necessary fees to provide for the City inspection and administration costs, based on the actual cost of such inspection and administration.
 - (g) The applicant and/or owner of the land from which the material, gravel, sand, rock, or topsoil is being removed or extracted shall furnish the necessary sureties in the form of cash or irrevocable letter of credit, which will enable the City to perform the planned restoration of the site in the event of default by the applicant. The number of the sureties shall be based upon cost estimates prepared by the City Engineer including a reasonable inflation factor, and the form and type of such sureties shall be approved by the City Attorney. In addition, any agreements between or among the owner(s) and the City shall be formally approved by the Common Council at a meeting open to the general public.

17.0429 M-6, MIXED INDUSTRIAL USE DISTRICT

The M-6, Mixed Industrial Use District is intended to provide for the orderly and attractive grouping of buildings, which encompass a variety of types of industrial related use activity, but are still compatible from a traffic, density and general use standpoint.

- a. Permitted Principal Uses
Uses permitted in the M-2 and M-4 districts with no outside storage of equipment, materials or vehicles.
- b. Permitted Accessory Uses
Accessory uses allowed in the M-2 district.
- c. Conditional Uses
All other principal, accessory and conditional uses permitted in an M-1, M-2, M-4 and B-4 District.
- d. Lot Area and Width
 - (1) The principal or conditional use(s) must be located on a parcel of at least three (3) acres in net area.
 - (2) The lot or parcel width at the street/highway setback line shall be no less than 250 feet.
- e. Building Height and Size
 - (1) No part of a principal structure shall exceed 30 feet in height unless it is serviced with a certified fire suppression sprinkler system, in which case the height may be extended to 50 feet if enclosed stair towers to the roof are also provided.
 - (2) No part of an accessory building shall exceed 18 feet in height.
- f. Setback and Yards
 - (1) There shall be a minimum building (or street) setback of 50 feet from the right-of-way of an abutting street or highway, not less than 40 feet from the boundary of an abutting parcel or lot and no closer than 50 feet to another building.
 - (2) Loading and unloading docks or truck doors shall be located not less than 100 feet from the right-of-way of an abutting access street or highway and shall not be visible from abutting streets/highways.
 - (3) All structures and storage areas shall be set back a minimum 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see subsection 17.0435)
- g. Parking and Loading Space
 - (1) See Subsection 17.0424g.
 - (2) No loading/unloading will be allowed on abutting access streets, alleys or access ways.
 - (3) All parking and loading areas shall be adequately screened from view as determined by the Plan Commission.
 - (4) There shall be no driveway, parking or loading area within 30 feet of a street right-of-way or within 20 feet of an adjacent property.
- h. Minimum Utilities
Public sanitary sewerage and water supply facilities, electricity.

i. Special Regulations

- (1) The owner or developer of the industrial parcel, who shall also be the applicant for a conditional use permit, shall submit with such application a site development plan.
- (2) All streets or access ways within the site development shall meet the construction standards of the City.
- (3) Owners of individual parcels, buildings or quarters shall be required to submit a site plan and operations plan for Plan Commission review and approval prior to receipt of a building or occupancy permit.
- (4) If the parcels shown on the required development plan are to be sold, the owner/ applicant shall be required to submit a final plat or certified survey map of the parcels pursuant to the City Land Division Ordinance and prior to the sale of the parcel(s).G58

17.0430 I-1, URBAN INSTITUTIONAL DISTRICT

The I-1, Urban Institutional District is intended to be applied to the more urban areas of the City, where traditional urban services are or can be provided and is further intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or quasi-public ownership and where the use for public purpose is anticipated to be permanent.

a. Permitted Principal Uses

- (1) Churches, synagogues and similar religious structures/use.
- (2) Hospitals, sanitariums, nursing homes, and clinics.
- (3) Libraries, museums, and art galleries.
- (4) Public, quasi-public or private schools or educational facilities, training centers, colleges, and universities.
- (5) Public administrative offices, including fire and police stations.
- (6) Public utility offices.
- (7) Libraries

b. Permitted Accessory Uses

- (1) Garages for storage of licensed vehicles used in conjunction with the operation of a permitted use.
- (2) Residential quarters for caretakers or clergy (not for rent and on the same parcel as the principal use).
- (3) Permanent service buildings and facilities normally accessory to the permitted uses.
- (4) See Section 17.0700.

c. Conditional Uses (See subsection 17.0210 and section 17.0500)

- (1) Bus terminals and related equipment storage and maintenance.
- (2) Cemeteries and mausoleums.
- (3) Electric generation plants and electricity regulating substations.
- (4) Public service uses, garages and storage areas.
- (5) Radio and television transmitting and receiving towers; microwave relay stations.
- (6) Transit and carpooling parking areas.
- (7) Wastewater treatment plant and pumping stations.
- (8) Water wells, storage tanks and towers.
- (9) Assisted living establishments.

d. Lot Area and Width

- (1) Lots shall have a minimum area of two (2) acres.
- (2) Lots shall be not less than 200 feet in width at the building setback line.

e. Building Height and Size (See subsection 17.0210)

No building or structure or parts thereof shall exceed 35 feet in height except for radio or TV transmitting towers.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback from the right-of-way of all streets, roads, or highways equal to the average setback on each side of the use parcel or districts but not less than 25 feet.
- (2) There shall be a minimum side yard equal to the side yard on adjacent use parcels or districts but not less than 20 feet.
- (3) There shall be a rear yard of not less than 25 feet.

- (4) All structures shall be set back a minimum of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435)
- g. Off-street Parking and Loading Space
- (1) See sub-sections 17.0424 and section 17.0600.
 - (2) Sufficient paved off-street loading area shall be provided to accommodate all anticipated loading and unloading needs on the premises and such parking and loading areas shall be adequately screened as determined by the Plan Commission.
 - (3) There shall be no parking or loading area within 30 feet of a street right-of-way.
- h. Minimum Utility Services
Public sanitary sewerage and water supply systems, electricity.
- i. Special Regulations
To encourage an institutional use environment that is compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the I-1 Urban Institutional District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with existing and planned adjacent uses, general site layout, operation plans, building materials, ingress, egress, parking, signage, lighting, storm water drainage, loading and unloading, and screening and landscape plans. (See subsection 17.0210).

17.0431 I-2, RURAL INSTITUTIONAL DISTRICT

The I-2, Rural Institutional District is intended to be applied to the more rural areas of the City where the lack of public sanitary sewerage facilities and other urban services requires a lower density of use, and to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or quasi-public ownership and where the use for public purpose is anticipated to be permanent.

a. Permitted Principal Uses

- (1) Churches, synagogues and other similar religious structures/use.
- (2) Public, quasi-public or private schools or educational facilities, training centers, colleges, universities and clinics.
- (3) Public administrative offices and public service buildings, including fire and police stations.

b. Permitted Accessory Uses

- (1) Garages for storage of licensed vehicles used in conjunction with the operation of a permitted use.
- (2) Residential quarters for caretakers or clergy (not for rent and on the same parcel as the principal use).
- (3) Permanent service buildings and facilities normally accessory to the permitted uses.
- (4) See Section 17.0700.

c. Conditional Uses (See subsection 17.0210 and section 17.0500)

- (1) Airport, landing fields, heliport pads, and aircraft storage and equipment maintenance, provided that the site is not less than 100 acres in size.
- (2) Bus terminals and related equipment storage and maintenance.
- (3) Cemeteries and mausoleums.
- (4) Electric generation plants and electricity regulating substations.
- (5) Radio and television transmitting and receiving towers; microwave relay stations.
- (6) Transit and carpooling parking areas.
- (7) Water storage tanks, wells and towers.

d. Lot Area and Width

- (1) Lots shall have a minimum area of two (2) acres
- (2) Lots shall be not less than 220 feet in width at the building setback line.

e. Building Height and Size

No building or structure or parts thereof shall exceed 35 feet in height except radio and TV transmitting towers.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 75 feet from the street, road, or highway right-of-way.
- (2) There shall be a side yard on each side of all structures not less than 25 feet in width.
- (3) There shall be a rear yard of not less than 25 feet.
- (4) All structures shall be set back a minimum 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see subsection 17.0435)

g. Off-street Parking and Loading Space

- (1) See sub-section 17.0424 and section 17.0600.
- (2) Sufficient off-street parking and loading area shall be provided to accommodate all anticipated needs on the premises and such parking and loading areas shall be adequately screened as determined by the Plan Commission.
- (3) There shall be no parking or loading within 30 feet of a street right-of-way.

h. Minimum Utility Service

Electricity and waste water treatment and disposal facilities and water supply system as required by the State of Wisconsin and/or the Waukesha County Department of Health and Human Services.

i. Special Regulations

To encourage an institutional use environment that is compatible with the residential character of the City Building and/or Zoning permits for permitted uses in the I-2 Rural Institutional District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with adjacent existing and planned uses, building materials, signage, lighting, storm water drainage, ingress, egress, parking, loading and unloading, and screening and landscape plans. (See subsection 17.0210).

17.0432 P-1, PARK AND OPEN SPACE DISTRICT

The P-1, Park and Open Space District is intended to provide for areas where the active and passive recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent uses.

a. Permitted Principal Uses

- (1) Boat access sites.
- (2) Botanical gardens and arboretums.
- (3) Forest Preserve.
- (4) Golf courses without country club/restaurant facilities.
- (5) Historic and public monument sites.
- (6) Sportsmen's clubs.
- (7) Outdoor ice-skating and hockey rinks.
- (8) Parks, leisure and ornamental.
- (9) Picnic areas.
- (10) Playfields or athletic fields.
- (11) Playgrounds.
- (12) Play lots or tot lots.
- (13) Skiing and tobogganing slopes.
- (14) Swimming beaches.
- (15) Outdoor tennis courts.

b. Permitted Accessory Uses

- (1) Any structure necessary for the operation or use of a permitted use.
- (2) Paved off-street parking areas.
- (3) See section 17.0700.

c. Conditional Uses (See section 17.0500)

- (1) Amphitheaters.
- (2) Archery ranges.
- (3) Arenas and field houses.
- (4) Bathhouses and swimming pools.
- (5) Conservatories.
- (6) Exhibition halls.
- (7) Fairgrounds.
- (8) Golf courses with country club/restaurant facilities.
- (9) Golf driving ranges.
- (10) Gymnasiums.
- (11) Marinas.
- (12) Museums.
- (13) Music Halls.
- (14) Polo fields.
- (15) Recreation centers.
- (16) Riding academies.
- (17) Skate board parks/facilities.
- (18) Skeet and trap shooting ranges provided that the firing of rifled arms and shotgun slugs shall not be permitted directly toward or over any highway, road, or navigable water, or directly toward any building or structure, or directly toward any population concentration within one mile of the site.
- (19) Stadiums.
- (20) Wildlife preserves.
- (21) Zoological facilities.
- (22) Campgrounds, provided that such facilities shall meet the following conditions:

- (a) The minimum size of a RV, travel trailer park or campground shall be ten (10) acres.
 - (b) The maximum number of individual campsites shall be four per gross acre.
 - (c) Each individual campsite shall be plainly marked.
 - (d) The minimum dimensions of a campsite shall be 40 feet wide by 50 feet long.
 - (e) Each campsite shall be separated from other campsites within the campground by a yard area not less than 15 feet wide.
 - (f) There shall be a minimum of one and one-half (1-1/2) automobile parking spaces for each individual campsite and such parking space shall be provided so as not to restrict free movement of traffic within the campground.
 - (g) No individual campsite shall be located closer than 75 feet from a public highway, designated wetland, road right-of-way or designated 100 year recurrence interval (base flood) floodplain, nor closer than 40 feet to any other property boundary.
 - (h) All campgrounds shall conform to the requirements of Section H78, Wisconsin Administrative Code, as amended.
 - (i) Each campground shall be completely enclosed except for permitted entrances and exits by either a planting of fast-growing plant material at least 6 feet in height at the time of planting, or a permanent evergreen planting, the individual trees to be of such a number and so arranged that within five (5) years a dense screen will be formed. Such permanent planting shall be grown or maintained to a height of not less than 10 feet.
 - (j) Each RV or travel trailer camp, campground, or camping resort shall have a service building similar to that required by Section 1177, Wisconsin Administrative Code.
 - (k) No RV, trailer or camping unit shall be located on one site for a period of more than 21 days in a calendar month. No unused or uninhabited RV, trailer or other enclosed vehicle shall be stored in a trailer park, campground, or camping resort. (Also see sub-section 17.0435c(12)).
- d. Lot Area and Width
- (1) Lots in the P-1 District shall provide sufficient area for any principal structure or accessory structures as well as necessary off-street parking and loading areas.
 - (2) Lots shall not be less than 80 feet in width at the principal street access.
- e. Building Height and Size (See subsection 17.0210)
- (1) No building or parts of a building shall exceed 35 feet in height.
 - (2) The sum total of the floor area of all buildings shall not exceed 10 percent of the total park area.
- f. Setback and Yards
- (1) No building or structure shall be erected, altered, or moved closer than 40 feet to a lot line.
 - (2) All structures shall be set back a minimum of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland. (Also see sub-section 17.0435).

g. Parking and Loading Space

- (1) There shall be sufficient paved off-street parking and loading space provided to accommodate users of the park or open space area and such parking and loading areas shall be adequately screened as determined by the Plan Commission (see section 17.0600).
- (2) There shall be no parking or loading area within 30 feet of a street right-of-way.

h. Minimum Utility Service

Electricity and waste water treatment and disposal facilities and water supply system as required by the Wisconsin Department of Natural Resources and/or the Waukesha County Health and Human Services Department.

i. Special Regulations

To encourage a park use environment that is compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the P-1 District shall not be issued without prior review by and approval of plans for such use by the City Plan Commission. Said review and approval shall be concerned with adjacent existing and planned uses, general site layout, operation plans, building materials, need for public waste water treatment and water supply facilities, ingress, egress, signage, lighting, storm water drainage, parking, loading and unloading, and screening and landscape plans. See subsection 17.0210.

17.0433 LC, LOWLAND CONSERVANCY DISTRICT

The LC, Lowland Conservancy District is intended to be used to delineate those land and water areas that exhibit the physical characteristics of wetlands as defined by botanical and soil experts and professional biologists and, therefore, do not possess the capability of supporting urban or dense rural development, and by doing so, prevent disruption of valuable natural or man-made resources and to protect watercourses, including the shorelands of navigable waters and areas that are not adequately drained or areas which are subject to periodic flooding, where development would result in hazards to health or safety or would be otherwise detrimental to the public welfare and which are not delineated as floodplain areas as set forth in sub-section 17.0435. The delineation of such district boundaries shall be based on information provided by those agencies of government having recognized jurisdiction or expertise in such delineation.

a. Permitted Principal Uses

- (1) Non-tilled agricultural uses when conducted in accordance with County Soil and Water Conservation District Standards. (See 17.0433c below)
- (2) Fishing and hunting where allowed by other laws or ordinances.
- (3) Harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits, and tree seeds.
- (4) Preservation of scenic, historic, native grassed prairies and scientific areas.
- (5) Public fish hatcheries.
- (6) Public and private open space areas.
- (7) Sod farms (See (1) above).
- (8) Stream bank and lakeshore protection.
- (9) Sustained yield forestry.
- (10) Wildlife preserves.
- (11) Public works.

b. Permitted Accessory Uses

- (1) Structures used in or accessory to a fish hatchery.
- (2) Non-walled park or recreation shelters.
- (3) Structures such as elevated wooden walkways used to traverse lowlands or watercourses.
- (4) See Section 17.0700.

c. Conditional Uses

- (1) Any activity that requires the excavation or stockpiling of earthen materials. (Also see 17.0433i, below).
- (2) Non-conforming structure modification.

d. Lot Area and Width

No minimum lot area or width.

e. Building Height and Area (See subsection 17.0210)

- (1) No principal building or structure or part thereof shall exceed 35 feet in height.
- (2) No accessory building or structure or part thereof shall exceed 18 feet in height.
- (3) The sum total of the ground level area of all buildings or structures shall not exceed one (1) percent of the total area of the parcel.

- f. Setback and Yards.
Same as the most restrictive adjacent zoning district.
- g. Off-street Parking and Loading Space
Off-street parking and loading space to accommodate permitted principal and accessory uses on the premises (see section 17.0600).
- h. Minimum Utility Service
Electricity
- i. Special Regulations
To encourage uses that are compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the LC-Lowland Conservancy District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with adjacent existing and planned uses, need for public or private water supply and sanitary disposal facilities, general site layout, building and operation plans, building materials, ingress, egress, signage, lighting, storm water drainage, parking, loading and unloading, and screening and landscape plans. Permits issued by the U.S. Army Corp of Engineers and the WisDNR may be required. In addition, where walled structures exist within the LC district and are, therefore non-conforming, they may only be added to or modified in compliance with these regulations, including subsection 17.0435j.

17.0434 UC, UPLAND CONSERVANCY DISTRICT

The UC, Upland Conservancy District is intended to be used to preserve, protect, enhance, and restore significant woodlands, areas of rough or steep topography, perched water table wetlands and related scenic areas. Regulation of these areas will serve to control erosion and sedimentation and will promote and maintain the natural attributes and characteristics of the City.

a. Permitted Principal Uses

- (1) Agricultural uses when conducted in accordance with County Soil and Water Conservation District Standards.
- (2) Fishing and hunting where allowed by other laws or ordinances.
- (3) Forest and game management.
- (4) Public or private open space.
- (5) Preservation of scenic, historic, and scientific areas.
- (6) Single-family dwelling with attached or detached garages.
- (7) Foster homes, community living arrangements and family day-care homes as set forth in Wisconsin Statutes.
- (8) Public works when approved by applicable governmental agencies.

b. Permitted Accessory Uses

- (1) Yard maintenance storage shed incidental to the residential use and not exceeding 192 square feet in area and compatible in design with the principal buildings.
- (2) General farm buildings including barns, silos, sheds, and storage bins.
- (3) Keeping of domestic livestock as permitted in Section 17.0405 of this Ordinance.
- (4) Park or recreation use structures.
- (5) See section 17.0700.

c. Conditional Uses (See section 17.0500)

- (1) As provided in sub-section 17.0405 of this ordinance.
- (2) Office buildings/grounds and institutional uses when no more than 2.5 percent of the upland conservancy area of the parcel will be disturbed by the development.

d. Lot Area and Width

- (1) Lots shall have a minimum net area of five (5) acres.
- (2) Lots shall be not less than 300 feet in width at the building setback line.
- (3) When lands in the LC and/or F-1 District lie adjacent to lands in the UC District and under the same ownership, such lands may be used to meet 50 percent of the lot area requirements of the UC District.

e. Building Height and Size

- (1) No principal building or parts of a principal building shall exceed two (2) stories or 35 feet in height and accessory buildings shall not exceed 18 feet in height except for farm barns and silos which may not exceed 65 feet in height.
- (2) The minimum floor area of a dwelling unit shall be as provided in sub-section 17.0405.

f. Setback and Yards

- (1) There shall be a minimum building (or street) setback of 45 feet from the right-of-way of all streets, roads, or highways.
- (2) There shall be a side yard on each side of all structures of not less than 30 feet in width.

- (3) There shall be a rear yard of not less than 35 feet.
 - (4) All structures shall be set back a minimum of 75 feet from the designated 100 year recurrence interval (base flood) floodplain of all navigable streams and bodies of water and 25 feet from any designated wetland.
(Also see sub-section 17.0435)
- g. Off-street Parking and Loading Space
- (1) Adequate, paved off-street parking and loading space to accommodate permitted principal and accessory uses on the premises and all office parking and loading areas shall be adequately screened as determined by the Plan Commission (see subsection 17.0210 and section 17.0600).
 - (2) There shall be no parking or loading area within 40 feet of a street right-of-way.
- h. Minimum Utility Service
Electricity, approved private water supply, and an approved on-site soil absorption sanitary sewage disposal system. **Note: If public sanitary sewerage and/or water supply facilities are available to the property, no on-site sewage disposal system or water supply system will be permitted and office uses must be served by public sanitary sewerage and water supply facilities.**
- i. Special Regulations
To encourage uses that are compatible with the residential character of the City, Building and/or Zoning permits for permitted uses in the UC-Upland Conservancy District shall not be issued without prior review by and approval of the City Plan Commission. Said review and approval shall be concerned with adjacent uses, general site layout, building and operation plans, building materials, need for public sanitary sewerage and water supply facilities; ingress, egress, signage, lighting, storm water drainage, parking, loading and unloading, and screening and landscape plans. (See subsection 17.0210)

17.0435 F-1, FLOODPLAIN DISTRICT. (Rep. & Rec. 08-12, 12-12, 14-14)

The F-1, Floodplain District is intended to preserve in essentially open space and natural land use, through land use zoning regulation, lands which are unsuitable for intensive development purposes due to poor natural soil conditions and periodic flood inundation and shall include all land and water area lying within the designated Special Flood Hazard Area (SFHA) which encompasses the delineated forecast 100 - year recurrence interval (one percent chance in a year) floodplain as shown on Federal Emergency Management Agency (FEMA) maps (also called the 'regional flood' or 'base flood') and those land and water areas designated by FEMA as 'Zone A' areas. Also included within the F-1, Floodplain are those areas adjacent to the base flood designated by the Wisconsin Department of Natural Resources (WisDNR) as Flood Storage Districts (FSDs). The proper regulation of these areas will serve to maintain and improve water quality, prevent flood damage, protect wildlife habitat, and prohibit the location of walled structures, as defined herein, on lands, which are generally not suitable for such use due to possible flooding.

a. FINDING OF FACT

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

b. 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) Eliminate the occurrence of future flood blight areas in the floodplain;
- (7) Eliminate 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) Eliminate development in a floodplain, recognizing that there may be existing developed land lying within the delineated F-1, Floodplain District and there may be the need to locate public utilities or streets within the F-1, Floodplain District.

c. TITLE

This sub-section of the City Zoning Ordinance shall be commonly known as the 'Floodplain Ordinance' for the City of Pewaukee, Wisconsin.

d. STATUTORY AUTHORIZATION

This sub-section of the City Zoning Ordinance is adopted pursuant to the authorization in Sections 62.23 and 87.30 of Wisconsin Statutes as well as Ch. NR 116 of the Wisconsin Administrative Code which is included as Appendix 5 in this zoning ordinance.

e. 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 DNR such as the WisDNR Flood Storage Districts (FSDs). Base flood elevations (BFE) are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. 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 & REVISIONS

The boundaries of the SFHA are designated on the maps listed in (3) below. Any change to the 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 FEMA through the Letter of Map Change process (see 17.0435t *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps, profiles and revisions are on file in the City Planning, Public Works or Building Inspection offices at Pewaukee City Hall and may also be available in the Waukesha County Park and Land Use Department offices in the Courthouse. If more than one map or revision is referenced for the same area, the most restrictive information shall apply.

(3) OFFICIAL MAPS AND PROFILES: Based on the FIS:

Official FIRMs and Profiles Encompassing the City of Pewaukee are FIRM panel numbers: 55133C0181G, 55133C0182G, 55133C0183G, 55133C0184G, 55133C0191G, 55133C0192G, 55133C0201G, 55133C0202G, 55133C0203G, 55133C0204G, 55133C0206G, 55133C0208G, 55133C0211G, 55133C0212G, 55133C0213G, 55133C0214G, 55133C0216G dated November 5, 2014; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated February 9, 2014, and numbered: 55133CV001C, 55133CV002C, 55133CV003C. (Approved by: WisDNR and/or FEMA)

(4) MAPS BASED ON OTHER STUDIES:

Flood Storage Map. Also included within the City's F-1, Floodplain District, are the flood storage districts as depicted on Waukesha County Wisconsin Flood Storage District Map Panels 3, 5 and 6, based on a WisDNR study dated November 5, 2014. Prepared and Approved by WisDNR.

(5). ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICT

The F-1, Floodplain as defined in this City Zoning Ordinance includes:
All land and water area lying within the boundary of the SFHA as defined above plus any FSD.

(6) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in (a) or (b) below. If a significant difference exists, the map shall be amended according to section 17.0435t *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 section 17.1007 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 section 't' *Amendments* of this sub-section.

- (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.

(7) 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 section 't' *Amendments* of this sub-section.

In addition, no floodplain may be filled and no walled structure built within the SFHA or FSDs with the exception of the construction of public utility and transportation facilities required by a unit/agency of government, or an approved structure requiring water frontage which would require adherence to regulations as set forth in section 'l' of this subsection and by FEMA and NR116. Compliance with the provisions of this ordinance shall not be grounds for removing land from the F-1, Floodplain District unless:

- (a) Said land has been previously filled prior to the effective date of the adoption on this amendment so that the elevation of the lowest floor (including basement) of any existing or proposed walled structure or building is at least two feet above the base flood elevation;
- (b) The proposed filled land does not form an island and can be accessed from other surrounding lands without entering the F-1, Floodplain District;
- (c) There is an area of land outside the F-1, Floodplain District but adjacent to and on the same property as the proposed filled land equal to at least four (4) times the areal extent and volume of the proposed filled area that is added to the F-1, Floodplain District based on plans approved by the City Plan Commission;
- (d) The height of the downstream base flood is not increased by proposed fill;
- (e) The floodplain boundaries shown on all official maps are amended pursuant to section 'n' of this sub-section; and
- (f) A study is prepared and certified by a state registered professional engineer, establishing that:
 - i. The fill, lowest floor and floodproofing elevation shall have no effect upon the base flood elevation either upstream or downstream and are in compliance with this ordinance; or
 - ii. The fill, lowest floor and floodproofing elevations may have the effect of raising the base flood elevation either upstream or downstream if otherwise in compliance with this ordinance, in which case the property owner must also contact FEMA to request and receive an approved Conditional Letter of Map Revision (CLOMR) prior to issuance of any local permit(s); or
 - iii. The fill, lowest floor and floodproofing elevations may have the effect of lowering the base flood elevation either upstream or downstream and are otherwise in compliance with this ordinance, in which case the property owner must also contact FEMA to request and receive an approved Letter of Map Change (LOMC) prior to issuance of any local permit(s). Please also see sub-section 17.1108b and Appendix 5.

(8) 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.

(9) 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 agencies are required to comply if s.13.48(13) of Wisconsin Statutes applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s.30.2022 of Wisconsin Statutes applies.

(10) ABROGATION AND GREATER RESTRICTIONS

- (a) This ordinance supersedes all the provisions of any City ordinance enacted under s. 62.23 or s.87.30 of Wisconsin Statutes., 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.

(11) INTERPRETATION

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the City and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance or 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.

(12) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and scientific research related to a 100 year recurrence interval flood event (one percent change in any year). 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 city or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(13) 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.

(14) ANNEXED AREAS

The Waukesha County floodplain zoning provisions in effect on the date of annexation of town lands shall remain in effect and shall be enforced by the city for all annexed areas until the city 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 city'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 city zoning administrator. All plats or maps of annexation shall show the regional or base flood elevation and the floodway location.

f. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS (Also see section 17.0200 of this ordinance)

The City Plan Commission and planning staff shall review all applications for land development or land division pursuant to City codes and ordinances to determine whether proposed buildings and building sites will be reasonably safe from flooding. No new walled buildings or structures, including manufactured mobile homes and walled enclosures, shall be allowed within or within a distance of 75 feet from the boundary of a base flood floodplain as defined herein except as set forth in sections 'k(3)' and 'l(2)' of this sub-section, and sub-section 17.0436. All new construction and permitted structural improvements to existing buildings/structures within a floodplain shall be designed or modified so as to adequately anchor such structure or building to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

In addition to the requirements of Chapter 18 (Land Division Ordinance) of City Codes and Ordinances, subdivision of land shall be reviewed for compliance with the above standards and no newly created building parcel less than ten (10) acres in size shall be located within a base flood floodplain. (see section 'l (2)' of this sub-section). 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. All proposed land development plans, including land divisions and manufactured mobile home parks shall include BFE data for any land division or development that meets the definition within this zoning ordinance or Chapter 18 of the City Codes and Ordinances. (See www.cityofpewaukee.us)

g. HYDRAULIC AND HYDROLOGIC ANALYSES

(1) No building or development shall:

(a) Obstruct natural storm water flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional or base flood height; or

(b) Cause any increase in the regional or base 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 or base flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of section 't' *Amendments* of this sub-section are met.

h. 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 WisDNR (Department) and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of section 'g' of this sub-section 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 section 't' *Amendments* of this sub-section, the City shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the WisDNR through the LOMC process.

i. CHAPTER 30, 31 of WISCONSIN STATUTES DEVELOPMENT

Approved development which requires a permit from the Department, under chs. 30 and 31 of Wisconsin Statutes, such as docks, piers, wharves, bridges, utilities, public streets/highways, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and any amendments to the floodplain zoning ordinance are made according to section t *Amendments* of this sub-section.

j. PUBLIC OR PRIVATE CAMPGROUNDS

Public or private campgrounds, as defined herein, shall not be located within the F-1, Floodplain District.

k. PERMITTED USES IN THE F-1, FLOODPLAIN DISTRICT

The following open space uses are allowed in the F-1, Floodplain District if they are not prohibited by any other ordinance; they meet the standards in sections 'l' and 'm' of this sub-section; and, all permits or certificates have been issued according to section 'p(1)' of this sub-section.

- (1) Non-structural agricultural uses, such as: general farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Non-structural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Non-structural 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 section 'l(5)' of this sub-section.
- (4) Uses or non-walled structures accessory to open space uses, or classified as historic structures that comply with sections 'l' and 'm' of this sub-section.
- (5) Extraction of sand, gravel or other earth materials that comply with section 'l(5)' of this sub-section.
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids as well as river crossings of transmission lines, and pipelines that comply with chs. 30 and 31 of Wisconsin Statutes.
- (7) Public utilities, streets/highways and bridges that comply with section 'l(4)' of this sub-section.

l. STANDARDS FOR DEVELOPMENT IN THE F-1, FLOODPLAIN DISTRICT

Any existing or proposed development within the SFHA and FSDs must adhere to the requirements of this ordinance.

(1) GENERAL

- (a) Any permitted development in the SFHA shall comply with section 'f' of this sub-section and have a low flood damage potential.
- (b) Applicants shall provide the following data to determine the effects of the proposal according to sections 'g' and 'q' of this sub-section:

- i. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - ii. An analysis performed by a state registered professional engineer calculating the effects of the proposal on regional or base 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 (b) above.

(2) STRUCTURES

Structures accessory to permanent open space uses or functionally dependent on a waterfront location such as an approved boathouse or boat dock may be allowed by permit if the structures comply with all 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) Has 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 above the flood protection elevation; and
- (e) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional or base flood.

(3) FLOODPROOFING FOR NON-RESIDENTIAL STRUCTURES

Actions or measures designed to reduce or prevent flood damage must be taken for those buildings or structures which cannot be removed from the floodplain or, if substantially damaged, must be erected within the floodplain, including but not limited to the following: structural modification; installation of special equipment such as water extraction equipment; addition of operation and management safeguards; supplemental underpinning and reinforcement of floors; reinforcement of walls; sealing of doors and windows and other exterior openings; anchoring of buoyant tanks and material; erection of watertight bulkheads, windows and doors; waterproof treatment of exposed wood; elevation of flood vulnerable utilities and mechanical equipment; use of masonry construction with waterproof mortar; installation of submersible sump pumps; placement of backflow and automatic swing check valves; installation of wire reinforced glass; placement of drain plugs and flood drain pipes; and removal of anything that will float or be damaged by water or flood borne debris. These and any other floodproofing measures should be extended to at least two feet above the BFE. Most of the aforementioned measures require a building permit issued by the City Building Inspector. All floodproofing measures must be certified by a registered professional engineer or architect.

(4) 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 section 'g' of this sub-section.

(5) FILL OR DEPOSITION OF MATERIALS

No floodplain may be filled and no walled structure built within the F-1, Floodplain as defined herein with the possible exception of the construction of required public utility and transportation facilities and structures requiring a waterfront location, which would require adherence to regulations as set forth in section 'l' of this subsection and by FEMA and NR116. Compliance with the provisions of this ordinance shall not be grounds for removing land from the F-1, Floodplain District. PLEASE SEE SUBSECTION 17.0435e(7), ABOVE as well as subsection 17.1108b and Appendix 5.

m. PROHIBITED USES

All uses not listed as permitted uses in section 'k' of this sub-section are prohibited, including the following uses:

- (1) Walled structures, structures with high flood damage potential, or those not associated with permanent open-space uses, including mobile homes and recreation vehicles;
- (2) Stored 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 zoning districts;
- (4) Any private or public on-site wastewater treatment/disposal system, 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 of the Wisconsin Administrative 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 of the Wisconsin Administrative Code;
- (6) Any solid, liquid, or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b) of the Wisconsin Administrative Code;
- (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 set forth herein;
- (9) Storm water management retention or detention ponds;
- (10) Any use requiring excavation or grading except those uses listed in section 'g' of this sub-section;
- (11) Storage of materials such as compost, mulch, gravel, soil, fill (clean or unclean).

n. FLOOD STORAGE DISTRICT (FSDs) OF THE F-1, FLOODPLAIN

A 'FSD' is that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional or base flood discharge. The FSD protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

(1) APPLICABILITY

The provisions of this section apply to all areas within the FSDs, as shown on the official floodplain zoning maps.

(2) PERMITTED USES

Any use or development which occurs in a flood storage district must meet the applicable requirements in section 'I' of this sub-section.

o. NON-CONFORMING STRUCTURES AND USES IN THE F-1, FLOODPLAIN DISTRICT

If these standards conform to s. 62.23(7)(h) of Wisconsin Statutes, 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.

(1) GENERAL

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, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification and 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.

For the purposes of this subsection of the zoning ordinance, 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 a 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 city 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 section 'I' of this sub-section. The cost of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation is 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 section 'l' of this sub-section.
- (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 section 'l' of this sub-section.
- (g) Except as provided in section 'l' of this sub-section, 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 current equalized assessed value.
- (h) For nonconforming buildings that are substantially damaged or destroyed by a non-flood event, 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 requirements below are met and all required permits have been granted prior to the start of construction.

(2) RESIDENTIAL STRUCTURES

- (a) Structures 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 section 'o(4)' of this sub-section.
- (b) Structures 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) Structures shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (d) Owners of structures in the SFHA must obtain, review and utilize any flood data available from a federal, state or other source.
- (e) Structures in the SFHA with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 'l' of this sub-section and adequate drainage paths or swales shall be placed around the structures on slopes to guide flood waters around and away from the structure without being diverted to adjacent properties without permission.

(3) NON-RESIDENTIAL STRUCTURES

- (a) Structures shall meet the requirements of section 'o(2) a-e' of this sub-section.
- (b) Structures shall either have the lowest floor, including basement, elevated to or above the regional or base flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 'o(4)(a) and o(4)(b)' of this sub-section. A registered professional engineer or architect must certify that the perimeter walls shall be constructed so as to protect the structure.
- (c) Structures in AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 'l' of this sub-section.

(4) FLOODPROOFING STANDARDS FOR NONCOMFORMING STRUCTURES OR USES – NON-RESIDENTIAL STRUCTURES

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional or base 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.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - i. certified by a registered professional engineer or architect; or
 - ii. 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.
- (c) Floodproofing measures shall be designed, as appropriate, to:
 - i. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - ii. Protect structures to the flood protection elevation;
 - iii. Anchor structures to foundations to resist flotation and lateral movement;
 - iv. Minimize or eliminate infiltration of flood waters; and
 - v. Minimize or eliminate discharges into flood waters.

(5) OFFICIALLY DESIGNATED HISTORIC STRUCTURES

A nonconforming historic structure may be altered if: the alteration will not preclude the structure's continued designation as a historic structure; the alteration will comply with section 'l' of this sub-section; flood resistant materials are used; and construction

practices and floodproofing methods that comply with section 'o' of this sub-section are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of section 'o(2)' of this sub-section 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.

(6) STRUCTURES IN A FLOOD STORAGE DISTRICT (FSD)

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in section 'n' of this sub-section are met.

p. ADMINISTRATION

(1) ZONING ADMINISTRATOR – DUTIES AND POWERS (see 17.0203 & 17.1000)

The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- (a) Attend all meetings of the Zoning Board of Appeals.
- (b) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional or base flood elevation for the proposed development is shown on all permit applications.
- (c) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (d) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (e) Keep records of all official actions such as:
 - i. All permits issued, inspections made, and work approved;
 - ii. Documentation of certified lowest floor and regional or base flood elevations;
 - iii. Issuance of Floodproofing Certificates.
 - iv. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - v. All substantial damage assessment reports for floodplain structures.
 - vi. List of nonconforming structures and uses.
- (f) Submit copies of the following items to the Department Regional office:
 - i. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - ii. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
 - iii. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (g) Investigate, prepare reports, and report violations of this ordinance to the City Planner and City Attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(h) Submit copies of amendments 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 for a permit to the City planner or zoning administrator shall include:

(a) GENERAL INFORMATION

- i. Name and address of the applicant, property owner and contractor;
- ii. Legal description, proposed use, and whether it is new construction or a modification.

(b) A SITE DEVELOPMENT PLAN

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

- i. Location, dimensions, area and elevation of the lot or parcel;
- ii. Location of the ordinary high water mark (OHWM) of any abutting navigable waterways;
- iii. Location of any structures with distances measured from the lot lines and street center lines;
- iv. Location of any existing or proposed on-site sewage systems or private water supply systems;
- v. Location and elevation of existing or future access roads;
- vi. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- vii. 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);
- viii. Data sufficient to determine the regional or base flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sections ‘k, l, or m’ of this sub-section are met; and
- ix. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional or base flood height or discharge according to section ‘g’ of this sub-section. This may include any of the information noted in section ‘l(1)’ of this sub-section.

(3) EXPIRATION

For the purposes of this subsection of this ordinance all permits issued for floodplain development shall expire no later than 180 days after issuance. The permit may be extended for up to 180 day for good and sufficient cause.

(4) OTHER PERMITS

Prior to obtaining a land use permit the applicant must obtain permits from all other federal, state, county and city permitting agencies, including but not limited to: the

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

q. HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT

All hydraulic and hydrologic studies shall be completed under the direct supervision of a state registered professional engineer. The registered professional engineer shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

(1) ZONE A FLOODPLAIN AREA

(a) HYDROLOGY

The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional or Base Flood Discharge*.

(b) HYDRAULIC MODELING

The regional or base flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional or Base Flood Elevation* 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 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

A work map of the stream reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the development and whether the development is located in the floodway.

- i. If the development is located outside of the floodway, then it is determined to have no impact on the regional or base flood elevation.
- ii. If any part of the 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 FLOODPLAIN AREA

(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 or Base Flood Discharge*.

(b) HYDRAULIC MODEL

The regional or base flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional or base Flood Elevation* 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 stream 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 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.
- 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 stream 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 stream 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 1.0% and 0.2% annual chance floodplains and floodway boundaries.
- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or 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.

(3) CERTIFICATE OF COMPLIANCE

For the purposes of this subsection, 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 approved by either the Zoning Administrator, City Planner, Plan Commission, Common Council or combinations of these persons or bodies as stipulated in section 17.0200 or elsewhere in this zoning ordinance, and only after the owner has submitted a certification signed by a registered professional engineer, architect or land surveyor that any fill and 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 floodproofing measures meet the requirements of this subsection.

- r. ZONING BOARD OF APPEALS (ZBA)
(PLEASE SEE SUBSECTION 17.1000 OF THIS ORDINANCE)

- s. PUBLIC INFORMATION

The Zoning Administrator and authorized assistants, the City Planner and other City staff involved in interaction with the public and the media shall provide any electronic, written or verbal information regarding floodplains upon request. In addition they shall:

- (1) Keep current records of local flooding;
- (2) Retain all available official floodplain maps and documents for ready use;
- (3) Provide flood information to other state, county and local agencies and, when possible, mark previously flood inundated structures to show the level of inundation.
- (4) Retain any real estate transfers showing in what floodplain district any real property is located.

t. AMENDMENTS

Obstructions or increases may only be permitted if amendments are made to this subsection of the zoning ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 't(2)' of this sub-section.

- (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a CLOMR from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 't(2)' of this sub-section. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in section 't(3)' of this sub-section below. Actions which require an amendment to the ordinance and/ or submittal of a LOMC include, but are not limited to, the following:
 - (a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional or base flood height;
 - (b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
 - (c) Any changes to any other officially adopted floodplain maps listed in section 'e(4)' of this sub-section;
 - (d) 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;
 - (e) Correction of discrepancies between the water surface profiles and floodplain maps;
 - (f) 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 city; and
 - (g) 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 BFE from a FIRM requires prior approval by FEMA.

- (3) Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23 of Wisconsin Statutes. The petitions shall include all data required by section 'p(2)' of this sub-section. The Building and/or Land Use Permit shall not be issued until a LOMR is issued by FEMA for the proposed changes.
- (a) The proposed amendment shall be referred to the City Plan Commission 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 of the Wisconsin Statutes.
- (b) No amendments shall become effective until reviewed and approved by the Department.
- (c) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional or base 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.

u. ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the city attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the city a penalty of \$50.00 (fifty dollars) or the maximum allowed under ss.87.30(2) for each separate offense, 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 city, the state, or any citizen thereof pursuant to s. 87.30 of Wisconsin Statutes.

v. DEFINITIONS

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 "should" is advisory, the word "may" is permissive, the words "shall" or "must" are mandatory and are not discretionary.

- (1) A Zones – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional or base 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 Flood Insurance Rate Map (FIRM) with a 1.0 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 – 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. Also called the one hundred year recurrence interval flood.
- (8) Basement – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- (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 of Wisconsin Statutes, and which allows limited filling between this bulkhead line and the original ordinary high water mark (OHWM), 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 or base flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional or base 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:
- The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan; or
 - 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 one hundred year recurrence interval floodplain outside of the floodway which is covered by flood waters during the regional or base flood and are usually represented or associated with standing or slow moving circulating water rather than straight flowing water.
- (26) Flood Hazard Boundary Map – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional or base 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 (FIRM).
- (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 or base 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 FIS, form the basis for both the regulatory and the insurance aspects of the NFIP.
- (28) Floodplain – In the City of Pewaukee, lakes and streams and adjoining land which has been or may be covered by flood water during a regional or base flood, and which is comprised of the floodway, flood fringe, the FEMA 'A zones' plus the WisDNR Flood Storage Districts (FSDs).
- (29) Floodplain Island – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional or base_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 or base 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 or base flood discharge.
- (35) Floodway – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the main flow of the regional or base flood discharge and represented or associated with fast moving water.
- (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:
- 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;
 - 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;
 - Individually listed on a state inventory of historic places in states with historic

- 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 or Base Flood Height – A calculated upward rise in the regional or base 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 use consisting 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, nonstructural 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 (RV) – 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 city governmental agencies 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 the City 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 flood fringe is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- (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 or base 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 Safety and Professional Services, 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 communication cables, as well as liquid distribution and collection systems such as water mains, sanitary sewers and storm sewers.
- (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. (See BASE FLOOD)
- (72) Special Flood Hazard Areas (SFHA) – Represent all the land and water areas that are prone to flooding, including: lakes and streams, the designated floodway, the designated flood fringe, the FEMA 'A' zone, and the WisDNR Flood Storage Districts (FSDs).
- (73) 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.

- (74) 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.
- (75) Subdivision – Has the meaning given in s. 236.02(12) of Wisconsin Statutes.
- (76) 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.
- (77) 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.
- (78) 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.
- (79) 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.
- (80) 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.
- (81) Watershed – The entire region contributing runoff or surface water to a watercourse or body of water.
- (82) 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 or base flood is used in regulating floodplain areas.
- (83) 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.

17.0436 SO, SHORELAND OVERLAY DISTRICT

The primary purpose of the SO, Shoreland Overlay District is to provide by supplemental regulation the special protection of those lands and uses which lie within the state designated shoreland areas of lakes and navigable streams within the City as defined in Chapter NR 115 of the Wisconsin Administrative Code, which includes all land within 1,000 feet of the ordinary high water mark (OHWM) of any lake and within 300 feet of the OHWM of all navigable streams in the City as well as the adjacent base flood floodplains of such lakes and streams. (Please also see sub-sections 17.0435, F-1 Floodplain District; 17.0433, LC, Lowland Conservancy District; 17.0434, UC, Upland Conservancy District as well as Chapters NR 115 and 117 attached hereto as Appendix 5.

- a. Permitted Principal and Accessory Uses (Rep. & Rec. 14-03)
All permitted principal or accessory uses allowed within the underlying zoning districts as long as such uses comply with the regulations set forth in this subsection and in NR 115.04(3) & (4). When there are conflicting provisions or regulations, the most restrictive shall apply. (Also see subsection 17.0435)

- b. Conditional Uses (See sub-section 17.0210 and section 17.0500)
In addition to any conditional use requirements set forth in the underlying zoning districts, the following uses and activities require a conditional use permit the request for which must be accompanied by a site and building plan prepared to City Plan Commission specifications:
 - (1) Earth movement such as: filling involving more than 15 cubic yards of material when separate from an approved: site or building construction activity or general land development; stream course changing; waterway construction or enlargement; removal of stream or lake bed materials; channel clearing, ditching, dredging; and, the building of ponds and lagoons and soil and water conservation structures provided that such uses, once approved, are regulated by the City engineer or building inspector so as to prevent erosion and sedimentation and to least disturb or impact the natural fauna, flora, watercourse, water regimen, and topography. The City Plan Commission may request a review of each earth moving project proposal by the U. S. Army Corp of Engineers and the Wisconsin Department of Natural Resources. Also see sub-section 17.0435, Floodplain Regulation and Chapter 19, City Storm Water Management Plan. (Amended 14-03)

 - (2) Surface water withdrawal, diversion, retention or detention or discharge for the purpose of irrigation, processing, cooling, or other purposes provided such uses are conducted in a manner to least disturb natural drainage and water regimen, and to prevent flooding, erosion and sedimentation. The City Plan Commission may request a review of each surface water use by the Wisconsin Department of Natural Resources. (Please see sub-section 17.0435 of this ordinance). (Amended 14-03)

 - (3) Construction of a boathouse on property abutting Lake Pewaukee provided that such structure has no plumbing, kitchen or built-in cooking facility; is placed no closer than five feet from the OHWM or base flood and the side lot line; is not used, rented or leased for overnight habitation; and, can meet all the regulations set forth herein and in the underlying zoning district.

Please note: Any request for a conditional use permit must be accompanied by graphic and written plans for review by the Plan Commission, and in such detail as required by the Plan Commission. (See section 17.0500)

c. Additional Restrictions Applicable to Shoreland Areas (Rep. & Rec. 14-03)

- (1) Vegetation Buffer Zone. Shoreland property that contains vegetation shall maintain that vegetation in a buffer zone along the entire shoreline of the property and extending no less than 35 feet inland from the OHWM. Removal of all vegetation may be undertaken if the buffer zone contains invasive species or dead or diseased vegetation but shall be replaced with non-invasive vegetation.
- (2) Vegetation Clearing. Vegetation clearing within 75 feet of any designated lake or navigable stream or within the base flood floodplain of such waters is prohibited except for approved uses and activities as follows: park site development; access road, path or trail construction; required utilities; timber stand improvement; customary dead tree removal, trimming, and managed timber harvesting under a state District Foresters plan; or a viewing or access corridor. Such activity, when reviewed and approved by both the City Planner and City Engineer, shall not exceed an area equivalent to 30 percent of the property and shall be conducted so as to prevent erosion and sedimentation, preserve and improve scenic qualities and, during foliation, substantially screen any development of the property from stream or lake users. Viewing or access corridors shall not be greater than 30 feet wide for every 100 feet of shoreline frontage and shall not extend more than 35 feet inland from the OHWM. Viewing and access corridors do not have to be reviewed by the City Planner or Engineer. Paths and trails shall not exceed eight (8) feet in width and shall be so designed and constructed as to result in the least possible disruption, impairment or loss of shoreland cover, and water runoff absorption, and natural beauty. (See sub-section 17.0208 and NR 115).
- (3) Earth moving on individual parcels such as site grading, ditching, incidental filling of less than 15 cubic yards of earth materials, and temporary topsoil stockpiling require a permit issued by the City Engineer when conducted as a separate activity from approved land development or building construction and after recommendation by the City Planner. Such activity shall not be a visual eyesore, shall not change drainage capacity or direction and shall not cause erosion or other hazard. The City Engineer and City Planner in their review of a request for permit may request that the Plan Commission review and take action on the matter. (see NR 115 and 117, sub-sections 17.0208 and 17.0435).
- (4) Earth moving such as related to land development proposals, alteration of waterways, removal of stream or lake bed materials, channel clearing, dredging, construction of ponds or lagoons, road cutting, drainage ditching, construction of soil/water conservation structures, topsoil or other earth material mining, and long-term or

continuous fill operations require a permit issued by the City Engineer after review and approval of the City Plan Commission, in addition to any other regulatory agency having jurisdiction. The Plan Commission, in their review, may place conditions and limitations on such activities or, following their review may require that because the activity is of such magnitude or importance a conditional use permit is required and/or a cash bond or letter of credit is required to ensure performance and restoration. (See NR 115, section 17.0500 and sub-sections 17.0208 and 17.0435)

- (5) Structure Setbacks. No structure except necessary streets or access ways, utilities, navigational aids, piers and boat launch facilities, parking areas, approved boathouses, and principal buildings shall be located within 75 feet of a designated 100 year recurrence interval (base flood) floodplain of any lake or navigable stream or within 50 feet of an OHWM or officially designated wetland, unless there are existing principal use structures on adjoining parcels, in which case the setback from the OHWM or base flood elevation may be an average of setbacks on the adjoining parcels but no less than 35 feet. (See subsection 17.0435p for definition of 'base flood'). In this subdivision, 'principal building' shall mean the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.
- (6) Tilling, grazing, livestock watering and application of non-phosphorous fertilizers on agricultural zoned lands may be allowed within 75 feet of a designated wetland or navigable stream or body of water only if conducted in accordance with City, county and state regulations designed to safeguard the health and welfare of animals, aquatic life and the natural environment.

d. Impervious Surface Restrictions and Mitigation Requirements.

The man-made material coverage of lots/parcels within close proximity to navigable waterways shall be restricted as follows:

- (1) The total building coverage or 'footprint' of permanent structures* on a parcel of land located within 1,000 feet of a lake of the state shall be:
 - (a) No more than 20 percent of the total area of a parcel located within 300 feet of the OHWM or base flood elevation of a lake, whichever is greater; and,
 - (b) No more than 30 percent of the total area of a parcel located between 300 and 1,000 feet of the OHWM or base flood elevation of a lake, whichever is greater.
- (2) The total building coverage or 'footprint' of permanent structures* on a parcel of land located within 300 feet of the OHWM or base flood elevation of a navigable stream, whichever is greater, shall be no more than 20 percent of the total area of the parcel.
- (3) The permanent impervious surfaces such as driveways, parking areas, walkways, patios, ground level decks, ramps, tennis and other sports courts, fountains or pools located outside the 'footprint' of permanent structures* on a parcel of land within 1,000 feet of the OHWM or base flood elevation of a lake, whichever is greater, or within 300 feet of the

OHWL or base flood elevation of a navigable stream, whichever is greater, and made of such materials as: asphalt, concrete, stone, bricks, gravel, traffic bond, wood, metal, plastic, compacted construction clay or other like impervious material, shall total no more than 10 percent of the total area of a parcel less than 10,000 square feet in area and no more than seven and one-half (7-1/2%) percent of parcels of 10,000 square feet or more in area.

- (4) The total combined coverage of permanent structures* and permanent impervious surfaces outside the structures may be increased up to a total of 35 percent when the parcel is located within 300 feet of the OHWL or base flood elevation of either a lake or navigable stream whichever is greater, and may be increased to a total of 40 percent when the parcel is located between 300 and 1,000 feet of the OHWL or base flood elevation of a lake, whichever is greater, if the parcel owner(s) reaches a written agreement with the City to mitigate such increased impervious coverage by putting in place measures such as the following:
- (a) The planting of coniferous and deciduous trees and shrubs on the waterway side of buildings and structures; the construction of earthworks, rain gardens, terraces and detention/retention ponds to permanently retard water runoff, soil erosion and siltation from the property; the planting of ground cover and prairie like grasses on the down-slope side of buildings and structures that will retard water runoff, soil erosion and siltation; and, the establishment of natural growth wildlife habitat areas on the property.
 - (b) Any or all such mitigation measures shall be made for the purpose of limiting the effect the man-made disturbance of the property may have on the nearby waterway, adjoining properties and the environment and, as determined and directed by the City Plan Commission, shall be proportional to the amount of impervious surface added beyond the total area allowed under d(1), (2) or (3), above. Such mitigation measure requirements shall be recorded in the minutes of a City Plan Commission meeting and shall also be recorded by the County Register of Deeds as a property deed restriction for/on the property in question.
- (5) In no case shall lands lying within 300 feet of the OHWL or base flood elevation of a lake or a navigable stream, whichever is greater, have less than 65 percent of the parcel covered with natural grasses and vegetation and/or aforementioned mitigation measures. Likewise, in no case shall lands lying between 300 and 1,000 feet of the OHWL or base flood elevation of a lake, whichever is greater, have less than 60 percent of the parcel covered with natural grasses and vegetation and/or aforementioned mitigation measures.

**Permanent structures include houses, condo/apartment buildings, commercial, industrial or institutional buildings, garages, boathouses, storage buildings, swimming pools, cabanas, gazebos, porticos, carports and like structures.*

SECTION 17.0450 FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS (Cr. 13-06)

17.0451 **FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS**

1. The Council finds that Adult-Oriented Establishments, as defined and otherwise regulated by the City in its Adult-Oriented Licensing and Regulation Ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the City.
2. Based its review of a summary of studies conducted in Phoenix AZ, Garden Grove CA, Los Angeles CA, Whittier CA, Indianapolis IN, Minneapolis MN, St. Paul MN, Cleveland OH, Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in ***City of Renton v. Playtime Theaters, Inc.***, 475 U.S. 41 (1986), ***Coleman A. Young v. American Mini-Theaters, Inc.***, 427 U.S. 50 (1976), the Council finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and property values.
3. The Council intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
4. It is not the intent of the Council to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.
5. In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the City, it is the intent of the Council to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
6. Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Council finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.

17.0452 **DEFINITIONS**

“Adult-oriented establishment” as used in this subdivision includes: Adult Arcade, Adult Bathhouse, Adult Body Painting Studio, Adult Bookstore, Adult Cabaret, Adult Massage Parlor, Adult Motel, Adult Theater, and any commercial establishment presenting Adult Entertainment, whether or not

such establishment is operated or maintained for a profit as those terms are defined in § 11.12 of the City's Code.

17.0453 PERMITTED USE DISTRICT(S)

An Adult-Oriented Establishment shall be a permitted use in the M-2, M-3, and M-4 zoning district(s) and shall be a prohibited use in any other zoning district, provided an Adult-Oriented Establishment license has been obtained. All other general requirements of the District must be met, unless in conflict with the provisions of this subsection.

17.0454 SEPARATION DISTANCES

1. Adult-Oriented Establishments shall be located at least 600 feet from:
 - a. any residential district line, playground or public park lot line;
 - b. any structure used as a residence, place of religious worship, public or private school, or Youth Facility. A Youth Facility shall mean any facility where minors gather for educational or recreational activities including but not limited to swimming pools, libraries, licensed child-care facilities, or youth clubs;
 - c. any other structure housing an Adult-Oriented Establishment;
 - d. any structure housing an establishment which holds an alcohol beverage license.
2. Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the above residential district boundary lines, to the lot line of any used or structure listed in 1. a. – d., above. The measurements from an AOE structure shall be taken from the farthest point the structure extends in the direction of the measurement, including overhanging roofs or similar projections.
3. For Adult-Oriented Establishments located in conjunction with other buildings but clearly separate from other establishments such as in multi-tenant buildings, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.
4. For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency exits).
5. A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the location subsequent to the grant or renewal of its license of any of the establishments described in herein within 600 feet of the licensed premises. This provision applies only to the renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

SECTION 17.0500 CONDITIONAL USE REGULATION

17.0501 PERMITS

The City Common Council may authorize the City Planner or Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and related structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community. Conditional uses are listed in the regulations of each zoning district as set forth in Section 17.0400 or this Chapter.

17.0502 APPLICATION

Applications for conditional use permits shall be made in triplicate to the City Clerk/Treasurer on forms furnished by the City Planner, Zoning Administrator or other designated City employee, and shall include at least the following:

- a. Name and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting owners of record of property within 600 feet of the property for which a conditional use is being requested.
- b. Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For conditional uses within or in the vicinity of floodplains, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground at two (2)-foot intervals; fill or storage elevations; first floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types and other pertinent information.
- c. Certified survey map (CSM) or Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 17.0203 for a Building and/or Zoning permit as well as the mean and historic high water lines, 100 year recurrence interval base flood floodplains on or within 75 feet of the subject premises, and existing and proposed landscaping.
- d. Additional Information as may be required by the Plan Commission, City Planner, City Engineer, Zoning Administrator, or Building Inspector.

17.0503 REVIEW AND APPROVAL

The City Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation, and prior to Common Council action, shall hold a public hearing as set forth in Section 17.1300 (Also see sub-section 17.0210).

In addition:

- a. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, signage, highway access restrictions, increased yards, storm water management improvements or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance. (Also see sub-section 17.0210)
- b. Notice to DNR: The Plan Commission shall transmit a copy of each application for a conditional use within a floodplain or shoreland area to the Wisconsin Department of Natural Resources (WisDNR) for review and comment. Action on the application shall not be taken for 30 days or until the WisDNR has made its recommendation, whichever comes first. A copy of all floodplain conditional use permits shall be transmitted to the WisDNR within 10 days of the effective date of such permit. (Rep. & Rec. 14-03)

17.0504 SPECIAL CONDITIONAL USES NOT SET FORTH IN DISTRICT REGULATIONS MAY BE ALLOWED, INCLUDING:

- a. All uses similar in character to the permitted uses on the premises, as determined by the Plan Commission, which meet the intent of the district but which are not specifically listed as permitted principal, accessory or conditional uses within the text of the zoning district classification or other section of this ordinance.
- b. Uses proposed to be located in a Plan Commission approved multi – tenant building that are included on a list of uses for that building previously given ‘blanket’ approval by the Common Council following a conditional use hearing may not require individual conditional use permits but only approval of a Business Plan of Operation as set forth herein. Non-conditional use status of such uses shall be determined by the City Planner or the Plan Commission.

17.0505 COMMON COUNCIL ACTION

- a. Following a public hearing and after careful consideration of the Plan Commission's recommendations, the Common Council may grant the Conditional Use Permit as applied for, grant the Conditional Use Permit with conditions deemed appropriate by the Common Council, or deny the permit. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses unless otherwise stipulated in the individual district regulations. Variances shall only be granted as provided in sections 17.1000 and 17.1100 of this ordinance. If the conditional use permit is granted (with or without conditions) official notice of such conditional use shall be transmitted to the County Register of Deeds on forms provided by the City. The County Register of Deeds shall take whatever action necessary to append the permitted conditional use forms to the deed of the property for which a conditional use has been granted. Any approving action by the Common Council will be valid only if the conditional use is recorded by the County Register of Deeds and the use or operation commenced within six (6) months from the date of such action.

- b. When the Plan Commission makes a determination either by observation or by official citizen complaint that a permitted conditional use is or has been apparently violated, the Plan Commission may convene a public hearing as set forth in section 17.1300, giving at least 30 days notice to the holder of the conditional use permit and, advising the permit holder as well as property owners within 300 feet of the conditionally permitted use of the purpose of the hearing, which may be to recommend to the Common Council the altering, rescinding, or reaffirmation of the conditional use permit then in effect. The Common Council, following a recommendation by the Plan Commission, may take action to rescind or alter the conditional use permit then in effect and by doing so direct the City Clerk to take any necessary steps to rescind or alter the covenants or other pertinent documents concerning the conditional use and attached to the property deed held in the office of the County Register of Deeds.
- c. Any conditional use that moves from the premises on which it was originally permitted or that ceases to occupy such premises for a period of three months or as evidenced by legal, authoritative documentation, shall be declared to be no longer a legitimate use of the premises and shall be removed from the list of current conditional uses.

SECTION 17.0600 TRAFFIC, PARKING, LOADING, AND ACCESS

17.0601 PARKING REQUIREMENTS

Except for public streets on which the City Common Council has given special permission to park, no vehicular parking will be allowed on any public street in a 'non-Residential' zoned area and vehicular parking on public streets in areas zoned 'Residential' will be allowed only during the period April 15 to October 31. Off street parking in single-family or two-family zoning districts shall consist of garage and garage apron space. In all other districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased, off-street parking stalls or spaces for vehicles in accordance with the zoning district regulations and the following:

- a. The size of each parking space in multi-family, commercial, industrial, institutional and park zoning districts shall be not less than 180 square feet exclusive of the space required for ingress and egress and with the exception of required spaces designated for use by handicapped persons.
- b. The location of off-street parking shall be on the same lot or parcel as the principle use and no industrial, commercial, institutional or park parking stall shall be closer than 50 feet to a residential district lot line, except in residential districts unless the parking stall is completely screened from view by use of a wall, decorative fence or dense evergreen landscape materials, in which case the distance may be reduced to 20 feet.
- c. All open off-street parking areas and driveways located on property located within Multi-family, Business, Industrial or Institutional zoning districts shall be surfaced with at least three (3) inches of bituminous or concrete pavement over a crushed stone base and at least one-half the thickness of such pavement shall be in place prior to occupancy of the principal structure(s). Driveways and off-street parking areas on Single and Two-Family Residential zoned properties shall be paved as stated above within 12 months following the date of occupancy. All other zoned property driveways must maintain a dust and mud-

free surface. Such parking areas shall be graded so as to dispose of all surface waters as set forth in an approved storm water management plan and no significant surface waters shall be allowed to drain across public sidewalks or paths. Such parking areas shall be so arranged and marked to provide for orderly and safe parking and storage of vehicles, and shall be so improved with curbs, wheel stops, or bumper guards to prevent encroachment into adjacent lots, grassed or landscaped areas or public ways. All off-street parking lots which are created or redesigned and rebuilt subsequent to the adoption of this section shall be provided with accessory landscape or decorative fence screening that will block from the view of motorists or pedestrians on adjacent streets of at least the lower one-half of vehicles parked within the off-street parking area. Each such parking area shall be bounded by a grassed or landscaped greenbelt of at least ten (10) feet in width between the parking area and all property boundaries. (Also see district regulations on paving setbacks). The location and elevation of landscape areas, including earthen berms, plant materials, fences and the protection afforded the plantings, including curbing and provision for maintenance, shall be subject to approval by the Plan Commission. All plans for such proposed parking areas shall include a topographic survey showing the grade and location of improvements. Existing trees, shrubs, and other natural vegetation in the parking area should, when possible, be incorporated into the required landscape area.

- d. In light of the foregoing provisions, the following shall be used as a guide in the provision of parking spaces:

EXISTING OR PROPOSED USE

SUGGESTED MINIMUM PARKING

- | | |
|--|---|
| (1) Automobile repair garages and plus service garages. | One (1) space for each regular employee
One (1) space for each 250 square feet of floor area used for repair work. |
| (2) Bowling establishments | Three (3) spaces for each 'alley'. |
| (3) Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly. | One (1) space for each two (2) seats. |
| (4) Colleges, secondary schools, and elementary schools. | One (1) space for each two (2) employees plus One (1) space for each three (3) students of 16 years of age or more. |
| (5) Financial institutions; business, government, and professional offices. | One (1) space for each 200 square feet of floor space plus one (1) space for each two (2) Employees. |
| (6) Food store | One (1) space for each 150 square feet of floor area, plus one (1) space for each two (2) employees. |
| (7) Funeral homes | Twenty spaces for each viewing room. |

EXISTING OR PROPOSED USE

SUGGESTED MINIMUM PARKING

- | | |
|--|--|
| (8) Fuel stations | Three (3) spaces for each indoor stall or similar facility plus one (1) space for each attendant. Add eight (8) spaces if there is a convenience store. |
| (9) Hospitals, sanitariums, rest and nursing homes | One (1) space for each three (3) beds
one (1) space for each three (3) plus one (1) space for each physician. |
| (10) Lodges and clubs | One (1) space for each five (5) members. |
| (11) Manufacturing and processing plants, (including meat and food processing plants, laboratories, and warehouses). | One (1) space for each two (2) employees in 12 hour period. |
| (12) Medical and dental clinics. | Seven (7) spaces for each doctor. |
| (13) Motels, hotels. | One (1) space for each guest room plus one (1) space for each two (2) employees. |
| (14) Motor vehicle sales (new and used). | One (1) space for each 500 square feet of floor area used plus 300 square feet of outdoor display area for each motor vehicle to be displayed. (This requirement does not include service garages – see sub-section 17.0601) |
| (15) Restaurants, bars places of entertainment, repair shops, and retail and service stores. | One (1) space for each two (2) existing or potential seats. |
| (16) Retirement homes, orphanages, convents, and monasteries. | One (1) space per 1,000 feet of principle floor area. |
| (17) Rooming and boarding houses, fraternity and sorority houses, dormitories, and rectories. | One (1) space per bed. |
| (18) Other uses. | As determined practical by the Plan Commission. |

Combinations of any of the above uses should provide the total of the number of stalls for each individual use. The Zoning Administrator shall enforce off-street parking requirements and guidelines as defined in this ordinance.

- e. Commercial vehicles larger than a one-half (1/2) ton pick-up truck shall not be parked overnight on driveways, driveway aprons or parking lots in a residential subdivision, and commercial vans and smaller pick-up trucks shall not be so parked unless such vehicle is the personal family vehicle of the owner of the residence or a member of his family living on the premises. (Also see sub-section 17.0209)

17.0602 LOADING REQUIREMENTS

No loading areas or spaces or truck maneuvering area shall be allowed on public streets in the City of Pewaukee. On every lot on which a business, trade, or industrial use is hereafter established, space with access to a public street or alley shall be provided on the premises as indicated in the district regulations for the loading and unloading of vehicles.

17.0603 TRAFFIC VISIBILITY

No obstructions such as structures, automobile parking, fences or vegetation shall be permitted in any district between heights of two and one-half (2-1/2) feet and seven (7) feet above the mean curb grades within the triangular (Vision clearance) space formed by any two existing or proposed intersecting street or alley right-of-way (property) lines and a line joining points on such lines located a minimum of 15 feet from their intersection. In the case of arterial streets intersecting with other arterial street or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased from 15 to 25 feet.

17.0604 DRIVEWAYS

All driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance shall meet the following requirements:

- a. Where physically possible, 'islands' or space between driveway openings shall be a minimum of 16 feet and there shall be at least five (5) feet between the side lot line and a driveway measured at the front lot line.
- b. Openings for vehicular ingress and egress shall meet City, county or state requirements where applicable but in no case shall exceed 24 feet at the right-of-way line and 28 feet at the roadway in residential districts or 30 feet at the right-of-way line and 36 feet at the roadway in all other districts.
- c. Vehicular Entrances and Exits to drive-in banks, motels, funeral homes, and vehicular sales, service, washing and repair stations; garages; or public parking lots, shall not be placed less than 200 feet from any pedestrian entrance or exit to an existing school, college, university, church, hospital, park playground, library, public emergency shelter, or other place of public assembly.
- d. The distance between residential driveways and side or rear property boundaries shall be no less than five (5) feet between the front building setback line and the rear lot line.

17.0605 HIGHWAY ACCESS

No direct private access shall be permitted to the existing or proposed rights-of-way of freeways, expressways, and any other controlled access arterial street, without permission of the agency having access control jurisdiction. In addition:

- a. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeway, expressways and interstate highway interchange ramps or turning lanes; nor to intersections or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes or ramps.
- b. No new direct public or private access shall be permitted to existing or proposed rights-of-way within 200 feet of the intersection of the right-of-way lines of arterial streets intersecting another arterial street unless the only

possible access to the property is on a street property line the length of which is less than 300 feet, but in no case shall the distance be less than 150 feet.

- c. Access barriers such as curbing, fencing, gates, ditching, landscaping, or other physical barriers may be required by the Plan Commission to prevent unauthorized vehicular ingress or egress to the above-specified streets or highways.
- d. Temporary access to the above rights-of-way may be granted by the Common Council after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required, and shall be issued for a specific period, not exceeding 12 months.

SECTION 17.0700 SIGNS AND GRAPHICS

17.0701 **INTENT AND PURPOSE**

The intent of this section is to provide for and regulate the location and safe construction of signs in the City in a manner that will ensure that such signs are compatible with surrounding land uses, are aesthetic in design and structure and express the identity of individual proprietors and the community as a whole. It is the further intent that by these regulations, the community will be spared the presence of visual clutter and distraction along its thoroughfares by the display of multiple signs on the same property or on adjacent parcels with near identical content while at the same time ensuring that no property owner is denied his/her right to visually communicate in a regulated, aesthetic and morally responsible manner. It shall be unlawful for any person, firm or corporation to locate, erect, move, reconstruct, extend, enlarge, convert, or structurally alter any sign without first complying with the requirements of this section. All signs shall be maintained and kept in good repair. Signs intended to be permanent must be structurally affixed to a building, structure or a ground mounting and constructed of materials that are permanent in nature. All other signs are classified as temporary signs. Lighting and landscaping of permanent signs must be accomplished to the satisfaction of the Plan Commission. Certain types of signs may be prohibited as set forth in subsection 17.0708.

17.0702 **SIGNS PERMITTED IN ALL ZONING DISTRICTS WITHOUT A PERMIT**

Certain signs are permitted on private property in all zoning districts without a permit as may be set forth in the individual district regulations. No sign, however, may be located within a public right of way or on public lands without written permission of the public body having jurisdiction. No sign shall be erected on any property without a 'vision triangle' at street intersections. Signs erected in violation of the regulations in this section may be removed without notice. (See sub-section 17.0708) The following signs may be permitted in any zoning district without permit:

- a. Memorial Sign, Tablet, Name of Building and Date of Erection Sign when cut into any masonry surface or when constructed of metal and affixed flat against a structure and not illuminated, thereby rendering them 'permanent' signs.
- b. Any Official Sign such as traffic control, parking restrictions, public information and notices, not exceeding six (6) feet in height unless extended over public right-of-way by use of a cantilevered pole or structure, when authorized by the City. Portable temporary traffic warning or control equipment may be used by

the City or County emergency personnel or authorized highway construction crews within public rights-of-way without a permit.

- c. Election Campaign Signs. Election campaign signs may be allowed in any district without a permit provided that permission shall be obtained from the property owner, renter, or lessee; and provided that such sign shall not be erected for more than the election campaign period (Wis. Stat. 12.04), and removed within seven (7) days following the election. Such signs in residential zoning districts shall not exceed 16 square feet on each sign face per sign, unless located on a county or state trunk highway or City designated arterial street, in which case the maximum sign area may be increased to 32 square feet; may not exceed six (6) feet in height; and, may not exceed a total of 32 square feet per lot. To avoid sign clutter and visual distraction, individual signs more than four square feet in area should be spaced apart from other signs on the property at least 30 feet. No such sign shall be placed on public lands, within public rights-of-way without permission of the unit or agency of government having jurisdiction and if so placed without such permission will be subject to removal without notice.
- d. A Short Term Temporary Sign advertising such neighborhood or community-wide coming activities or events as: a garage sale; a civic organizations annual picnic, bicycle race or boat race; a 'grand opening'; a 'final close out'; a church raffle, picnic or ice cream social; or, a community or county annual fair or outing. Because such signs are intended to be temporary and, therefore, are usually not constructed of materials that will withstand wind, rain and snow conditions for long periods of time, they should be erected for only a short period of time in advance of the event and shall be removed within seven (7) days following the advertised event or activity. The signs shall conform to the size, height and location restrictions in section 17.0702c, above. No such sign shall be placed on public lands, within the rights of way of public streets or highways without written permission of the unit or agency of government having jurisdiction and if so placed without such permission will be subject to removal without notice. (Also see 17.0708).
- e. Real estate 'For Sale' or "For Lease' sign. Such signs on an individual residential parcel shall not exceed 16 square feet in sign face area or, if related to an entire residential subdivision or development plat, may not exceed 32 square feet in area. Such signs in other zoning districts may not exceed 32 square feet in area. If such signs are illuminated a permit issued by the Building Inspector is required. Only one sign will be permitted for each street or lake frontage and must be placed on the property involved. Because such signs, though temporary, might be in place for a long period of time, such signs should be constructed of durable material and shall be maintained in good repair and must be removed within seven (7) days following the sale or lease of the individual building parcel or, if a multi-parcel development, the initial sale or lease of the last parcel in the development. The City may order removal or replacement of signs that are in disrepair. Such signs may not be erected in a location that will block vision of motorists at intersecting streets or at driveways. No such sign may be more than eight (8) feet in height and no such sign may advertise 'for sale' or 'for lease' land or property other than the premises on which the sign is located. (Also see sub-section 17.0708).
- f. Small, Permanent On-Site Traffic Directional Signs erected within private development and not more than nine (9) square feet in area and not more than five (5) feet high.

17.0703 **SIGNS PERMITTED IN INDIVIDUAL ZONING DISTRICTS WITH A PERMIT**
The following signs may be permitted in any specific zoning district after application and issuance of a permit by the Building Inspector or Zoning Administrator. No sign, however, may be located within a public right of way or on public lands without written permission of the public body having jurisdiction or on any property within a 'vision triangle' of intersecting streets and if so erected or placed in violation of the regulations in this section may be removed without notice. (Also see 17.0708).

- a. Permanent Bulletin Board for public, charitable or religious institutions not to exceed thirty-two (32) square feet in sign area, eight (8) feet in height and located on the premises of the institutional use. Such signs shall be set back from the property line at least one-quarter (1/4) of the building setback requirements of the District in which the property is located and be illuminated only to the extent necessary to permit reading of the sign from a maximum distance of 10 feet. Such signs may have a portion of the sign devoted to words and numbers that are changeable by hand and are not larger than four (4) inches in height.
- b. Temporary Sign or Banner, other than those allowed under sub-section 17.0702. For purposes of this section a temporary sign or banner is one which will be used for no more than sixty (60) days in a six (6) calendar month period, measured from the date the sign is erected. In order to avoid visual clutter of multiple signs only one such sign or banner may be placed on a property street frontage. Such signs shall not exceed 16 square feet in area in residential districts, 32 square feet in sign area in all other districts when placed on the property line abutting a minor, collector or standard arterial street, or up to 100 square feet in sign area when placed on commercial or industrial zoned property and at least 100 feet from the edge of the nearest through traffic lane of an expressway or freeway; shall be attached to the principle building or be erected as a ground sign no more than eight (8) feet in height in an aesthetic and structurally sound manner and shall meet all setback regulations as set forth in this section. Portable signs with or without wheels and signs on trucks, trailers or other vehicles that are parked on public or private property with the intent to be used for temporary or permanent advertisement purposes are not in keeping with the aesthetic requirements of this ordinance and are, therefore, not allowed.

17.0704 **SIGNS PERMITTED IN AGRICULTURAL ZONING DISTRICTS WITH A PERMIT**
The following signs are permitted in Agricultural Zoning Districts upon the issuance of a permit by the Building Inspector or Zoning Administrator, and subject to the following regulations:

- a. Permanent Name, Occupation or Organization Sign not to exceed ten (10) square feet in sign area, six (6) feet in height, and not exceeding one (1) sign per 450 feet of street or highway frontage. No such sign may be erected on public street or highway rights of way or within the vision triangle of two intersecting streets.
- b. 'For Sale' or 'For Lease/rent' sign pertaining to the sale or lease of a farm building or the sale of farm produce raised on the farm, farm equipment or animals. Such signs shall not exceed six (6) feet in height; may be located on the property line up to 25 square feet in area and must be set back from the

property line one (1) foot for each additional square foot in sign area over 25 square feet up to 50 square feet in area; and, shall not exceed one (1) sign per street frontage. No such sign shall be erected or maintained within an inside curve of a highway unless such signs are placed at least fifty (50) feet from the highway right-of-way and further than fifty (50) feet from the right-of-way as may be necessary to prevent such sign from interfering with vision along the highway for a distance of at least one thousand (1,000) feet in each direction by those traveling thereon. Such signs are considered temporary signs and shall be removed no later than seven (7) days after closing of the sale or lease and the permit for such sign shall expire on June 30th each year unless extended for a specific period of time by official action of the Zoning Administrator or Plan Commission.

17.0705 **SIGNS PERMITTED IN RESIDENTIAL DISTRICTS WITH A PERMIT**

The following signs are permitted in residential districts upon the issuance of a permit by the Building Inspector or Zoning Administrator and subject to the following regulations:

- a. Permanent Name Sign not exceeding four (4) square feet in sign area and located on the premises.
- b. Permanent Subdivision/Development Identification Sign no more than six (6) feet in height; constructed of wood, metal and/or masonry; and, of a design which will be compatible with the landscape and shall state only the name and address of the subdivision. Such signs and their location, height and size shall be reviewed and approved by the Plan Commission and/or the City Planner prior to issuance of a permit.

17.0706 **SIGNS PERMITTED IN BUSINESS, INDUSTRIAL, PARK AND INSTITUTIONAL DISTRICTS WITH A PERMIT**

The following signs are permitted in all Business, Industrial, Park and Institutional Districts upon the issuance of a permit by the Building Inspector or Zoning Administrator and subject to the following restrictions:

- a. Permanent Wall Sign placed on or against the exterior wall(s) of buildings shall not extend more than one (1) foot outside of a building's wall surface; shall not exceed in sign area the equivalent of two (2) square feet for each linear one (1) foot of building (store) and, any ancillary lighting shall be shielded to avoid glare. Wall signs (and structure) shall not extend above the ceiling level of the top floor of the building upon which they are located and shall not block window, door or vent openings. Such signs may not be used as 'for sale' or 'for lease/rent' signs except for the property on which the sign is located. The sign must comply with the site and building standards set forth in sub-section 17.0210.
- b. Permanent Projecting Sign fastened to, suspended from or supported by structures on buildings shall not exceed 50 square feet in sign area, or 100 percent of the building setback from the property line as expressed in square feet, whichever is larger, to a maximum of 150 square feet for any one premise; shall not extend into any public right-of-way; shall not extend above the lowest point on the roof; shall not be less than ten (10) feet from all side lot lines, or beyond the building wall, whichever is less; shall not exceed a height of 16 feet above the adjacent center line street grade and shall not be less than ten (10) feet above the level of the primary access, nor less than 15 feet above a driveway and, shall not be located within 150 feet from any ground sign. Such

sign must comply with the site and building standards set forth in sub-section 17.0210.

- c. Permanent Ground Sign, other than billboards, as defined herein, shall not exceed 12 feet in height above the mean centerline grade of the nearest street unless approved by the Plan Commission; shall not exceed in sign area 25 square feet on one side at the street property line but may be increased in sign area size one (1) square foot for each one (1) foot the sign is set back from the street property line to a maximum of 150 square feet on one side. Only one (1) ground sign shall be allowed on a street frontage of a single (individual) property and no ground sign shall be placed closer than 150 feet from another ground sign, projecting sign or billboard. Any such sign located within 660 feet of a residential zoning district boundary shall not be illuminated during the seven hour period beginning at eleven (11) PM and ending at six (6) AM. No such sign shall have exposed flashing, digital or electrically movable lighting or images of any kind with the exception that such signs may have movable words and numbers if required by local, state or federal law. Such signs must comply with the site and building standards set forth in sub-section 17.0210. Permanent ground signs on parcels of more than five acres in area, over 75 feet in sign area, and any subsequent changes to such signs must be approved by the Plan Commission. (Also see sub-section 17.0708).
- d. Off-Premise Directional/Sales Sign as defined herein, other than billboards when permitted by the Plan Commission, shall meet the requirements of the type of sign as set forth in this Section; shall not exceed two (2) in number within the City per business, resort or commercial recreation facility as well as the principal merchandise sold; shall not exceed in sign area 25 square feet on one side at the street property line but may be increased in size one (1) square foot for each one (1) foot the sign is set back from the street property line to a maximum of 50 square feet on one side; and, shall be a maximum three (3) miles distance from the designated business being advertised. Such sign may be placed only in a retail business or industrial zoning district. The permit for such sign shall expire on June 30th each year but may be extended for one year upon issuance of a new permit by the Zoning Administrator or Building Inspector. (Also see sub-section 17.0708).
- f. Permanent Window Sign shall be placed only on the inside of the window and shall not exceed twenty-five (25) percent of the glass area of the window upon which the sign is displayed. Illuminated window signs shall not be illuminated after the business is closed for the day.
- g. Billboard as defined herein is considered a commercial use and as such may only be permitted in retail business or industrial zoned areas and when permitted by the Plan Commission shall not exceed 25 feet in height; shall be set back from a property line the same distance as set forth for principal buildings in the zoning district regulations; shall be located not closer than 1,320 feet from another billboard, ground sign or off-premises sign and no such sign shall have exposed, flashing, digital or electrically movable lighting, or images of any kind. A billboard located within 660 feet of a residential zoning district boundary shall not be illuminated during the seven hour period beginning at eleven (11) PM and ending at six (6) AM.
- h. Combinations of any signs in this Section shall meet all the requirements for the individual sign.

- i. Roof Signs as defined herein shall not be allowed.
- j. All signs with no current permit must be removed.

17.0707 SIGNS PERMITTED IN CONSERVANCY AND FLOODPLAIN ZONING DISTRICTS WITH A PERMIT

Signs as permitted in sub-section 17.0703 (a) and (b) shall be permitted in the Upland and Lowland Conservancy Zoning Districts upon the issuance of a permit by the Building Inspector or Zoning Administrator. No sign may be permitted in a Floodplain District.

17.0708 SPECIAL RESTRICTIVE PROVISIONS

Following are special restrictive provisions that relate, generally, to all signs or premises in the City:

- a. Roof Top signs; Flashing, Blinking or Electronically Movable Copy Signs. Portable and other movable signs, as well as any sign within a public street or highway right-of-way, shall be prohibited except as provided in sub-section 17.0706. Small permanent directional signs for religious and other institutional or governmental destinations within the community such as a hospital, a school, government building or a church may be located within public right-of-ways when approved by the Plan Commission or the county or state agency having jurisdiction.
- b. Signs Facing on Federal Interstate or Federal Aid Primary Highways shall meet all the requirements and regulations set forth in Wisconsin statutes and federal regulations as well as the regulations for the type and location of signs set forth herein, whichever is more restrictive.
- c. Words and Phrases on Signs should be kept to a minimum to allow reading or interpretation from a moving vehicle at posted speed limits without slowing down, thereby reducing potential traffic hazard. A combination of ten (10) words, sets of numbers, logos, or pictures should, under normal circumstances, be considered as a guide for maximum sign phrasing.
- d. The Plan Commission or Zoning Administrator may require a cash bond or irrevocable letter of credit of the applicant for a permanent sign permit to ensure that the sign is erected as required by these regulations and the Plan Commissions directions.
- e. Signs advertising land or building space 'For Sale' or 'For Lease/Rent' are temporary signs and may not be a permanent sign and must be removed when the property/premises on which the sign is located is sold, leased or rented. The permit for any such sign requiring a permit will expire on June 30th each year and must be renewed in writing by the Building Inspector to extend the permit. Such signs may not advertise properties other than the property on which the sign is located.

17.0709 SEARCHLIGHTS/BALLOONS

The Zoning Administrator or Building Inspector may permit the temporary use of a searchlight or balloons for advertising purposes in any district except residential districts provided that the searchlight or balloon will not be located in any public right-of-way; will not be located closer than 10 feet to an adjacent property; and, will not be a vision or audio nuisance or cause a hazard to traffic or adjoining properties. Searchlight and balloon permits shall be granted for a period of not

more than five (5) days in any six (6) month period and the searchlight shall not be illuminated during the period beginning at 10:00 PM and ending at dawn.

17.0710 FACING OF SIGNS

No illuminated signs, except those permitted in residential zoning districts, shall be permitted to face an adjoining residence and no sign-related illuminating device shall be directed toward residential parcels in a residential zoned district.

17.0711 LIGHTING, DESIGN AND COLOR

Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. Signs shall not be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape and no sign shall be attached to a standpipe or fire escape. Signs shall be placed so as not to obstruct or interfere with traffic visibility and shall not be lighted in a way which causes glare or impairs driver visibility upon public ways. Continuous moving (traveling) copy, electronically movable copy, or flashing picture signs shall not be allowed. Signs may be illuminated as set forth herein, but non-flashing, decorative or wall art shall only be allowed after affirmative action by the Plan Commission.

17.0712 EXISTING SIGNS

Signs lawfully existing at the time of the adoption of or related amendment to this section may be continued although the size or location does not conform to this section provided that the owners of such signs shall, within three (3) months of the effective date of this section or any amendment thereto, fill out a permit application for the Building Inspector's records. Upon the filing of such application, the Building Inspector shall issue an initial permit to the sign owner without fee. Certain existing signs are of a type that requires a permit that is valid for a specific time period and are subject to the regulation of such signs as set forth herein.

Nonconforming permanent signs shall be kept in good repair, but the cost of maintenance shall not be considered grounds for their continued use. If not kept in good repair to the satisfaction of the Building Inspector, the Building Inspector may require removal of the sign within a 60 day period. The owners of signs which are not repaired, painted, or maintained pursuant to written notification and orders by the Building Inspector shall also be subject to enforcement action. (See sub-section 17.0715)

17.0713 ADMINISTRATION

Applications for permits for the erection of signs requiring a permit shall be filed with the Building Inspector, who shall review the application for its completeness, accuracy and adherence to this ordinance and approve or deny the application within a reasonable period from the date of receipt unless the time is extended by written agreement with the applicant. A sign permit shall become null and void if work authorized under the permit has not been completed within six (6) months from the date of issuance. Applications shall be made on forms provided by the Building Inspector and shall contain or have attached thereto at least the following information:

- a. Name, Address, and Telephone Number of the applicant, and location of building, structure, lot or property to which or upon which the sign is to be attached or erected.
- b. Name of Person, Firm, Corporation, or Association erecting the sign.

- c. Written Consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed or erected.
- d. A Scale Drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
- e. A Scale Site Drawing indicating the location and position of such sign in relation to nearby buildings, structures, property boundaries, streets, driveways or other signs.
- f. Type of Sign such as 'permanent' or 'temporary' or 'for sale/lease'.
- g. Copies of any other permit required and issued for said sign, including the written approval by the Electrical Inspector in the case of illuminated signs. The Building Inspector shall examine the plans and specifications, inspecting all wiring and connections to determine if the same complies with the City Codes and Ordinances.
- h. Additional Information such as photographs
- i. Payment of a fee as set forth herein. The Building Inspector may, if necessity requires, direct that the applicant for a sign permit meet with the Plan Commission to review the request and provide guidance in the issuance of the permit or interpretation of the standards.

17.0714 INSPECTION AND REMOVAL OF SIGNS

From time to time the Zoning Administrator or Building Inspector may inspect signs within the City for compliance with the provisions of this Section and if such provisions are not being met, such fact shall be reported to the sign owner with a request that the sign be made to comply with this Section. If, within a reasonable period of time set by the Building Inspector (see Sections 17.0712 and 17.0713), the sign is not made to comply with this Section, the Building Inspector may direct that the sign be removed by the owner, and if not so removed shall cause the sign to be removed and the cost of such removal assessed to the sign owner or the owner of the property from which the sign is removed.

17.0715 MAINTENANCE OF PERMANENT SIGNS

The owner of a permanent sign and/or the owner of the land on which the sign is located shall maintain such sign in good and safe condition which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition, and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass. Failure to do so after notice from the Building Inspector shall be cause for the removal of such signs under sub-section 17.0714. Whenever the Building Inspector determines that the cost to repair a sign will exceed 50% of its replacement cost, such sign shall be deemed a hazard and the Building Inspector shall order its removal as set forth in sub-section 17.0714. This Section shall apply to both new and legal nonconforming signs.

17.0716 SIGN CONSTRUCTION STANDARDS

- a. Wind Pressure and Dead Load Requirements: All permanent signs and other advertising structures shall and temporary signs should be designed and constructed to withstand wind pressure of not less than 30 pounds per square

foot of area, and shall be constructed to receive dead loads as required in the City Building Code or other Ordinances.

- b. Protection of the Public: The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated to prevent hazard to pedestrians and property.
- c. Supporting Members or Braces of all signs shall be constructed of galvanized iron, properly treated wood, stainless steel, or other non-corrosive, non-combustible material. All projecting signs, if placed at an angle to the wall of any building, shall be attached by such non-corrosive metal bolts, anchors, cable, or other metal attachments as shall ensure permanent and safe construction and shall be maintained free from defects, rust or other deterioration. Every means or device used for attaching any sign shall extend through the walls of the building should the Building Inspector determine that the safe and permanent support of such sign so requires and shall be securely anchored by wall plates and nuts to the inside of the walls or to bearings on the underside of two (2) or more roof or ceiling joists in accordance with instruction given by the Building Inspector. Small, flat signs containing less than 10 square feet of area may be attached to a building by the use of non-corrosive lag bolts or other means to the satisfaction of the Building Inspector.
- d. No Signs, or any part thereof, or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or stand pipe, and no such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through a door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against a building by the Fire Department as necessity therefore may require.

17.0717

PERMIT FEES

- a. Initial Application for a Sign Erection Permit and extension of such permits as required herein. Each application for a required permit or extension of a permit shall be accompanied by a fee as set forth in the City approved fee schedule. (See Appendix A). Each individual sign requires a permit unless specifically stated otherwise in these regulations. All permits for temporary signs expire on June 30th each year unless stated otherwise herein. The fees have been established by the Common Council as a part of the City's comprehensive fee schedule and are subject to periodic review and change by action of the Common Council.
- b. Liability. The acceptance of fees as provided herein shall not be deemed an assumption of liability by the City.

SECTION 17.0800 NONCONFORMING USES, STRUCTURES, AND LOTS

17.0801 **EXISTING NONCONFORMING USES**

The lawful nonconforming use* of a structure, land, or water existing at the time of the adoption or amendment of this ordinance may be continued although the use does not conform with the provisions of this ordinance, however:

- a. Only that portion of the land or water in actual use may be so continued in such use and the structure(s) housing the non-conforming use may not be extended, enlarged, reconstructed, substituted, moved or otherwise structurally altered if it thereby extends or enlarges the non-conforming use, except when required to do so by law or order, or in compliance with the provisions of this ordinance.
- b. Total Lifetime Structural Repair of the structure housing the non-conforming use shall not exceed 50 percent of the City assessed value of the structure unless the use is permanently changed to conform to the use provisions of this Ordinance.
- c. Substitution of New Equipment may be permitted if such equipment will not increase the incompatibility of the nonconforming use.

17.0802 **ABOLISHMENT OR REPLACEMENT OF NON-CONFORMING USES AND STRUCTURES**

If a nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this ordinance. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity to the extent of 50 or more percent of its current assessed value, it shall not be restored except so as to comply with the use and structural provisions of this ordinance. A file of all nonconforming uses shall be maintained by the Zoning Administrator listing the following: Owners name and address; use of the structure, land, or water; and assessed value at the time of its becoming a nonconforming use.

17.0803 **EXISTING NONCONFORMING LAND AREAS**

Lots or parcels of land which do not conform to the minimum area, size and/or shape requirements of this ordinance at the time of its passage may be allowed to be built upon so long as such parcels and the structures to be built meet all other requirements of this ordinance.

17.0804 **EXISTING NONCONFORMING STRUCTURES**

The lawful nonconforming structure(s) existing at the time of the adoption of or amendment to this ordinance may be continued although the structure, its size, dimensions, footprint or location does not conform with the lot width, or lot area coverage, setback or yard, or height, or parking and loading, or access provisions of this ordinance or the City building code; however, such structures shall not be extended, enlarged, reconstructed, moved, or otherwise structurally altered except when required to do so by law or order; or, in compliance with the provisions of this or any other City ordinance. (Also see sub-section 17.0806)

17.0805 **NONCONFORMING USES AND STRUCTURES IN FLOODPLAINS**

Nonconforming uses or structures within a designated 100 year recurrence interval base flood floodplain which are repaired or altered under the nonconforming use provisions of this ordinance shall provide for non-fill flood-proofing of those portions

of the structures involved in such repair or alteration. Certification of non-fill flood proofing shall be made to the Zoning Administrator and shall consist of a plan or document certified by a registered professional engineer that the non-fill flood proofing measures are consistent with the flood velocities, forces, depths, hydrostatic pressures and other factors associated with an established 100-year recurrence interval (base) flood. (Also see sub-section 17.0435j & p).

17.0806 NONCONFORMING CHARACTERISTICS OF OLDER RESIDENTIAL STRUCTURES

Notwithstanding any other provisions of this section, residential structures which encroach upon setback and other yard requirements but which met the setback and yard requirements at the time of original construction may be structurally altered provided that they do not create a greater degree of encroachment.

17.0807 CHANGES AND SUBSTITUTIONS

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Nonconforming structures that are destroyed, torn down or otherwise removed may not be replaced except in conformance with this ordinance. Also, once the Zoning Board of Appeals has permitted the substitution of a more restrictive nonconforming use or structure for an existing nonconforming use or structure, the substituted use or structure shall lose its status as a legal nonconforming use or structure and become subject to all conditions required by the Zoning Board of Appeals.

17.0808 CONDITIONAL USES NOT NONCONFORMING USES

Any use for which a conditional use permit has been issued as provided in this ordinance, shall not be deemed a nonconforming use, but shall be deemed a conforming use in such district because of its conditional use status.

17.0809 INADVERTANT NONCONFORMING PARCELS/STRUCTURES

If a heretofore conforming parcel or structure is made nonconforming by the action of persons, agencies or units of government who are not owners of the parcel or structure (such as the widening of a street or highway by government agency action), that parcel or structure may continue to be used as if the change in conformance status did not occur.

17.0810 EXISTING PARTIALLY NONCONFORMING PARCELS

Owners of single-family residential lots, parcels or tracts of land created prior to August 17, 1982 which were/are in conformance with the use and area requirements of the zoning classification district within which they are encompassed but are not in conformance with the minimum lot width requirements of such district classification, may reduce the side yard setbacks as follows:

**SIDE YARD SETBACK REDUCTION ON
EXISTING NONCONFORMING PARCELS**

LOT WIDTH*	MIN. SIDE YARD	LOT WIDTH*	MIN. SIDE YARD
110 feet or more	20 feet	60-69.9 feet	9 feet
100-109.9 feet	15 feet	55-59.9 feet	8 feet
90-99.9 feet	12 feet	50-54.9 feet**	7 feet**
80-89.9 feet	11 feet	45-49.9 feet**	6 feet**
70-79.9 feet	10 feet	44.9 feet or less**	5 feet**

An owner of any such lot, parcel or tract of land which lies within 1,000 feet of Lake Pewaukee or within 300 feet of a designated navigable stream must adhere to the regulations of this section. In no case may a building or building addition be constructed on such lot, parcel or tract so as to be less than ten (10) feet from an existing separate building on the same property or on an adjacent property.

-
- * Average lot width, lot width as defined herein or lot width at the prescribed street building setback, whichever is less restrictive.
 - ** **Residences on these lots that are over one story in height must have side yard setbacks of at least eight (8) feet.**

SECTION 17.0900 MODIFICATIONS AUTHORIZED BY PLAN COMMISSION

17.0901 HEIGHT

The Plan Commission may permit, after review at a regularly scheduled Plan Commission meeting, a height limit to be exceeded, but such modification shall be in accord with the following:

- a. Agricultural Structures such as barns, silos, and windmills shall not exceed in height the actual distance from the nearest property line.
- b. Supplemental Architectural Projections such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys may be exempted from the height limitations of this ordinance.
- c. Communication and Power-Generating Structures such as radio and television transmission and relay towers, windmills, aerials, and receiving antennas as well as flagpoles shall not exceed in height thirty (30) feet or the distance of the base of such structure from the nearest lot line, whichever is less, unless otherwise authorized by the Plan Commission.
- d. Essential Services such as utilities, water towers, and electrical power and communication transmission lines may be exempted from the height limitations of this ordinance.
- e. Public or Quasi-public Facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices, and fire stations may be erected to a height of 60 feet **provided** all required yards are increased not less than one (1) foot for each foot the structure exceeds the maximum height requirement of the zoning district.
- f. The Height of Commercial, Industrial, and Institutional Buildings may be increased to a maximum of six (6) stories if a fully operational sprinkler system is in place including enclosed stairwells to the roof and the Fire Chief has approved in writing a fire safety plan for the structure and use.

17.0902 YARDS

The Plan Commission may permit, after review at a regularly scheduled Plan Commission meeting, certain yard requirements to be modified; but such modifications shall be in accord with the following:

- a. Structures and Vegetation used for landscaping and decorating may be placed in the required street yard and side yards. Permitted structures and vegetation

include flagpoles, ornamental light standards, lawn furniture, sundials, birdbaths, decorative fences not exceeding three (3) feet in height, and trees, shrubs, and flowers.

- b. Accessory Uses and detached accessory structures shall not be allowed in a yard setback area as prescribed in the appropriate zoning district classification text or as otherwise set forth herein. All detached accessory structures or uses shall not be closer than ten (10) feet from any other structure on the property and, shall not exceed 18 feet in height. When in the judgment of the Zoning Administrator or Plan Commission, it is determined that due to the configuration of the lot or principal or accessory structures on the lot, such accessory uses or structures are or may become a visual or audible nuisance, they shall require the owner of such accessory uses or structures to screen them by use of dense vegetation, aesthetic fencing, structural barriers, or a combination thereof based on a specific plan drawn to scale. Garden equipment buildings less than 121 square feet in area may be allowed in a rear yard, and ground or wall mounted HVAC equipment or satellite communication equipment may be allowed in the side or rear yard areas of a property by the Zoning Administrator, but no closer than five (5) feet from the adjacent property boundary or an easement and they must be fully screened from view or as prescribed by the Plan Commission.
- c. Architectural Projections such as chimneys, flues, sills, eaves, belt courses, roofs and architectural ornamentation may project into any required yard, but not more than three (3) feet.
- d. Essential Services such as utilities, and electric power and communication transmission lines are exempt from the yard and distance requirements of this Ordinance.
- e. Off-street Parking is not permitted in front yards in residential districts, except on an established paved driveway and such parking shall not protrude beyond the street curb or over an established sidewalk.
- f. Residential Fences and Hedges are permitted on the property lines in the yards of residential districts, but shall not, in any case, exceed a height of six (6) feet; shall not exceed a height of three (3) feet when placed on the street side of a residence and within the front yard setback area; and, shall not be closer than five (5) feet to any public right-of-way.
- g. Security Fences are permitted on the side and rear property lines in all districts but shall not exceed six (6) feet in height in residential districts and ten (10) feet in height in all other districts unless otherwise required by the Plan Commission, and shall be in keeping with the residential character when on or abutting residential property and of an open type similar to woven wire or wrought iron fencing in non-residential areas, unless otherwise required by the Plan Commission. (See 'f' above).
- h. Landscaping and Vegetation are exempt from the yard requirements of this ordinance except that such vegetation shall not block traffic vision.
- i. Uncovered Stairs, landings, and fire escapes may project not more than five (5) feet into any yard and may not be closer than five (5) feet from any property line.

- 17.0903 ADDITIONS TO STRUCTURES
Additions to existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.
- 17.0904 AVERAGE STREET YARDS NEXT TO EXISTING BUILDINGS
The required street yards may be decreased in any district to the average of the existing street yards of the abutting structures on each side but shall in no case be less than 20 feet in any residential district, 75 feet from a base floodplain, and 25 feet from a wetland. (See sub-sections 17.0435 and 17.0436 if applicable)
- 17.0905 CORNER LOTS
Lots having frontage on two or more intersecting public streets shall be considered 'corner lots' and shall have street or 'front' yards on that side of principal structures abutting a street and any other yard on such corner lot shall be designated a "side" yard. Structure and use setbacks from streets or property boundaries on such corner lots shall be regulated as set forth in sub-section 17.0209.
- 17.0906 EXISTING VACANT SUBSTANDARD LOTS
Any lot of record on the original (August 17, 1982) date of passage of this Chapter, which is less than 9,000 square feet in area is considered a substandard lot. Any substandard lot may be used as a single-family building site provided that such use is permitted in the zoning district and provided the lot was 'a lot of record' in the County Register of Deeds Office prior to the original date of this Chapter. Substandard lots shall be required to meet the setbacks and other yard requirements of this ordinance.
- 17.0907 NOISE
Sirens, horns, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this ordinance. (See section 17.1200 of this ordinance).
- 17.0908 SPECIFIC PLANNED PROJECT MODIFICATION
When a development project such as an industrial or office park, shopping center, or mixed use development is proposed which involves specific development proposals which meet the intent of the individual district regulation(s) but cannot meet a specific requirement, and when the approval of such development would not set a precedent that would be detrimental to the City if it is approved in like circumstances, the Plan Commission may, after thorough review, make such specific modification in their approval of the specific project.
- 17.0909 USES PROPOSED TO BE ACCESSORY TO AN EXISTING PRINCIPAL USE WHICH ARE NOT COMMONLY PERMITTED ACCESSORY USES MAY REQUIRE PLAN COMMISSION REVIEW AND APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT AND MAY REQUIRE A CONDITIONAL USE PERMIT.
Certain accessory uses are of such a nature that they require considerable review prior to issuance of a building permit by the Building Inspector. When the Building Inspector (or other staff person) concludes that such proposed accessory use is not compatible with either the principal use or the uses on adjacent property, or the proposed accessory use does not or cannot meet the standards set forth herein, the proposal may be referred to the Plan Commission for a determination and direction to the Building Inspector. Such accessory uses include but are not limited to:

a. WIND AND SOLAR ENERGY COLLECTION, STORAGE AND ELECTRIC PRODUCTION DEVICES.

Any active, passive solar or wind energy collection, reflection, conversion generation, transmission, or storage system and device external to the principal use structure, or proposed to be placed as an accessory or principal use on property within the City of Pewaukee shall be required to obtain approval by the Plan Commission as well as securing a permit for the erection of such system or device from the Building Inspector prior to such erection or placing.

1. Wind Energy. Any wind energy/electricity producing system proposed to be located within the City of Pewaukee requires a City Conditional Use Permit and must also comply with the rules and regulations set forth in this ordinance, ss. 66.0401, 66.0403 and 196.378 of Wisconsin statutes and Wisconsin Public Service Commission (PSC) chapters 114, 118 and 128 of the Wisconsin Administrative Code. A conditional use permit application or request to locate such system within the City shall be accompanied by detail system construction drawings, including: a site plan showing property boundaries, location of system structure(s), existing and proposed easements, permanent pools or ponds, property ingress/egress and dimensions of all structures and setbacks. In addition, the applicant shall provide the findings of investigations of vista intrusion, noise, 'shadow flicker', stray voltage, signal interference, other studies conducted as required, the detail plans for decommissioning any such facility and the names and addresses of persons, companies or corporations involved with the proposed installation. The applicant must show evidence that all county, state and federal regulations have been met as well as all regulations of any affected electric utility company. Proposed wind energy systems shall meet the following requirements:

(a) Individual systems producing more than 100 kW of electricity shall only be constructed within an A-1, Agriculture zoning district and shall meet all the state regulations regarding the placement and operation of such systems; and,

(b) No individual system proposed to be located outside an A-1 zoned property shall produce more than 100 kW of electricity and such systems must meet the following City requirements:

- (1) There shall be no more than three such systems on an individual property;
- (2) No individual system shall be more than 125 feet in height from ground to blade tip;
- (3) The setback from the system to a building on the host property, a property boundary, another wind system or overhead transmission cable/wires shall be no less than 1.1 times the ground to blade tip height of the system;
- (4) The setback from the system to any occupied institutional building such as a religious institution, a community building, day care facility or school shall be no less than 3.1 times the ground to blade tip height of the system;
- (5) No such system shall be visible from the first or second floor of a residence located within 1,500 feet;
- (6) The system structure shall consist of a monopole (or other structure that requires no secondary support), blades and electric generator. There shall be no other sign or devices attached to or suspended from such system and the entire

- system shall be painted in a single tone that renders the system the most visually unobtrusive;
- (7) There shall be no steady or intermittent whine, whistle, screech, hum or other such noise emitted from a system and the decibel level of the system shall be no greater than 45 dBA measured at a distance of 125 feet from the system and the City Plan Commission may require pre and post construction noise level studies conducted;
 - (8) There shall be no 'shadow flicker' on the windows of any building within a distance of 250 feet from a system;
 - (9) There shall be no interference with public or quasi-public communication facilities and such systems shall not be constructed in line-of-sight of an existing communication system; and
 - (10) The owner/operator of the system shall furnish a report to the City by July 31 and January 31 each year setting forth the amount of electricity generated during the first and last halves of each calendar year the system is in service and if the system generates no electricity for a continuous period of 360 days the system must be decommissioned and removed pursuant to PSC regulation.
- (a) The City may require a cash bond or irrevocable letter of credit in the amount of 120 percent of the estimated cost of completing the proposed system decommissioning.

If the Conditional Use Permit is approved by the Common Council the applicant may then apply for a building permit.

2. Solar Energy. A building permit application or request for placement or erection of a solar energy facility or system shall include detail construction drawings of the entire system including any modification to existing structures, dimensions of the system and the structure to which it is affixed or connected, distances to the boundaries of the individual property on which the system or device is proposed to be placed, names of the owners of the property as well as names and addresses of individual persons or firms involved in the sale, fabrication, erection, placing, connection and insuring of such system or device.

In addition, the applicant for such permit shall provide the Building Inspector with a site plan showing: the location of the system or device on the site and the distance to any structures on the property or adjacent properties; vertical and horizontal solar detrimental areas as defined herein*, landscaping screens; fences; overhead electric, telephone and TV cables; and, permanent ponds or pools of water. The applicant shall, in addition, provide evidence that all applicable county, state and federal regulations have been met and that all applicable regulations of the effected electric utility company have been met. After review of the information provided, the Building Inspector, City Planner or Plan Commission may decide that the application is of such complexity or magnitude that a Conditional Use Permit is required, and shall so inform the permit applicant. (*See 17.1402g)

b. RADIO, TELEPHONE AND TELEVISION RECEPTION OR TRANSMISSION SYSTEM OR DEVICE.

Any such system or device with an individual visual surface area of more than two (2) square feet may not be erected or placed on any site and external to any building in the City without first receiving a building permit.

Vertical antenna structures allowed by the Plan Commission in residential zoned areas may be no taller than 50 feet and must be located at least 60 feet from the nearest property boundary and at least 150 feet from the nearest existing or potential residential structure on adjacent properties. The owner of the property, shall include a detail construction drawing of the entire system including any modification to existing structures; dimensions of the system and the structure to which it is affixed or connected; distances to the boundaries of the individual property on which the system or device is proposed to be placed; and names of the owners of the property or firm involved in the sale, fabrication, erection, placing, connection and insuring of such system or device. In addition, the applicant for such permit shall provide the Building Inspector with a site plan showing: the location of the system or device on the site and the distance to any structures on adjacent properties, landscaping screens; and, permanent ponds or pools of water. In reviewing the request the Building Inspector shall also be concerned with the aesthetics and visual effects of such devices including; color, height, maximum size and specific placement. In no case shall a reception or transmission "dish", "disk" or panel be more than 12 square feet in surface area or 3.5 feet in diameter.

The applicant shall provide evidence that all applicable county, state and federal regulations have been met and that all applicable regulations of any effected electric utility company have been met. Such uses may not be placed in the front (street and lake) yard area or on the roof of any principal use within the City without permission of the Plan Commission. The Building Inspector, City Planner or Plan Commission, following any necessary review on their part, may determine that the proposal is of such magnitude that it should be treated as a Conditional Use and, therefore, must follow the procedure to obtain a Conditional Use permit. The Plan Commission may also direct the Building Inspector and the City Planner to jointly review and approve such uses.

17.0910 EXCEPTIONS TO REAR YARD SETBACKS.

Residential decks, patios and in-ground pools may be extended into the rear yard setback of the parcel but no closer than fifteen (15) feet from a property boundary or five (5) feet from an easement. Such structures must meet all other yard setback requirements as set forth herein.

17.1001 ESTABLISHMENT

There is hereby established a Zoning Board of Appeals for the City of Pewaukee for the purpose of hearing appeals and applications for granting variances and exceptions to the provisions of this Ordinance.

17.1002 MEMBERSHIP

The Zoning Board of Appeals shall consist of five (5) members appointed by the Mayor and confirmed by the Common Council.

- a. Terms shall be for staggered three (3) year periods.
- b. Chairman shall be designated by the Mayor.
- c. Two alternates members shall be appointed by the Mayor, subject to confirmation by the Common Council, for staggered 3 year terms. The Mayor shall annually designate one of the alternate members as the 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. Removal of alternates and filling of alternate vacancies shall be as for a regular member. The Chairman of the board may require that alternate members attend all meetings of the Board. (Rep. & Rec. 06-24)
- d. The Zoning Administrator shall attend all meetings for the purpose of representing the City before the Board but may not vote, be the Board secretary or take official minutes of the meetings.
- e. Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.
- f. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

17.1003 ORGANIZATION

The Zoning Board of Appeals shall organize and adopt rules of procedure for its own governance in accordance with the provisions of this Ordinance.

- a. Meetings shall be at the call of the Chairman, shall be open to the public and the public notified of such meeting pursuant to Wisconsin statutes.
- b. Three members shall be required to constitute a quorum. A maximum of 5 members shall be allowed to vote at any meeting. (Cr. & Renumber 06-24)
- c. Minutes of the proceedings and a written record of all actions shall be kept by the secretary showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the City offices and shall be a public record.
- d. The concurring vote of a majority of the members of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a utility, temporary, unclassified, or substituted use.

17.1004 POWERS

The Zoning Board of Appeals shall have the following powers:

- a. Errors: To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator, City Planner or other City staff or official.
- b. Variances: To hear and grant appeals for variances as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary physical hardship, so that the spirit and purposes of the Zoning Ordinance shall be observed and the public safety, welfare, and justice secured. Use variances and variances based on financial hardship shall not be granted.
- c. Interpretations: To hear and decide applications or interpretations of the zoning regulations and the boundaries of the zoning district after the City Planner has made a review and recommendation.
- d. Substitutions: 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 City Planner has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
- e. Floodplain Mapping Disputes: To hear and decide upon the delineation of the F-1 Floodplain District boundary where it is alleged there is a difference between the elevation of the 100 year recurrence interval base flood floodplain and lands shown within the floodplain based upon field surveys, or for determining the precise location of the floodplain. (Also see sub-section 17.0435)
- f. Permits: The Board may reverse, affirm wholly, or partly modify the requirements appealed from, and may issue or direct the issue of a permit.
- g. Assistance: The Board may request assistance from other City officers, departments, commissions, boards and staff.
- h. Oaths: The chairman may administer oaths and compel the attendance of Board members and witnesses.

17.1005 APPEALS AND APPLICATIONS (Rep. & Rec. 14-14)

Appeals of the decision of the Zoning Administrator, Building Inspector, or City Planner concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by any officer, department, board, or bureau of the City. Such appeals shall be filed with the Board of Appeals secretary and, where applicable, with WisDNR within thirty (30) days after the date or written notice of the decision or order of the Zoning Administrator and at least 10 days prior to an appeals hearing. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the secretary. Such appeals and applications shall include the following:

- (a) Name and Address of the appellant or applicant and all abutting and opposite property owners of record.

- (b) Plat of Survey or Certified Survey Map (CSM) prepared by a registered land surveyor, or a location sketch drawn to scale showing all of the information required under Section 17.0203 for a Building/Zoning permit.
- (c) Additional Information required by the City Plan Commission, Engineer, Planner, Zoning Board of Appeals, or Zoning Administrator.
- (d) The Zoning Board of Appeals shall review all data related to the appeal. This may include:
 - (1) Permit application data listed in s. 17.0435p(2);
 - (2) Data listed in s. 17.0435 l(1)(b) where the applicant has not submitted this information to the zoning administrator; and
 - (3) Other data submitted with the application, or submitted to the Board with the appeal.
- (e) For appeals of all denied permits the Zoning Board of Appeals shall:
 - (1) Follow the procedures of this sub-section;
 - (2) Consider Plan Commission or planning staff recommendations; and
 - (3) Either uphold the denial or grant the appeal.
- (f) For appeals concerning increases in regional or base flood elevation the Zoning Board of Appeals shall:
 - (1) Uphold the denial where the Zoning Board of Appeals 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. 17.0435t *Amendments*; and
 - (2) Grant the appeal where the Zoning Board of Appeals agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

17.1006 HEARINGS

The Zoning Board of Appeals shall fix a reasonable time and place for the required public hearing and shall give notice as specified in section 17.1300 of this Ordinance. The appellant or applicant must appear in person or be represented by an agent or attorney at the hearing.

17.1007 FINDINGS (Rep. & Rec. 14-14)

No variance to the provisions of this Ordinance shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates such in the minutes of its proceedings:

- a. Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in

any district that is not a stated permitted principle use, permitted accessory use, or permitted conditional use in that particular district.

- b. Exceptional Circumstances: There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Ordinance should be changed.
- c. Economic or Financial Hardship and Self-Imposed Hardship Not Grounds for Variance: No variance shall be granted on the basis of economic/ financial gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- d. Preservation of Property Rights: The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- e. Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.
- f. Additional Requirements in Floodplain District: No variance in or related to a floodplain* shall be granted where:
 - (1) A change in the boundaries or elevation of the base flood floodplain (F-1 District) would result.
 - (2) A lower degree of flood protection than a point two (2) feet above the 100-year recurrence interval base flood for the particular area would result.
 - (3) Any action contrary to the provisions of Chapter NR-116 of the Wisconsin Administrative Code would result. (See sub-section 17.0435 and WisDNR requirements)
 - (4) The lot or parcel is larger than one-half acre and is not contiguous to existing structures constructed below the regional (base) flood elevation.
 - (5) No good or sufficient cause can be shown; greater than a minimum relief is necessary; there is increased risk to public safety or nuisances; rescue and relief costs would be increased; and, it is contrary to the purposes of this ordinance.
 - (6) Such variance would allow alteration of an historical structure and/or use.
- g. 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 per coverage. A copy shall be maintained with the variance record.

17.1008 FLOODPLAIN MAPPING DISPUTES

The following procedures shall be used by the Zoning Board of Appeals in settling disputes of a floodplain zoning district boundary:

- a. The Floodplain District Boundary shall be determined by use of the flood profiles contained in the Flood Insurance Study (FIS), or where such information is not available, by flood maps or any other evidence available to the Board. (See sub-section 17.0435 of this ordinance)

- b. The Person contesting the location of the district boundary shall be given the opportunity to present his own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the Board of Appeals shall advise the City Plan Commission of its findings and the Plan Commission shall proceed to petition the Common Council, FEMA and WisDNR for a map amendment. (Also see sub-section 17.0435)

17.1009 DECISION (Rep. & Rec. 14-14)

The Zoning Board of Appeals shall decide in writing signed by the Chairman or Secretary of the Board all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, City Planner, City Plan Commission and, where applicable, County Park and Land Use Department.

- a. Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- b. Variance, Substitution, or Use Permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.
- c. Include the facts and 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.
- d. 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
- e. 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.

17.1010 NOTICE TO WIS-DNR. (Rep. & Rec. 14-03, 14-14)

The Zoning Board of Appeals shall transmit a copy of each application for a variance to Floodplain or Shoreland regulations to the WisDNR for review and comment at least 10 days in advance of the hearing. Final action on the application shall not be taken for thirty (30) days or until the WisDNR has made it's recommendation, whichever comes first. A copy of all decisions relating to variances to floodplain and shoreland regulations shall be transmitted to the WisDNR within ten (10) days of the effective date of such decision. (Also see sub-section 17.0435)

17.1011 REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Zoning Board of Appeals.

SECTION 17.1100 CHANGES AND AMENDMENTS

17.1101 AUTHORITY

Whenever the public necessity, convenience, or general welfare or good zoning practice require, the City Common Council may, by ordinance, change the district

boundaries or amend, change, or supplement the regulations established by this Ordinance or amendments thereto.

17.1102 INITIATION

A change or amendment may be initiated by the Common Council or Plan Commission or by a petition of one or more of the owners of property within the area proposed to be changed.

17.1103 PETITIONS

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the City Clerk on forms furnished by the City and shall include: a legal description of the premises to be rezoned; the text of the regulations to be amended; a list of the reasons justifying the petition; a description of the proposed use; and, the following attached information:

- a. A Plot Plan drawn to a scale of one (1) inch equals 100 feet showing the area proposed to be rezoned. its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
- b. Owner's Name and Addresses of all properties lying within 600 feet of the boundaries of the area proposed to be rezoned.
- c. A Plan Commission approved development plan, plat or CSM for the property proposed to be rezoned, unless waived by the Plan Commission.
- d. Additional Information required by the Plan Commission or Common Council. Petitions for such change or amendment shall be submitted to the Plan Commission for review, public hearing, and recommendation prior to action by the Common Council.

17.1104 RECOMMENDATIONS

Prior to and/or following a public hearing the Plan Commission shall review all petitions for changes and amendments to City zoning maps or to the zoning ordinance and shall recommend to the Common Council that the petition be granted as requested, modified, or denied. The recommendation shall be made in writing by the Plan Commission and written minutes of the Plan Commission meeting wherein the recommendation was made may suffice.

17.1105 HEARINGS (Rep. & Rec. 14-03)

The Plan Commission shall hold a public hearing upon each petition, and shall give notice to owners of property within 600 feet of the property to be rezoned and as specified in Section 17.1300 of this Ordinance.

17.1106 CITY COMMON COUNCIL ACTION

- a. Following such hearing and after careful consideration of the Plan Commission's recommendation(s), the Common Council shall take action on the proposed change or amendment.
- b. Action by the Common Council to rezone a parcel(s) of land for residential, commercial, industrial or institutional purposes is to be construed as zoning for a period not to exceed 24 months from the effective date of the rezoning unless approved physical construction or development has been substantially commenced on the parcel(s) during the intervening 24 month period, in which case the zoning will be continued. If no approved physical construction or

development is commenced by the end of the 24 month period and the owner or developer has not requested and been granted an extension by the Plan Commission, the owner will be requested to attend a specified meeting of the Plan Commission to give good reason why the zoning should not be reverted to the most restrictive zoning for a parcel of the size involved or, the zoning extended. If, after due notice, the owner has not come forward or responded to the request or, after such response the Plan Commission finds that there is not sufficient reason to extend the zoning period, the Plan Commission will take formal action to hold a public hearing for the purpose of reverting the zoning to the previous zoning of the land or to the most restrictive zoning compatible with the parcel size, the surrounding uses and the existing use of the parcel at that time, after which hearing the Plan Commission and Common Council may take action to make such reversion.

17.1107 Repealed 14-03

17.1108 FLOODPLAIN DISTRICT BOUNDARY LIMITED (Amend 14-03)

(Please also see sub-section 17.0435 of this zoning ordinance)

The Common Council shall not permit changes to the F-1, Floodplain District boundaries that are inconsistent with the purpose and intent of this ordinance or in conflict with the applicable rules and regulations of the WisDNR or the FEMA. In addition:

- a. Changes in the F-1, Floodplain District Boundaries shall not be permitted unless consistent with a map revision of the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA) dated November 19, 2008.
- b. Amendment of Unnumbered "A" Zones as shown on official FEMA floodplain maps shall not be permitted unless the petitioner provides the City with engineering data showing the flood profile, necessary river cross-sections, flood elevations, and any effect the mapping change will have on flood stages. The effects shall be limited as set forth in sub-section 17.1108(a) above, to no increase in flood stage unless appropriate legal arrangements have been made.
- c. No River or Stream Shall be Altered or Relocated until a floodplain zoning change has been applied for and granted in accordance with the requirements of this zoning ordinance, and until all adjacent communities have been requested to review and comment on the proposed alteration or relocation. (See sub-section 17.0435e in this ordinance)
- d. Notice to DNR and FEMA. A copy of all notices for amendments or rezoning in the F-1, Floodplain district shall be transmitted to the WisDNR, FEMA, and to the Southeastern Wisconsin Regional Planning Commission (SEWRPC). No amendments to the F-1, Floodplain district boundaries or regulations shall be effective until approved by the WisDNR and FEMA. In the case of floodplain boundary changes, an official letter of map amendment from FIA shall also be required.

17.1109 PROTEST

In the event of a protest against such district change or amendment to the regulations of this ordinance, duly signed and acknowledged either by the owners of twenty (20) percent or more of the areas of the land included in such proposed change or by the owners of twenty (20) percent or more of the land immediately

adjacent and extending 100 feet from the street frontage of such opposite land, such a change or amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of the voting members of the full Common Council.

SECTION 17.1200 PERFORMANCE STANDARDS

This Chapter permits specific uses in specific districts; and performance standards are designed to limit, restrict, and prohibit any effects of those uses outside their premises or district. All structures, lands, air and water, shall hereafter, in addition to their use, site, and sanitary regulations, comply with the performance standards as set forth by those City, County, State and Federal agencies or departments having regulatory jurisdiction concerning air pollution, fire and explosive hazard; glare and heat; water quality; noise; radioactivity and electrical disturbances; and vibration. Permits for the construction or location of certain industrial, commercial, institutional and other specific uses may require prior review and approval by one or more of the aforementioned agencies or department(s) and in reviewing complaints regarding any of the concerns listed above, the Building Inspector may require formal technical review and recommendation from such agencies or departments prior to making a decision on the matter.

SECTION 17.1300 PUBLIC HEARINGS

Notice of any public hearing which the Common Council, Plan Commission, or Zoning Board of Appeals is required to hold under the terms of this Ordinance, shall specify the date, time and place of said hearing, the legal and common property description, and shall state the matter to be considered at said hearing. Notice shall be published in a newspaper of general circulation at least once each week for two (2) consecutive weeks and the hearing shall not be held until at least seven (7) days following the last publication. The City Clerk shall also give at least ten (10) days prior written notice of such hearing to the Clerk of any municipality within 1,000 feet of any land to be affected by the proposed action, and in the event the appeal affects any lands in the F-1 Floodplain District, the City Clerk shall also give at least 10 day's prior written notice of such hearing to the Wisconsin Department of Natural Resources.

SECTION 17.1400 DEFINITIONS

17.1401 GENERAL DEFINITIONS

For the purpose of this Ordinance, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Any words not defined in this section or sub-section 17.0435p shall be presumed to have their customary dictionary definitions.

17.1402 SPECIFIC WORDS AND PHRASES

- a) The singular includes the plural and vice versa.
- b) The present tense includes the future tense and vice versa.
- c) The word 'shall' is mandatory, the word 'should' is advisory and the word 'may' is permissive.

- d) The word 'person' includes a firm, association, partnership, trust, company, corporation or individual.
- e) The masculine gender includes the feminine and neuter genders.
- f) The phrase 'including, but not limited to' shall not limit a term or word to a specific example but is intended to extend its meaning to all other instances or circumstances of the same kind or character.
- g) Following are words and terms defined as relates to chapters 17 and 18 of the City code:

1- "A" Zones - (See sub-section 17.0435p of this zoning ordinance).

2- Above-Roof Sign

A sign or any part of a sign which extends or is displayed above the uppermost ceiling or roof line.

3- Abutting or Adjacent

Having a common border or boundary with an adjacent property, or being separated from such common border only by an easement.

4- Access

A means of vehicular approach, i.e., entry to or exit from a property to or from a street, road or highway.

5- Accessory Use or Structure

A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the permitted principal use or the structure in which the principal use is housed. Such uses/structures include but are not limited to: a detached garage or carport; maintenance equipment or material storage shed; gazebo; cabana; child's play house or tree house; and similar walled structures not meant to be used as a living unit. (See sub-section 17.0209b).

6- Addition

Any new construction whereby an existing building or structure is expanded in perimeter or height.

7- Adult-Oriented Establishment

(See Section 7.02(b)(11) of the City of Pewaukee Municipal Code)

8- Advertising Street Signs

Signs which direct attention to a business, commodity, service, not exclusively related to the premises at which the street sign is located, or to a business, commodity or service that is conducted, sold or offered elsewhere than on the premises at which the street sign is located. Advertising street signs include advertising structures and/or billboards.

9- Aggrieved Person

A person whose application for a permit has been denied or revoked, and in some instances, adjacent property owners. An adjacent property owner shall not be considered an aggrieved person unless he is suffering some specific ascertainable damages or is specifically injured by the actions of his neighbor.

10- Agricultural

All uses, commonly classified as agricultural, apiculture, horticultural, floricultural, viticulture, or forestry, such as: the tilling of soil, crop and tree

farming, truck farming, gardening, plant nurseries, dairy farming, keeping or raising of domestic livestock or poultry, bee keeping and sod farming together with the operation of any machinery or vehicles that are incidental to the above uses and any agricultural business such as fruit packing, dairying or similar activities.

11- Air Pollution

Dust, fumes, mist, liquid, smoke, other particulate matter, vapor, gas, odorous substances or any combination thereof excluding uncombined water vapor.

12- Alley

A special public right-of-way designed to afford only secondary access to abutting properties.

13- Animal Hospital

An enclosed structure principally used to medically or surgically treat animals, which may include a commercial kennel as an accessory use.

14- Antiques

A business engaged in selling or exhibiting works of art, pieces of furniture, decorative objects or other things that were created at an earlier time, at least 25 years earlier.

15- Apartment

A room or suite of rooms in a multiple family structure which is arranged, intended or designed to be occupied as a residence by one individual or by one family.

16- Appeal

A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this chapter as expressly authorized by the provisions of this chapter.

17- Approved Combustible Material

Approved combustible material shall include wood or materials not more combustible than wood; and combustible plastics, which, when tested with ASTM standard methods for flammability of plastics over 0.050 inch in

thickness, burn no faster than 2.5 inches per minute when the plastic is 0.060 inches in thickness.

18- Architectural Detail

Any projection, relief, or change of a material, window or door opening that was in the original design of the building.

19- Arterial Street

A public street or highway used or intended to be used primarily for fast or heavy, through traffic and designated on plans or official maps of the City. Arterial streets and highways shall include freeways and expressways as well as county trunk and state trunk highways and parkways.

20- Arts and Crafts Studio

A business operated by an individual who is a painter, sculptor, potter, furniture builder, or similar crafter or artisan of material goods, where the product of the individual's work is sold, exhibited or both.

21- Automobile Service Station

A place where petroleum products stored in underground or above ground tanks for the operation of motor vehicles are offered for sale directly to the public, including but not limited to such facilities that also sell motor vehicle parts and accessories.

22- Automobile Wrecking Yard

Any premises on which more than one (1) automotive vehicle, not in running or operating condition, and which does not have current license plate, is stored in the open.

23- Awning

A movable shelter of canvas, metal, wood or plastic placed over a window or door to deflect sun and weather elements and which may be retractable. When fully extended an awning may not be less than 7.5 feet above grade directly under the awning nor extend more than 24 inches into a public right-of-way but in all other circumstances may extend an additional six (6) inches for each one (1) foot raised in height above grade, to a maximum extension of 48 inches.

24- Awning Sign

A non-illuminated projecting identification sign painted on or affixed flat to the surface of an awning and which does not extend vertically or horizontally from the awning.

25- Banners and Pennants

A suspended sign or graphic made of a flexible material such as canvas, sailcloth, plastic, or waterproof paper designed to be used as a temporary display for a one-time or annual coming event.

26- Basement

Any enclosed area of a building having its floor below outside ground level on all four sides. For structures outside of the F-1, Floodplain District, that portion of any structure devoted to usable space at least six (6) feet in height and at least fifty-one (51%) percent of which is located below the average adjoining finished lot grade. (Please see sub-section 17.0435p of this ordinance)

27- Bed and Breakfast Establishment

Any place of lodging that provides rooms for rent to guests for overnight stay, is occupied by the owner or his employee at the time of rental, and in which guests are provided breakfast as a part of the room accommodation. "Breakfast" shall mean any meal provided or served between 6:00 a.m. and 11:00 a.m.

28- Bedroom

A room in a residence that is marketed, designed, used or otherwise likely to function primarily for sleeping quarters.

29- Bi-Level Dwelling

A two-level dwelling with one (1) level completely above lot grade and the lower level partially below grade; the lower level may or may not have exterior access based on building restrictions.

30- Billboard

Any sign at least 200 but not more than 800 square feet in area on one (1) side. Such signs may not be more than 25 feet in height above the elevation of the centerline of the street or highway on which the billboard faces.

31- Boat

A vessel that is designed to carry at least one individual on the surface of a body of water, and is propelled by oars, paddles, wind or motor power. Motor power includes, but is not limited to, power generated by steam engine, electric motor or combustion engine of any kind.

32- Boardinghouse

A building other than a hotel or restaurant where meals and/or lodging are regularly furnished by prearrangement for compensation for five (5) or more persons not members of a family, but not exceeding 12 persons on a weekly or monthly basis and not open to transient (overnight stay) customers.

33- Boathouse

A structure designed to protect or store boats, which may be built no closer than five (5) feet from the ordinary high water mark of a lake or stream.

34- Buildings

Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, businesses, equipment, machinery or materials.

35- Buildable Area

That area of a lot or parcel not included within required yard areas and upon/within which structures may be constructed.

36- Building Area

The total area bounded by the exterior walls of a building at the floor levels, but not including basement, garages, porches, breezeways, and unfinished attics.

37- Building Code

One of the codes and ordinances of the City of Pewaukee, Wisconsin, that regulates the construction of the various components of a building.

38- Building Coverage

The area of the gross acreage of a lot or parcel that is occupied by buildings or permanent structures more than six (6) inches above ground. Sometimes called the building 'footprint'.

39- Building Height

The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of the roof. Where the building is on a lot which slopes from the rear down to the street, or vice versa, the height will be determined at a point on the side wall equidistant between the back and front walls of the building.

40- Building Separation

The narrowest distance between two buildings.

41- Building Setback

(See 'Setback')

42- Building Space

The designated land area within a condominium project or common ownership parcel upon which a building must be placed. The building space may not be larger than the buildable area of the smallest standard lot allowed within the zoning district.

43- Bulletin Board

A sign used primarily by governmental and institutional agencies to publicly display notices of meetings, services, regulations, and announcements. Such signs are not necessarily designed to read from a distance or by the traveling public.

44- Business Park

A building project that is developed as a coordinated entity with similar building facades, landscaping, common parking and access drives, and unified site design.

45- Business Street Graphics

A sign used for identification purposes, which directs attention to a business or profession conducted upon the premises at which the street graphic is located, and which may also refer to goods or services produced, offered for sale or obtained at such premises.

46- Campground

A parcel of land which is designated, maintained, intended or used for the purpose of providing sites for non-permanent overnight use by four or more camping units, or which is advertised or represented as a camping area.

47 – Camping Unit

Any portable device, no more than 400 square feet in area, used as a shelter, including but not limited to: camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

48- Canopy

A fixed, rigid shelter affixed to the side of, suspended from, or placed adjacent to, a building for the purpose of sheltering from or deflecting sun and weather elements. A canopy may not be placed so as to be less than 7.5 feet above grade directly under the canopy nor extend within a public right-of-way. In all other circumstances a canopy may be extended similar to an awning.

49- Canopy or Marquee Sign Graphic

Signage logo or lettering which is placed on or is attached to a permanent canopy or marquee rather than to the building.

50- Changeable Copy

Words, letters, logos, and lighting designed as part of a sign or other visual communication media which can be changed by manual or electronic means.

51- Channel – (See sub-section 17.0435p of this zoning ordinance).

52 -Commercial Greenhouse

A business that grows and sells primarily plants and related goods on a retail or wholesale basis, and that includes a structure for the cultivation, shelter or display of plants.

53 - Commercial Kennel (Rep. & Rec. 13-09)

Any premises used for raising, breeding, boarding, training, grooming or foster care of animals for remuneration or other commercial purposes, including raising and selling of three (3) or more litters of animals per year.

54 - Commercial Stable

A tract of land on which horses or other livestock are kept for hire, board, training, sale or any other commercial use.

55 - Communication Tower

Free-standing broadcasting, receiving, or relay structures, and any office, studio or other land uses directly related to the function of the tower.

56 - Commercial Vehicle

Any truck, van, bus, or trailer that is self propelled or towed which is used or designed to be used in the transport of people, goods, equipment or material for the purpose of business or commerce. Such vehicles usually require special licensing and/or display signage on the vehicle that identifies the business, service and/or product.

57 - Community Living Arrangement

The following facilities licensed or operated, or permitted under the authority of Wisconsin State Statutes: child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(lm) and community-based residential facilities under Section 50.01; but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons, and jails.

58 - Conditional Uses

Uses of a special, extensive or complex nature as to make impractical their predetermination as a principle use in a specific zoning district.

59 - Cul-de-sac

A local or minor street with only one entrance/exit to another street which is designed with a bulbous end to allow the safe and convenient reversal of the direction of traffic movement.

60 - Deck

A structure, other than a stoop or walkway, characterized by a flat open horizontal surface or platform at least six inches above the grade of the land it covers and which may or may not be supported by posts, beams, cantilevers or by any other methods, including a roof structure, usually attached to the rear or sides of a dwelling unit and intended to be used for leisure or recreational purposes. Such structures attached to the street side of a dwelling are usually called porches and are intended to shelter the front entry of the dwelling and for leisure activity.

61 - Density, Net Residential

That area of a lot or parcel required for a residence and consisting of the ground floor area of the buildings, the access and driveways on the site along with the required yards, and open space.

62 - Density, Gross Residential

That area of a lot or parcel required for a residential use plus the proportionate area devoted to all supporting land uses, including street, public lands or unusable lands, school sites, and commercial sites within a given subdivision, neighborhood, section, quarter-section, or other area delineation.

63 - Developer

The legal or beneficial owner(s) (including, but not limited to, contract purchaser(s)) of a lot or parcel of any land proposed for inclusion in a development.

64 - Development

Any artificial or man-made change to improved or unimproved real estate, including but not limited to: the construction of principal and accessory buildings, structures, streets and utilities; the repair or improvement of damaged buildings and structures; the placement of buildings and structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling; the storage, deposition or extraction of materials or equipment; and, the installation, repair or removal of public or private sanitary sewage disposal systems or water supply facilities.

65 - Direct Access

A condition of immediate physical connection resulting from adjacency of a road or right-of-way abutting a property.

66 - Directional Street Signs

An on-premises sign designed to guide or direct pedestrian or vehicular traffic, including parking lot directional graphics.

67 - Direction Street Sign, Off-Premises

An off-premises directional street sign which indicates traffic movement, the route and distance to a point of scenic, historic, cultural or religious interest, or to a public building, at a specified location.

68 - District, Basic

A part or parts of the City for which the regulations of this Ordinance governing the use and location of land and buildings are uniform (such as the Residential, Commercial, and Industrial District classifications).

69 - District, Overlay

A special zoning district superimposed over other, basic districts setting forth certain requirements in addition to the requirements of the basic district. In the instance of conflicting requirements, the most restrictive requirements shall apply. (Sub-section 17.0436, SO-Shoreland Overlay is such a district)

70 - Drainage

The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff, to minimize erosion and sedimentation during and after development, and the means necessary for water supply preservation or alleviation of flooding.

71 - Driveway, Residential

That portion of a parcel or property intended to be used for a delineated access, paved or unpaved, from the abutting access street to a garage or carport.

72 - Dwelling Unit

An individual building or section of a building or other residential structure devoted to the shelter and living unit of one (1) family. (see Residential Unit).

73 - Dwelling, Single Family

A detached building designed for or occupied exclusively as residential, dwelling or living unit by one (1) family.

74 - Dwelling, Two-Family

A building containing two (2) separate residential, dwelling (or living) units, designed for occupancy by not more than two (2) families.

75 - Dwelling, Multiple-Family

A building containing three (3) or more separate residential, dwelling or living units designed for or occupied, with the number of families in residence not to exceed the number of dwelling units provided.

76 - Easement

A right given by an owner of land to another party for a specific limited use of that land or portion thereof.

77 - Eave

The outer edge of a roof that overhangs the wall.

78 - Efficiency or Studio Apartment

A dwelling unit having no specific bedroom but providing for a kitchen area, a dining area, a sleeping area, and a bathroom.

79 - Elderly Housing

Residential development designed to meet the needs of and reserved exclusively for persons considered 'senior citizens'.

80 - Election Campaign Sign

Signs that comment on matters that are an officially designated topic of the next official election, such as a candidate for office or a referendum. Such signs are intended to be temporary and, therefore, are usually constructed of materials that will not withstand rain, snow, and wind conditions for long periods of time.

81 - Electric Street Signs

Any street signs containing electrical wiring, material, or devices.

82 - Equal Degree of Encroachment

The effect of any encroachment into a floodway must be computed by assuming an equal degree of hydraulic encroachment on the other side of the river or stream for a significant hydraulic reach. This computation assures that property owners up, down or across the river or stream will have the same rights of hydraulic encroachment. Encroachments are analyzed on the basis of the effect upon hydraulic conveyance, not upon the distance the encroachment extends into the floodway. (See sub-section 17.0435)

83 - Erosion

The detachment and movement of soil or rock fragments by water, wind, ice, and/or gravity.

84 - Essential Services

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

85 - Established Grade

The elevation of the finished street at the centerline or curbs as fixed by the City Engineer or by such authority as shall be designated by City regulations to determine such an elevation.

86 - Family

One (1) or more persons related by blood, marriage, or legal action occupying the premises and living together as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, motel, or hotel.

87 - Farming Operation

One or more parcel(s) of land under a single ownership and/or management upon which natural fibers, animals, and/or plants for human or animal consumption are produced.

88 - Farm Roadside Stand

A farm building or structure used or intended to be used for the sale of unprocessed farm products raised on said farm solely by the owner or tenant of the farm on which such building is located.

89 - Farmstead

That portion of a farm which consists of the home and adjacent accessory buildings.

90 - Fast Food Restaurant

An establishment the principal business of which is the sale of prepared or rapidly prepared food directly to the consumer in a ready-to-consume state for consumption either within the restaurant building or off-premises.

91 - Fence, Common

Any wooden, masonry, concrete, plastic structure or a densely planted hedge or other living plant material intended to enclose an open space for purposes of security or confinement, or intended as a visual or audible screening device, or intended for aesthetic ornamentation which is at least six (6) feet in length, more than two (2) feet in height measured at the nearest street curb, and no more than six (6) feet in height in residential and agricultural districts; nor more than ten (10) feet in height in other districts unless required by the Plan Commission as a condition of approval.

92 - Fence, Ornamental

A fence structure, not a common or privacy fence, constructed and placed so as not to obstruct vision and intended for aesthetic purposes only. Ornamental fences may not be more than five (5) feet in height and may not be placed

within a vision clearance triangle or within five (5) feet from a street property line.

93 - Fence, Privacy

A fence structure or planting, not a common or ornamental fence, constructed or placed so as to provide a visual, audible or access screen around or adjacent to a patio or other rear yard intensive private use area. Privacy fences may not exceed seven (7) feet in height, and when constructed so as to enclose residential decks, patios or in-ground pools that extend outside the minimum rear setback, may not exceed six (6) feet in height. Such fences may not be constructed on the street side of a residence or other building.

94 - First Floor Level

Livable floor area that is not above any other livable floor area, including a basement.

95 - Flags or Pennants

Devices generally made of flexible materials, such as cloth, paper, or plastic and temporarily displayed on strings or wires.

96 - Flashing Street Sign

A street sign, any part of which varies with time in brightness or color. Any sign or graphic possessing visible moving parts shall be considered a flashing street sign.

97 - Flood (See sub-section 17.0435 of this ordinance)

98 - Flood Insurance Study (See sub-section 17.0435 of this ordinance)

99 - Flood Profile (See sub-section 17.0435 of this ordinance)

100 - Flood Protection Elevation (See sub-section 17.0435 of this ordinance)

101 - Floodplain (See sub-section 17.0435 of this ordinance)

102 - Flood Fringe (See sub-section 17.0435 of this ordinance)

103 - Flood-proofing (See sub-section 17.0435 of this ordinance)

104 - Flood Stage (See sub-section 17.0435 of this ordinance)

105 - Floodway (See sub-section 17.0435 of this ordinance)

106 - Floor Area

The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six and one-half (6 ½) feet.

107 - Frontage

The dimension of a lot abutting a public street measured along the street right-of-way line.

108 - Frontage Street (Frontage Road)

A street (road) contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.

109 - Front lot line

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 most closely parallel with the front door of the house shall be the front lot line.

110 - Front Yard

A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the zoning district in which such lot is located.

111 - Garage, General (Amend 14-03)

Garages are enclosed accessory structures designed for the heated or cold storage of vehicles, equipment and personal belongings. Such structures shall meet the building setback, lot coverage and design restrictions of the applicable zoning district of the City and, if residential, may not be constructed on a lot or parcel that does not already contain a permitted principal use structure. In addition, no residential garage shall be used for the conduct of a business, storage of commercial and industrial use trucks/vehicles of over 1-1/2 ton rated load capacity, or for habitation. No more than one (1) detached garage may be constructed on a single-family zoned residential parcel of less than two and one-half (2.5) acres in size, and no more than two (2) detached garages may be constructed on a single family residential zoned parcel of two and one-half (2.5) acres or more in size. Detached garages may only be constructed on agriculture or single-family zoned parcels unless otherwise approved by the Plan Commission.

112 - Garage, Private, Attached Residential

(See Garage, General, above). Attached residential garages shall have a fire-rated common wall and/or ceiling with the residence pursuant to Wisconsin Administrative Code; and, shall be constructed to be an integral part of the residence in terms of exterior materials, roofline and color.

113 - Garage, Private, Detached Residential

(See Garage, General above). Detached garages on single-family zoned parcels shall be no less than 400 square feet in area and no more than 1,200 square feet in area; shall be constructed of the same exterior materials as the principal structure on the parcel; and, shall be oriented so as not block all view of water bodies and/or other common private or public open space from existing principal residences located on adjacent parcels.

114 - Glare

The brightness of a light source which causes eye discomfort.

115 - Ground Sign

A free standing sign affixed to or placed on the ground and independent of any buildings or other permanent structure.

116 - Group Day Care Center

A facility, that is not in an occupied residence, where care and supervision is provided for four (4) or more children under the age of seven (7) for less than twenty-four (24) hours a day.

117 - Group Foster Home

Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five to eight foster children.

118 - Hard Surface

The area of a lot devoid of grass, trees or other natural landscape features that is paved or otherwise surfaced in a manner that prevents natural infiltration of water into the underlying soil. (See definition of Impervious Surface)

119 – Hearing Notice

Publication or posting of a notice of a proposed public hearing pursuant to Chapter 985 of Wisconsin statutes, including: a Class 2 notice for all zoning ordinance text or map changes published twice in a official local daily or weekly publication – once each week for two weeks prior to the proposed hearing with the second or last publication at least seven (7) days prior to the date of the hearing (See sections 17.1100 and 17.1300 of this ordinance).

120 – Historic Structure

Any structure that is: listed individually in the National Register of Historic Places or preliminarily determined by the U.S. Secretary of the Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily determined by the U.S. Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by said Secretary to qualify as a registered historic district; individually listed on a state inventory of historic places which has been approved by the U.S. Secretary of the Interior; or, individually listed on a local inventory of historic places that has been certified by an approved state program, as determined by the U.S. Secretary of the Interior.

121 - Hobby Kennel (Rep. & Recr. 13-09)

Any premises with four (4) or more dogs five (5) or more months of age, 6 or more other animals, or a combination of 6 or more dogs and animals, as household pets or for non-commercial purposes such as raising, breeding, boarding, training, grooming, foster care and the occasional raising and selling of not more than two (2) litters of animals per year.

122 - Home Occupations

Any occupation conducted for monetary or "in-kind" gain within a single or two-family residence by an occupant thereof. The home occupation must be conducted entirely within the dwelling and the total floor space required or used for such home occupation shall not be greater than twenty (20) percent of the total floor area of any floor within the residence and shall not be conducted within any accessory building. The home occupation shall not create noise, odor or electrical disturbance which can be detected outside the residence. There can be no more than one (1) employee that does not live in the home. There shall be no customer traffic, no parking or servicing of vehicles not licensed to the home owner, no parking outside a garage of more than one vehicle used in the business and no non-residential solid waste shall be stored outside. There shall be no visible evidence from outside the residence that the residence is being used for home occupation purposes, and there shall be no signage displayed. Home occupations may not be conducted in a multi-family residence.

123 - Identification Street Signs

A sign which contains no advertising but is limited to the name, address, and number of a building, institution, or person and to the activity in the building or institution or the occupation of the person.

124 - Illuminated Street Sign

A sign illuminated internally or externally and so shielded that no direct illumination from it is visible except upon the sign graphic.

125 – Impervious Surface

Any surface on which at least 50 percent of precipitation falling thereon is not absorbed but is released from the surface to flow elsewhere as stormwater runoff, such as roofs, concrete or asphalt driveways and patios, decks, and paved or graveled parking lots and outside storage areas and stored materials and equipment.

126 - Incombustible Material

Any material which will not ignite at, or below, a temperature of 1200°F degrees Fahrenheit during an exposure of five (5) minutes, and which will not continue to glow at such temperatures.

127 - Institutional

Uses, facilities, or organizations dedicated to public service.

128 - Intermediate Day Care Home

Occupied residence in which a qualified individual or individuals provide child care for nine (9) to fifteen (15) children less than 16 years of age.

129 - Item of Information

An "item of information" pertaining to street signs means any of the following: a word; abbreviation; number; symbol; geometric shape. In addition, combining several different geometric shapes are to be assessed one additional item for each non-continuous plane.

130 - Junk or Salvage Yard

An area consisting of buildings, structures or premises where junk waste, discarded or salvage materials are bought, sold, exchanged, stored, shredded, pulverized, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

131 - Kennel

An outdoor or indoor enclosure for the keeping of household pets as a commercial or hobby venture. (See sub-section 11.05 of City ordinances regarding dog kennels)

132 - Legal Nonconforming Lot

Any lawfully established lot or parcel of land at the time of the enactment of this chapter or any amendment applicable thereto which does not meet the requirements for minimum lot width and area for the zoning district in which it is located.

133 - Legal Nonconforming Structure

Any lawfully established building or structure at the time of the enactment of this chapter or any amendment applicable thereto that does not conform to the dimensional regulations for the zoning district in which it is located.

134 - Legal Nonconforming Use

Any lawfully established use of land, premises, building or structure at the time of the enactment of this chapter or any amendment applicable thereto that does not conform to the use regulations for the zoning district in which it is located.

135 - Light or Limited Industrial

Industrial establishments such as those engaged in warehousing, wholesaling and distribution, assembly, fabrication, repair and maintenance services that comply with the standards listed in this chapter.

136 - Lot (or parcel)

For the purpose of this Ordinance a lot shall be defined as a parcel of land on which a principal building and its accessory building are placed, together with the required open spaces; provided that no such parcel be bisected by a public street or other public or private right-of-way and shall not include any portion of a public right-of-way. No lands dedicated to the public or reserved for roadway purposes shall be included in the computation of lot size for the purposes of this Ordinance.

137 - Lot of Record

A platted lot in a recorded subdivision or a parcel of land for which the deed, prior to the original (Aug. 1982) adoption of this Ordinance, is on record with the Waukesha County Register of Deeds and which exists as described therein.

138 - Lot, Corner

A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

139 - Lot, Double Frontage

A parcel of land, other than a corner lot, with frontage on more than one (1) street or with frontage on a street and a navigable body of water. Double frontage lots, for the purpose of this Ordinance, shall be deemed to have two (2) front yards and no rear yard, even though access is permitted on only one street.

140 - Lot, Width

The width of a parcel of land measured at the street setback line as defined herein. (*See Setback*)

141 - Marquee

A permanent roof-like rigid structure extending over a door or entrance to a building to shelter the entry-way from weather elements. A marquee may not be constructed over or within public rights-of-way or be less than ten (10) feet above the grade directly under the marquee.

142 - Master Plan

A plan, map, report, or other document pertaining to the physical development of the City which has been adopted by the Plan Commission, as described in s.62.23 and ss. 66.1001 of Wis. Stats. (sometimes called a comprehensive plan).

143 - Manufactured Mobile Home

A manufactured mobile home is a transportable structure, being, generally, eight (8) feet or more in width (not including the overhang of the roof) or 32 feet or more in length (not including the overhang of the roof or tow bar), built on a chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities.

144 - Mobile Home Lot

A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

145 - Mobile/Manufactured Home Park

A parcel of land which has been developed pursuant to this ordinance and other codes and ordinances of the City for placement of a mobile/manufactured homes and owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park may be rented or sold to individual mobile home owners. Also including the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed such as the installation of utilities, construction of streets, site grading and the pouring or placement of concrete pads. (See sub-section 17.0415c(2)).

146 – Mobile Recreational Vehicle or RV

A single chassis vehicle designed to be self-propelled, or carried or towed by a licensed light-duty vehicle; is licensed for highway use if required by local or state law; is designed for temporary or seasonal recreation use and not for permanent habitation; and, is normally less than 300 square feet but can be no more than 400 square feet in wall-to-wall area.

147 - Modular Unit

A modular unit is a factory fabricated transportable building unit designed to be used alone or to be incorporated with other similar units at a building site into a modular structure to be used for residential, commercial, institutional, or industrial purposes.

148 - More Restrictive

A regulation imposed by this chapter is more restrictive than another if it prohibits or limits development to a greater extent or by means of more detailed specifications.

149 - Motel or hotel

A series of commercial, attached, semi-attached or detached sleeping rooms or units for the overnight or temporary accommodation of transient guests for compensation.

150 - Movable Copy Sign

Any sign characterized by continuous moving, pulsating, intermittent, or flashing electronically produced words, phrases, numbers, images or pictures.

151 - Multiple Family Dwelling

A structure arranged or designed to be occupied by three (3) or more families living independently of each other.

152 - Net Land Area

A parcel of land including no land devoted to access to the parcel or devoted to uses attendant to or provided for service to the parcel or residents thereof.

153 - Nonconforming Use, Building or Structure

(See *Legal nonconforming lot, Legal nonconforming structure, and Legal nonconforming use*).

154 - Normal or Ordinary High-Water Mark (OHWM)

A line of reference commonly identified as being where the land meets the normal high-water elevation. For the purposes of this Ordinance, the normal high-water elevation is defined as the line where the natural vegetation changes from predominantly water oriented to predominantly land oriented.

155 - Nuisance

An unreasonable interference with the enjoyment and use of one's property.

156 - Occupancy Permit

A required permit that allows occupancy of a building, structure, land, or use, which certifies that the occupancy complies with the provisions of this chapter and any other applicable governmental regulations. (Also see sub-section 17.0435p of this ordinance)

157 - Off-Premise Directional Sign

Signs which are intended to advertise places of business not located on the same parcel or land ownership as the off-premise sign.

158 - Open Space

A natural area or manmade landscape area not occupied by any structures, impervious surfaces, gravel drives, or parking areas.

159 - Outlot

A parcel of land in a subdivision or development that may be held in common ownership and that is set aside for the preservation of the land in a natural state or for a future phase of the development. Outlots may not be used for any purpose except for recreation/open space, utility or drainage purposes or that use which is existing at the time of being designated an outlot, but may be changed to a standard lot by action of the Plan Commission and Common Council.

160 - Owner

The person or persons having the right of legal title.

161 - Parking Lot

A structure or premises containing five (5) or more marked off-street parking spaces. Such spaces may be for rent or a fee in a non-residential area.

162 - Parking Lot Regulation Sign

A sign designating the conditions of use or identity of a parking area.

163 - Parties in Interest

Includes an owner of property, all abutting property owners, all property owners within 100 feet, and all owners of property across the street.

164 - Permanent Structure

A structure placed on or in the ground or attached to another structure in a fixed and determined position, and intended to remain in place.

165 - Permitted Use

A use that is permitted by right, subject to the provisions of this chapter.

166 - Planned Unit Development

Planned Unit Development (PUD) is the process or procedure whereby a relatively large parcel of land is developed for a specific use or uses in such a way so as to provide specific benefits to both the developer and the community in which the development is proposed. The basic benefits to the developer are: the reduction in individual parcel size and yard requirements while maintaining the density requirement of the zoning district or districts within which the development is located; the consequent reduction in linear feet of streets and utilities; provision of common open space; and, the greater flexibility in overall design in order to overcome or avoid negative characteristics of the land. The basic benefits to the community include: the reduction in linear feet of streets and facilities to be maintained; greater control of the aesthetic quality of the development; better utilization of the land; and, the addition of open space area providing recreational opportunities to immediate residents of the development. PUD's when allowed in a zoning district must comply with the specific requirements as set forth in the district regulations.

167 - Planting Screen

An area landscaped with natural growing coniferous and deciduous plant material that are sufficiently dense and of adequate height at all times as to effectively visually screen from view the object that is intended to be hidden.

168 - Portable storage container (enclosed)

A portable metal, wood or plastic storage unit or container or box of various sizes that is transported to a site similar to a solid waste dumpster and used to store goods and material. Such containers are sometimes called 'pods'.

169 - Primary Floor Area

The floor area of a building for purposes of determining required parking ratios, which area shall include only that portion of the total floor area devoted to customer service, sales and office space and shall not include utility, hallways and other accessory space in which employees are not specifically accomplishing work tasks and, therefore, does not generate parking demand.

170 - Principal Building or Structure

A building or structure used or intended to be used for the principal use as permitted on such lot by the regulations of the zoning district in which it is located.

171 - Principal Use

The main or primary use of land, premises, buildings or structures as permitted by the regulations of the zoning district in which such use is located.

172 – Private Sewage System

One of several on-site sewage disposal systems officially approved for use by the Wisconsin Department of Safety and Professional Services and the Waukesha County Health and Human Services Department, including: a 'conventional' septic tank and attached absorption field; a 'mound' system; or, a holding tank.

173 - Private Stable

A tract of land and ancillary buildings in and on which horses or other livestock are kept for the noncommercial use of the individual residing on the tract of land.

174 - Processing

A series of operations, usually in a continuous and regular action or succession of actions, taking place or carried on in a definite manner. The term processing is generally associated with the transformation of raw materials or substances into new products. For purposes of use in this chapter, processing shall not include heavy industrial uses such as tanneries, meat packing, foundries, hazardous waste recycling, chemical production, and other similar uses.

175 - Professional Home Offices

Residences of clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, real estate agents, artists, teachers, authors, musicians, or other recognized professions used in the conduct their professions where the office does not exceed 20 percent of the area of only one (1) floor of the residence; and, where such use does not generate additional non-residential vehicular traffic to the immediate area of the residence such as clients, customers or employees. There shall be no separate signage indicating that such a home business exists. *(See Home Occupations)*

176 - Project Signs

A sign or graphic which identifies a construction project or development. Project signs are intended for temporary identification only when construction is in progress.

177 - Projecting Sign

A sign not attached (principally) to the ground and projecting more than twelve (12) inches from the face of a building or other permanent structure to which it is attached.

178 - Public and Semipublic Buildings

Structures that house uses that serve a public need such as: hospitals, rest homes, schools (including, but not limited to, private academic schools and nursery schools), government offices, libraries, museums, post offices, police and fire stations, public and private utilities and other similar public services; but not including bars, restaurants or recreation facilities.

179 - Public Improvements

Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: streets, roads, alleys or pedestrian walks or paths, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewerage disposal and treatment, public utility and energy services.

180 - Public Utility

Any person, corporation or municipality duly authorized, under public regulation, to furnish and/or manage electricity, gas, steam, telephone, communication, transportation, sanitary sewerage service or water supply to the public.

181 – Public Utilities

Underground or overhead electricity, telephone or communication transmission lines as well as underground systems of pipes or conduits transporting natural gas, oil, steam, potable water, storm water or wastewater.

182 - Quarrying

The removal of rock, slate, gravel, sand, topsoil, peat or other natural material from the earth by excavation, stripping, leveling or any other such process, excluding the removal solely of sod.

183 - Quasi-Public

Property owned or operated by a non-profit, religious or charitable institution and providing educational, cultural, recreational, religious or similar types of public programs.

184 - Reach

A longitudinal segment of a stream generally including those parts of the floodplain wherein flood stages are primarily and commonly controlled by the same man-made or natural obstructions to flow.

185 - Real Estate Street Sign

A street sign pertaining to the sale, lease, or rental of the property upon which it is located.

186 - Rear Lot Line

The lot line opposite to and most distant from the front or street lot line.

187 - Rear Yard

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. Also, the yard area of a parcel extending the full width of the property and measured from the rear property (lot) line to the rear setback line as designated in the district regulations.

188 - Recreational Vehicle or Equipment

A vehicle or piece of equipment which can be towed, hauled, carried or driven and designed as a temporary living accommodation for recreational camping and/or travel use and including but not limited to travel trailers, truck campers, tent trailers, camping trailers, self propelled motor homes, and boats.

189 - Regional Flood (See sub-section 17.0435p of this ordinance)

190 - Residential Unit

A configuration of rooms or individual spaces normally consisting of bedroom(s), bathroom(s), kitchen, living room/area, dining room/area and access hallways and, perhaps, basement and automobile garage all enclosed within exterior walls as either a single unit or attached to other such enclosures

as a multiple unit building and designed and built for the purpose of housing a person, family or group of persons as a dwelling place or place to reside.

191 - Restaurant

A commercial establishment where food and beverage are prepared, served and consumed primarily within the principal building, and where food sales constitute more than eighty (80%) percent of the gross sales receipts for food and beverages.

192 - Retail

The sale of commodities, goods or services in small quantities to ultimate consumers.

193 - Revolving Street Sign

Swinging and rotating street signs either motor driven, or wind-propelled.

194 - Right-of-way

A strip of land acquired by gift, purchase, reservation, dedication, forced dedication, or condemnation and occupied or intended to be occupied by a street, highway, cross-walk, railroad, electric transmission line, oil or gas pipeline, water line, sanitary or storm sewer and other similar uses.

195 - Road

Synonymous with street.

196 - Roof Line

The uppermost line of the roof of a building or, in the case of an extended facade or parapet, the uppermost height of said facade or parapet.

197 - Roof Signs

A sign erected above the ceiling of the top floor of a building or on or over the roof of a building.

198 - Safe Vehicular Access

An access of sufficient width and adequate vertical and horizontal alignment to accommodate emergency vehicles and having a slope not to exceed ten (10%) percent at any point.

199 - “Sandwich Board” and Any Other Readily Movable, Free-Standing Sign. (See *Ground Sign*).

200 - Secondary Access

A means of vehicular or non-vehicular approach, i.e. entry to a property from a source other than a public street or highway, or exit from a property to a source other than a public street or highway.

201 - Sectional Home

A sectional home is a dwelling made of two (2) or more modular units fabricated in a factory or assembly plant and transported to the home site where they are placed on a foundation and joined to make a dwelling unit.

202 - Sedimentation

The deposition of soil that has been transported from a site or origin by water, ice, wind, gravity, or other natural means as a result of erosion.

203 - Setback, street (also Building Setback)

A line extending across the full designated minimum width of a lot at a distance from the street right-of-way all as set forth in the district regulations or to the nearest point of the principal structure, whichever is greater. The width of the lot or parcel at the setback line shall be no less than the minimum width as set forth in the district regulations. The street setback line shall be calculated by beginning at a point on the street right-of-way line equidistance from the points where the side lot lines intersect the street right-of-way and drawing a line bisecting the lot the setback distance as prescribed above and then drawing the setback line perpendicular to the bisecting line. The space between the street right-of-way and the calculated setback line shall be called a street yard and no principal or accessory structures may be constructed within said yard with the exception of decorative fences as defined herein. Corner lots shall have street setbacks on any abutting street and, therefore, such yards on each abutting street. (*Also see Lot Width*).

204 - Shore Lot Line

The ordinary high water line of the lake or stream which the lot abuts.

205 - Shorelands

All land, water and air located within the following distances from the normal high water elevation of navigable waters as defined in Section 144.26(2)(d) of the Wisconsin Statutes: 1,000 feet from a lake or WisDNR designated navigable pond and 300 feet from a designated navigable river or stream, or to the landward edge of the base flood floodplain, whichever distance is greater. If the navigable water is a glacial pothole lake, the distance shall be measured from the ordinary high water mark (OHWM) thereof. (*Also see sub-sections 17.0435 and 17.0436*)

206 - Side Yard

A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. Also, the area prescribed as the minimum side yard setback distance between the principal or accessory structure and the side property boundary as set forth in the district regulations.

207 - Sign Area

The part of a total sign structure that encompasses the sign message exclusive of the structure upon which the sign area is affixed or which supports the sign area. For the purpose of computing "square feet" of a sign area, any exposed structure which supports a sign may not comprise more than one-third (1/3) of the visible or exposed surface of one side of a total sign structure.

208 - Signable Area

The designated area of the facade of the building up to the roof line which is free of windows and doors or major architectural detail on which street signs or graphics may be displayed, if allowed.

209 - Signs or Graphics

Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trade marks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street or highway.

210 - Soil Processing

An operation which entails the import or export of soil material for purposes of machine processing, sifting, pulverizing, blending or like process.

211 - Solar Detriment Areas, Horizontal

The area adjacent to a structure upon which has been constructed or placed an operational active solar system and which is described by drawing a line 200 feet long from the easternmost corner (or side) of the structure at an angle of 15 degrees east of south measured at the point of beginning; then drawing a second line from the northernmost corner (or side) of the structure 200 feet due west, thence 200 feet due south, and thence east to an intersection with the end of the first line drawn. Such described area shall include that part or portion of the roof surface(s) that slope to the southeast, south, southwest or west. Structures built above a certain height within this area may block sunlight, during critical times of the day, from radiating on the solar energy collectors. (See *Solar Detriment Area, Vertical*)

212 - Solar Detriment Area, Vertical

The area above a plane which extends outward from a structure over the entire horizontal area of solar detriment of such structure from a horizontal line on the structure measured ten (10) feet from the ground level at the southernmost corner (or side) of the structure and extended outward to the limits of the horizontal area of solar detriment and at an angle of twenty (20°) degrees above the horizontal measured from a point on or at the structure. Structures or plantings protruding above this plane may detrimentally block sunlight from the solar energy collectors or an operational active solar system.

213 – Start or Commencement 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 the site, such as the pouring of footings or slab floor, the installation of piling, 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; the installation of streets and/or walkways; the excavation for a basement, footings, piers or foundations; the erection of temporary forms; installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the principle structure. For an alteration of a structure, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building. (FEMA required definition 44 CFR 59.1).

214 - Storage Capacity

The volume of space available above an area of floodplain fringe land for the temporary storage of flood water. (see sub-section 17.0435).

215 - Story

That portion of a building included between the surface of a floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and the ceiling above it.

216 - Street

A public right-of-way not less than sixty (60) feet wide providing primary access to abutting properties.

217 - Street Dedication

The designation by plat, certified survey map, or written deed of a certain area to be used for street or other public purposes pursuant to Wisconsin Statutes. A dedication transfers title to the dedicated property from the private landowner to the public domain.

218 - Street Line

A dividing line between a lot or parcel of land and a contiguous street.

219 - Street Reservation (Road Reservation)

The designation by plat, certified survey map, or written deed of a certain area reserved for possible future public street purposes. A reservation does not transfer title of the reserved area to the public domain unless the area is accepted by the City for public street purposes.

220 - Street Signs or Graphic

Any letter, symbol, number, mural, or combination of these, which can be seen from the right-of-way of a street or highway. Street signs includes signs (other than public information signs), wall signs, ground signs, advertising street signs, and projecting signs.

221 - Street Yard or front yard

The area between the principal structure and the abutting street extending the full width of the lot. Also, the distance between the abutting street right-of-way and the street or front building setback line as set forth in district regulations.

222 - Strip Development

A linear pattern of, usually, commercial land uses or buildings located on a single parcel development visible from and fronting on a street and which is generally only one lot deep.

223 - 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.

224 - Structural Alterations

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

225 - Subdivision

The division of a lot, parcel or tract of land as defined in Chapter 18 of the City Codes and Ordinances.

226 – Substantial Damage

Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its pre-damaged condition would equal or exceed fifty (50%) percent of the equalized assessed value of the pre-damaged building or structure.

227 - Substantial Improvement

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either: (i) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (ii) any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components.

228 - Sustained Yield Forestry

Management of forested lands to provide periodic crops of forest products.

229 - Swimming Pool

Any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent which is either above or below the ground in which water of more than twenty-four (24") inches in depth is contained and which is used primarily for the purpose of swimming. (Also see Chapter 14 of City codes).

230 - Temporary Sign

A sign designed and intended to be used as an advertisement or statement related to a specific short term coming event or occurrence that, upon completion of the event or occurrence, will no longer be needed. Such signs are, therefore, often constructed of flimsy materials that are not long lasting.

231 - Temporary Use

A use of a building permitted by the Plan Commission to exist during periods of construction of the main building or use, or for special events.

232 - Temporary Window Street Signs or Graphics

Graphics designed to be displayed in the window of a building for a period not to exceed fourteen (14) days.

233 - Time and/or Temperature Graphic

A graphic giving the time and/or temperature but not including other traveling or movable messages.

234 - Total Sign Structure

Includes the "Sign Area" plus any exposed area or members of the supporting structure on or to which the sign (sign message) is affixed. Decorative, landscaped earthen berms or structures which are composed principally of exposed earth and/or landscape (plant) materials shall not be included as a part of a total sign structure but shall meet sign setback requirements as set forth herein.

235 - Townhouse

A linear series of single family dwelling units, usually two (2) or more stories, attached on one or both sides by party walls to other single family units of

similar type in the series and having direct outside access and individual street and rear yards, the end units only having a single side yard on the unattached side.

236 - Tri-Level Dwelling

A three-level dwelling with two (2) levels above lot grade and the third level at least fifty (50%) percent below lot grade; the lowest level may or may not have exterior access.

237 - Two-family Dwelling

A residential structure designed for and occupied exclusively by two families in separate suites of rooms.

238 – Unnecessary Hardship

A situation or case where a property owner or prospective owner is unable to improve an existing building or build a proposed building on his/her property meeting the setback, yard or height restrictions of the zoning ordinance due to a physical condition or impediment on the property not created by the owner or prospective owner.

239 - Variance

Permission to depart from the literal requirements of this chapter. An authorization by the Zoning Board of Appeals for the construction or maintenance of a building or structure in a manner inconsistent with the dimensional standards (not uses) contained in this ordinance.

240 - Vision Setback

An unoccupied triangular space, at the street corner of a corner lot.

241 - Wall Sign

A sign that is attached to a wall of a building or structure and projects not more than twelve (12) inches from such wall. Such a sign shall not extend above the ceiling line of the top floor of the building.

242 - Warehouse

A building used primarily for the storage of business generated goods and materials and/or as a distribution center.

243 – Well

A hole that is drilled, driven, bored or dug into the earth for the purpose of finding and extracting liquid or vaporous natural resources, including potable water.

244 - Wetland

An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils and/or plant material indicative of a wet condition.

245 - Wholesale Trade

Establishments or places of business primarily engaged in selling merchandise to retailers', industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

246 - Window Sign

A sign painted on or affixed to a window. Such signs shall be affixed to the inside surface of the window.

247 - Yard.

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. Also, that area of a lot between the minimum building setbacks, as set forth in the district regulations, and the exterior boundaries of the lot. A street yard is measured across the full width of the lot.

APPENDIX A-1
ZONING ORDINANCE

Page 1 of 2
(Amend #13-04)

CITY OF PEWAUKEE
- PLAN COMMISSION REVIEW PROCEDURE CHECK LIST AND FORMS -

SO, YOU HAVE A PROJECT, BUILDING, PLAT, CSM OR PROPOSAL THAT YOU NEED THE CITY PLAN COMMISSION AND/OR COMMON COUNCIL TO APPROVE! THE FOLLOWING ARE SOME PROCEDURES OF WHICH YOU NEED TO BE AWARE -----

1. THE CITY PLAN COMMISSION MEETS AT 7 PM ON THE THIRD (3rd) THURSDAY OF THE MONTH IN THE COMMON COUNCIL CHAMBERS [Lower level parking lot at City Hall at W240N3065 Pewaukee Road (STH 164)].
2. IN ORDER TO BE INCLUDED ON THE PLAN COMMISSION MEETING AGENDA FOR ANY REASON YOU WILL NEED TO SEE THE CITY PLANNER AT LEAST 14 CALENDAR DAYS* PRIOR TO THE MEETING AT WHICH YOU WISH TO BE HEARD. **PLEASE CALL FOR AN APPOINTMENT ON A TUESDAY, WEDNESDAY OR THURSDAY (262-691-0770).**
3. **IF YOU NEED TO REZONE LAND**, YOU WILL NEED TO OBTAIN ZONING PETITION AND NOTICE FORMS FROM THE DEPUTY CITY CLERK AT THE MAIN DESK IN CITY HALL. (Also see Appendix A-3). YOU MAY ALSO ACCESS THE FORMS ON THE CITY WEBSITE (www.cityofpewaukee.us). FILL OUT BOTH FORMS AS DIRECTED AND HAVE THE **CURRENT LAND OWNER** SIGN THE ‘PETITION’ FORM. BRING THE FORMS TO THE DEPUTY CITY CLERK (ALONG WITH THE PRESCRIBED INFORMATION AND THE REQUIRED CHECK) **AT LEAST 28 CALENDAR DAYS* PRIOR TO THE PLAN COMMISSION MEETING AT WHICH YOU WISH TO BE HEARD***.
IT SHOULD BE NOTED THAT ANY REZONING OF LAND REQUIRES APPROVED DEVELOPMENT AND BUILDING PLANS FOR THE LAND PROPOSED TO BE REZONED.
4. **IF YOU NEED A CONDITIONAL USE PERMIT**, YOU WILL NEED TO OBTAIN CONDITIONAL USE PETITION AND NOTICE FORMS (Also see Appendix A-4) FROM THE DEPUTY CITY CLERK OR FROM THE WEBSITE. FILL OUT THE FORMS AS DIRECTED AND HAVE THE **CURRENT PROPERTY OWNER** SIGN THE ‘PETITION’ FORM. BRING THE FORMS TO THE DEPUTY CLERK (ALONG WITH THE PRESCRIBED INFORMATION AND THE REQUIRED CHECK) **AT LEAST 28 CALENDAR DAYS PRIOR TO THE PLAN COMMISSION MEETING AT WHICH YOU WISH TO BE HEARD***. .
5. **IF THERE IS SITE DEVELOPMENT OR A BUILDING INVOLVED IN YOUR PROJECT**, YOU WILL NEED TO INCLUDE THE FOLLOWING ITEMS IN YOUR PRESENTATION MATERIALS AND BRING FIFTEEN (15) 11” x 17” COPIES TO THE CITY HALL AT **LEAST TEN CALENDAR DAYS PRIOR TO THE PLAN COMMISSION MEETING***:
 - a. **DETAILED SITE PLAN** -- INCLUDING BUILDING(S), PARKING AREAS, LANDSCAPING, LIGHTING, SIGNAGE, STORMWATER FACILITIES AND INGRESS/EGRESS POINTS.

(More on page 2)

- b. **BUILDING PLANS** -- INCLUDING FLOOR PLAN(S) AND ALL FOUR ELEVATIONS, SHOWING EXTERIOR BUILDING MATERIALS AND ALL VISIBLE APPURTENANCES. (See section 17.0210 of the Zoning Ordinance).
 - c. **GRADING/DRAINAGE PLAN(S)** -- INCLUDING RETENTION/DETENTION OR INFILTRATION PONDS AS SPECIFIED BY THE CITY ENGINEER, AND AN EROSION CONTROL PLAN. (See Chap. 19 of City Codes). (See City Engineer).
 - d. **ANY SEPARATE, DETAIL PLAN(S)** -- SUCH AS LANDSCAPING PLAN, SIGNS, LIGHTING OR SITE OR BUILDING CROSS-SECTIONS.
 - e. **PLAN OF OPERATION** FOR ANY KNOWN USE OF PROPERTY (OBTAIN PLAN OF OPERATION FORMS FROM DEPUTY CLERK AT CITY HALL **OR** FROM THE WEB SITE **OR** SEE APPENDIX A-2). **PLEASE NOTE:** *THE ZONING ORDINANCE AND ALL NECESSARY FORMS ARE ON THE CITY WEB SITE (www.cityofpewaukee.us).*
6. **IF THE PROJECT/BUILDING/REZONING REQUIRES A DIVISION OF LAND, THE LAND OWNER WILL, DEPENDING ON THE SIZE OF THE PROJECT, ALSO NEED TO HAVE A CERTIFIED SURVEY MAP (CSM) OR A PRELIMINARY PLAT PREPARED AND SUBMITTED ALONG WITH THE REZONING PETITION AND WITH ANY BUILDING PLANS * (See steps 2, 3 & 4). **PLEASE NOTE THAT A LAND DIVISION ALMOST ALWAYS REQUIRES A REZONING OF THE LANDS IN QUESTION).****

** - You may want to discuss your project/plans/plat/CSM informally with the Plan Commission (conceptually) prior to incurring final plan/document costs. Please contact the City Planner.*

PLEASE NOTE: If your proposed presentation to the Plan Commission is in electronic form (power point) you may plug your equipment into the City’s audio/visual system for visual (and audio) display. If you have presentation boards or drawings we can scan them with our overhead cameras and relay them to our visual display monitors throughout the Council Chambers.

PLEASE TAKE NOTICE: Any costs incurred by the City staff or City engineering or legal consultants regarding project/plans/plats or CSMs must be paid by the applicant or his/her representative upon receipt of a City invoice for such costs.

ALSO PLEASE NOTE: If you have any questions about anything in this or any other document related to the City’s planning program, please do not hesitate to contact the City Planner at (262)-691-0770. **The City’s web site is-- www.cityofpewaukee.us**

[Also see Appendix A-2, A-3, and A-4]

APPENDIX A – 2

CITY OF PEWAUKEE
SEWER & WATER DIVISION
W240 N3065 PEWAUKEE ROAD
PEWAUKEE, WISCONSIN 53072
PHONE: 262-691-0804
FAX: 262-691-5729

NOTICE OF INTENT TO DISCHARGE WASTEWATER

(Please print. Mail or fax to the address above.)

Note - The discharge shall comply with all conditions of the City Municipal Code Chapter 13.20 found in Title 13 Public Services at: www.cityofbrookfield.com.

FORM I - To Be Completed By Commercial / Industrial User

1. Company Name: _____
2. Facility Address: Street _____
City, State, Zip _____
3. Mailing Address: Street _____
(If Different) City, State, Zip _____
4. Company Representative:
Name _____ Title _____
Phone _____ Fax _____
E-Mail _____
5. Brief description of business:

6. Existing number of employees: Full Time _____ Part Time _____
7. Operating: Days/Week _____ Hours/Day _____ # Shifts _____
8. Facility four-digit SIC code ____ _
Or six-digit NAICS code ____ _
9. Reason for filing survey:
 - a. _____ Change of occupancy
 - b. _____ Construction of a new facility/new addition
 - c. _____ Proposing to discharge from a facility where there is currently no discharge or adding a new sewer connection
 - d. _____ Significantly altering the volume or characteristics of an existing discharge
 - e. _____ Applying for reissuance of an existing discharge permit
 - f. _____ Per request by municipality - discharge ongoing with no expected changes
 - g. _____ Update previous information

APPENDIX A-2

10. Date when new or altered discharge is expected to begin _____

11. Estimated sanitary sewer discharge:

<u>Existing</u>		<u>Proposed</u>
_____	Gal/Day process wastewater	_____
_____	Gal/Day sanitary wastewater	_____
_____	Gal/Day cooling water	_____

Note: A review of quarterly water usage bills may be helpful in assigning flow values. Total gal/day (for all uses) = qtr usage (in 1000 gallons) x 1000/# operating days in qtr. This daily total is then distributed into estimated gal/day of process, sanitary, and/or cooling. Process wastewater is any discharge other than sanitary, non-contact cooling or boiler blowdown water.
Sanitary flow may be estimated as 20 gal/day/employee.

12. Describe process(es) that will result in the discharge of a commercial/industrial process wastewater: _____

13. List any chemicals/pollutants expected to be present in your discharge:

14. Describe any wastewater pretreatment and/or facilities to be used: _____

15. Is there any usage of toxic organic compounds at the facility?
(solvents, flammable compounds, etc.) Yes _____ No _____

16. How are toxic organic compounds disposed of?
____ Discharge to sanitary sewer
____ Hauled to treatment / recycling facility
____ No waste (used in process or sparingly on rags)
____ Other, specify: _____

17. Comments: _____

I Certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Authorized Representative _____ Date _____

APPENDIX A-3

**CITY OF PEWAUKEE
PROCEDURE FOR OBTAINING A
- CHANGE IN ZONING CLASSIFICATION -**

TO APPLY FOR AND OBTAIN A CHANGE IN ZONING CLASSIFICATION OF A PROPERTY, THE **CURRENT PROPERTY OWNER** MUST FOLLOW THESE STEPS:

1. **PROPERTY OWNER** (OR REPRESENTATIVES) MUST OBTAIN A COPY OF BOTH ‘PETITION FOR ZONING MAP AMENDMENT’ AND ‘NOTICE’ FORMS FROM THE DEPUTY CLERK AT CITY HALL (or from the City’s website – www.cityofpewaukee.us). See pages 3 & 4. **PROPOSED USE OF PROPERTY SHOULD BE DISCUSSED WITH THE CITY PLANNER.**

2. **PROPERTY OWNER** MUST COMPLETE BOTH THE ‘PETITION’ AND ‘PUBLIC HEARING NOTICE’ FORMS (See pages 3 & 4) AND PROVIDE THE CITY CLERK WITH AN ORIGINAL AND THREE (3) COPIES OF EACH ALONG WITH A CHECK FOR \$400.00 MADE PAYABLE TO THE CITY OF PEWAUKEE FOR ZONING AMENDMENT ADMINISTRATIVE PURPOSES. **(THE CURRENT PROPERTY OWNER MUST SIGN THE ‘PETITION’ FORM). IN ADDITION ----**

- PLEASE NOTE THAT ALL THE INFORMATION IN STEP 2 MUST BE SUBMITTED TO THE CITY CLERK AT LEAST 28 CALENDAR DAYS PRIOR TO THE THIRD THURSDAY OF THE FOLLOWING MONTH. (Plan Commission meets the third Thursday of each month).

3. **PROPERTY OWNER** OBTAINS DATES OF PLAN COMMISSION PUBLIC HEARING AND SUBSEQUENT COMMON COUNCIL MEETING FROM CITY PLANNER OR CITY CLERK.

4. **CITY CLERK** PLACES REQUIRED LEGAL NOTICE IN APPROPRIATE NEWSPAPERS AND MAILS NOTICE TO THE OWNER OF EVERY PROPERTY WITHIN 600 FEET OF THE PETITIONER’S PROPERTY.

5. **PRIOR TO PLAN COMMISSION HEARING (See 3, above), THE PROPERTY OWNER** SHOULD MEET WITH AND PROVIDE CITY PLANNER WITH ANY INFORMATION CONSIDERED PERTINENT AND USEFUL TO THE DISCUSSION ON THE ZONING CHANGE*. **(SET MEETING DATE WITH PLANNER FOR AT LEAST 14 DAYS PRIOR TO THE PUBLIC HEARING).**

6. **PROPERTY OWNER** OR HIS/HER REPRESENTATIVE ATTENDS THE PLAN COMMISSION MEETING PUBLIC HEARING (See 3, above) AND PRESENTS THE PURPOSE OF THE PROPOSED ZONING CHANGE **PLUS ANY REQUIRED SITE AND BUILDING PLAN, PLAN OF OPERATIONS, PRELIMINARY PLAT OR CSM.**

7. **PLAN COMMISSION** REVIEWS PETITION AND FACTS, COMMENTS AND PLANS PRESENTED AT THE PUBLIC HEARING AND MAKES A RECOMMENDATION TO THE COMMON COUNCIL.

[More on page 2]

8. **PROPERTY OWNER** OR HIS/HER REPRESENTATIVE ATTENDS COMMON COUNCIL MEETING (See 3, above) TO PRESENT INFORMATION AND FACTS.

9. **COMMON COUNCIL** TAKES ACTION ON PETITION.

* **PLEASE NOTE:** THE PETITION FOR A CHANGE IN ZONING CLASSIFICATION **USUALLY REQUIRES** SITE DEVELOPMENT PLANS, BUILDING PLANS, PLAN OF OPERATIONS, AND/OR A PRELIMINARY PLAT OR CERTIFIED SURVEY MAP (CSM) AND MAY REQUIRE A CONDITIONAL USE PERMIT. See the City Planner.

ALSO PLEASE NOTE: THAT ANY COSTS INCURRED BY THE CITY’S ENGINEERING OR LEGAL STAFF WILL BE BILLED DIRECTLY TO THE PROPERTY OWNER OR HIS/HER DESIGNATED REPRESENTATIVE AND IS NOT A PART OF THE \$400.00 MENTIONED IN 2 ABOVE.

IF YOU HAVE ANY QUESTIONS REGARDING THESE PROCEDURES, PLEASE CONTACT THE CITY PLANNER, ZONING ADMINISTRATOR OR CITY CLERK AT (262)-691-0770.

(‘Petition’ and ‘Notice’ forms on pages 3 & 4)

APPENDIX A-3

Page 3 of 4
(Amend #13-04)

PETITION
FOR A
- ZONING DISTRICT MAP AMENDMENT -

TO THE HONORABLE MAYOR AND COMMON COUNCIL
OF THE CITY OF PEWAUKEE, WAUKESHA COUNTY, WISCONSIN

The undersigned do(es) hereby petition the Common Council of the City of Pewaukee, Waukesha County, Wisconsin to rezone the following property **FROM** _____ zoning district(s) **TO** _____ zoning district(s):

Legal description of property to be rezoned:

- Please attach extra pages, CSM or other information if needed.

Common property description or name: _____.

Tax Key Number(s): _____ **Address:** _____.

This amendment to the zoning map is being proposed in order to _____.

Property owners name: _____ **Address:** _____.

PETITIONER’S (property owner’s) SIGNATURE: _____.

SIGNED AND DATED this _____ day of _____, _____.

Contact Information:

Petitioner or representative phone no. () _____ **Fax no.** () _____.

Email address: _____ **Other:** _____.

City Staff-

RECEIVED at City Hall by: _____ on _____.

Fees paid: \$ _____ Date: _____.

(Please go to page 4)

APPENDIX A-3

Page 4 of 4
(Amend #13-04)

CITY OF PEWAUKEE

STATE OF WISCONSIN

WAUKESHA COUNTY

- NOTICE OF A ZONING MAP AMENDMENT PUBLIC HEARING -

PLEASE TAKE NOTICE THAT THERE WILL BE A PUBLIC HEARING ON THE

PETITION OF: (Owners name) _____

TO REZONE FROM: _____ **TO:** _____,

THE FOLLOWING PROPERTY IN THE CITY OF PEWAUKEE:

Legal description of the property to be rezoned*:

_____.

Please attach extra pages or plat or CSM if needed.

Common Description or name: _____.

Tax Key Number(s): _____ **Size:** _____.

This Amendment to the Zoning Map (Change in zoning) is being proposed for the purpose of: _____

_____.

City staff –

THE PUBLIC HEARING will be held at a meeting of the City Plan Commission in the City Hall Common Council Chambers* on _____ at or after _____ **PM.**

ACTION BY THE COMMON COUNCIL on the petition is scheduled to be made at a meeting in the Common Council Chambers* on _____ at or after _____ **PM.**

Dated this _____ day of _____.

Kelly Tarczewski,
Clerk/Treasurer, City of Pewaukee

* Please park in lower (south) parking lot.

APPENDIX A-4

Page 1 of 4
(Amend #13-04)

**CITY OF PEWAUKEE
PROCEDURE FOR OBTAINING A**

- CONDITIONAL USE PERMIT -

TO APPLY FOR AND OBTAIN A CONDITIONAL USE PERMIT A **PROPERTY OR USE OWNER** MUST FOLLOW THESE STEPS:

1. **PROPERTY OR USE OWNER** (OR REPRESENTATIVES) MUST OBTAIN A COPY OF BOTH A 'CONDITIONAL USE PERMIT PETITION' AND 'NOTICE' FORMS (See pages 3 & 4) FROM THE DEPUTY CLERK AT CITY HALL (or from the City's web site – www.cityofpewaukee.us). **THE PROPOSED CONDITIONAL USE SHOULD BE DISCUSSED WITH THE CITY PLANNER.**

2. **PROPERTY OR USE OWNER** MUST COMPLETE BOTH THE 'PETITION' and 'PUBLIC HEARING NOTICE' FORMS AND PROVIDE THE CITY CLERK WITH AN ORIGINAL AND THREE (3) COPIES OF EACH ALONG WITH A CHECK FOR \$400.00* MADE PAYABLE TO THE CITY OF PEWAUKEE FOR CONDITIONAL USE PERMIT ADMINISTRATION PURPOSES. **(THE PROPERTY OR USE OWNER MUST SIGN THE 'PETITION' FORM). IN ADDITION -----**

- PLEASE NOTE THAT ALL THE INFORMATION IN STEP 2 MUST BE SUBMITTED TO THE CITY CLERK AT LEAST 28 CALENDAR DAYS PRIOR TO THE THIRD THURSDAY OF THE FOLLOWING MONTH. (The Plan Commission meets the third Thursday of each month).

3. **PROPERTY OR USE OWNER** OBTAINS DATES OF PLAN COMMISSION PUBLIC HEARING AND SUBSEQUENT COMMON COUNCIL MEETING FROM CITY PLANNER OR CITY CLERK.

4. **CITY CLERK** PLACES REQUIRED LEGAL NOTICE IN APPROPRIATE NEWSPAPERS AND MAILES NOTICES TO THE OWNER OF EVERY PROPERTY WITHIN 600 FEET OF THE PETITIONER'S PROPERTY.

5. **PRIOR TO PLAN COMMISSION HEARING (See 3, above), THE PROPERTY OR USE OWNER** SHOULD MEET WITH AND PROVIDE CITY PLANNER WITH ANY INFORMATION CONSIDERED PERTINENT AND USEFUL TO THE DISCUSSION ON THE CONDITIONAL USE PERMIT*. **(SET MEETING DATE WITH PLANNER FOR AT LEAST 14 DAYS PRIOR TO THE PUBLIC HEARING).**

6. **PROPERTY OR USE OWNER** OR HIS/HER REPRESENTATIVE ATTENDS THE PLAN COMMISSION MEETING PUBLIC HEARING (See 3, above) AND PRESENTS HIS/HER PROPOSED CONDITIONAL USE **PLUS ANY REQUIRED SITE AND BUILDING PLAN, PLAN OF OPERATIONS, PRELIMINARY PLAT OR CSM).**

7. **PLAN COMMISSION** REVIEWS PETITION, COMMENTS AND FACTS PRESENTED AT THE PUBLIC HEARING AND MAKES A RECOMMENDATION TO THE COMMON COUNCIL.

[More on page 2]

8. **PROPERTY OR USE OWNER** OR HIS/HER REPRESENTATIVE ATTENDS COMMON COUNCIL MEETING (See 3, above) TO PRESENT INFORMATION AND FACTS.
 9. **COMMON COUNCIL** TAKES ACTION – AND, IF PERMIT IS APPROVED, DIRECTS STAFF TO ENSURE PROPER RECORDING OF THE CONDITIONAL USE AS A PROPERTY COVENANT.
-

PLEASE NOTE: THE PETITION FOR A CONDITIONAL USE PERMIT **USUALLY** REQUIRES A PLAN OF OPERATION ON CITY FORMS (Appendix A-2) AS WELL AS ANY PLANS THAT WILL CHANGE THE BUILDING EXTERIOR OR SITE.

***ALSO PLEASE NOTE:** THAT ANY COSTS INCURRED BY THE CITY’S ENGINEERING OR LEGAL STAFF WILL BE BILLED TO THE PROPERTY OR USE OWNER OR HIS/HER DESIGNATED REPRESENTATIVE AND IS NOT A PART OF THE \$400.00 FEE.

IF YOU HAVE QUESTIONS REGARDING THESE PROCEDURES, PLEASE CONTACT THE CITY PLANNER, ZONING ADMINISTRATOR OR CITY CLERK AT (262)-691-0770.

(‘Petition’ and ‘Notice’ forms on pages 3 & 4)

APPENDIX A-4

Page 3 of 4
(Amend #13-04)

PETITION FOR A

- CONDITIONAL USE PERMIT -

TO THE HONORABLE MAYOR AND COMMON COUNCIL
OF THE CITY OF PEWAUKEE, WAUKESHA COUNTY, WISCONSIN:

The undersigned do(es) hereby petition the Common Council of the City of Pewaukee, Waukesha County, Wisconsin for a **Conditional Use Permit** for the purpose of: _____

Legal description of property on which the conditional use is to be located:

Please attach extra pages or other information if needed.

Common property description or name: _____.

Tax key number: _____ **Address:** _____.

Property owners name/address: _____
_____. **Property currently zoned:** _____.

Signature of person(s) petitioning for permit: _____.

Address of person(s) petitioning for permit (if not property owner): _____

SIGNED AND DATED this _____ day of _____, _____.

City staff –

RECEIVED at the City Hall by: _____ on _____.

Fees paid: \$ _____. Date: _____.

(Please go to page 4)

APPENDIX A-4

Page 4 of 4
(Amend #13-04)

CITY OF PEWAUKEE

STATE OF WISCONSIN

WAUKESHA COUNTY

- NOTICE OF A CONDITIONAL USE PUBLIC HEARING -

PLEASE TAKE NOTICE THAT THERE WILL BE A PUBLIC HEARING ON THE
PETITION OF (Name) _____ **FOR A CONDITIONAL USE**
PERMIT ON THE FOLLOWING PROPERTY IN THE CITY OF PEWAUKEE:

Legal description of property: _____

_____. Please attach extra pages, CSM or other information if needed.

Common Description or name: _____.

Tax Key Number(s): _____. **Current zoning:** _____.

This conditional use permit is requested in order to _____
_____.

City staff –

THE PUBLIC HEARING will be held at a meeting of the City Plan Commission in the City Hall Common Council Chambers* on _____ at or after _____ **PM.**

ACTION BY THE COMMON COUNCIL on the petition is scheduled to be made at a meeting in the Common Council Chambers* on _____ at or after _____ **PM.**

Dated this _____ day of _____, _____.

Kelly Tarczewski, Clerk/Treasurer

* Please park in lower (south) parking lot.

Chapters NR 115, NR 116 and NR 117 of the Wisconsin Administrative Code are adopted by reference. The content of the pages herein is from the State of Wisconsin Legislative website (legis.wisconsin.gov/rsb/code.htm) with effective dates at the bottom of each page. Please refer to the State website for the most current content of these chapters.

Chapter NR 115

WISCONSIN'S SHORELAND PROTECTION PROGRAM

NR 115.01 Purpose.
NR 115.02 Applicability.
NR 115.03 Definitions.

NR 115.04 Shoreland-wetlands.
NR 115.05 Minimum zoning standards for shorelands.
NR 115.06 Department duties.

Note: Chapter NR 115 as it existed on July 31, 1980, was repealed and a new chapter NR 115 was created effective August 1, 1980.

NR 115.01 Purpose. Section 281.31, Stats., provides that shoreland subdivision and zoning regulations shall: "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 structure and land uses and reserve shore cover and natural beauty." Section 59.692, Stats., requires counties to effect the purposes of s. 281.31, Stats., and to promote the public health, safety and general welfare by adopting zoning regulations for the protection of all shorelands in unincorporated areas that meet shoreland zoning standards promulgated by the department. The purpose of this chapter is to establish minimum shoreland zoning standards for ordinances enacted under s. 59.692, Stats., for the purposes specified in s. 281.31 (1), Stats., and to limit the direct and cumulative impacts of shoreland development on water quality; near-shore aquatic, wetland and upland wildlife habitat; and natural scenic beauty. Nothing in this rule shall be construed to limit the authority of a county to enact more restrictive shoreland zoning standards under s. 59.69 or 59.692, Stats., to effect the purposes of s. 281.31, Stats.

Note: Effective April 17, 2012, 2011 Wisconsin Act 170 created s. 59.692 (2m), Stats., which prohibits a county from enacting, and a county, city, or village from enforcing, any provision in a county shoreland or subdivision ordinance that regulates the location, maintenance, expansion, replacement, repair, or relocation of a nonconforming building if the provision is more restrictive than the standards for nonconforming buildings under ch. NR 115; or the construction of a structure or building on a substandard lot if the provision is more restrictive than the standards for substandard lots under ch. NR 115.

2011 Wisconsin Act 170 also created other provisions that affect how a county regulates nonconforming uses and buildings, premises, structures, or fixtures under its general zoning ordinance.

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80; reprinted to correct error, Register, December, 1980; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 05-058: r. and recr. Register January 2010 No. 649, eff. 2-1-10.

NR 115.02 Applicability. The provisions of this chapter apply to county regulation of the use and development of unincorporated shoreland areas, and to annexed or incorporated areas except as provided in s. 59.692 (7), Stats. Unless specifically exempted by law, all cities, villages, towns, counties and, when s. 13.48 (13), Stats., applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin department of transportation is not subject to local shoreland zoning ordinances if s. 30.2022 (1), Stats., applies.

Note: Under section 59.692 (7), Stats., areas annexed after May 7, 1982 and areas incorporated after April 30, 1994 were generally subject to the county shoreland zoning ordinances in effect on the date of annexation or incorporation. Effective December 14, 2013, 2013 Wis. Act 80 repealed s. 59.692 (2m) (c) and (7), amended s. 59.692 (6m), and created ss. 61.353 and 62.233. 2013 WI Act 80 is retroactive as well as prospective, and applies to all shorelands areas annexed since May 7, 1982 or incorporated since April 30, 1994.

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80; am. Register, October, 1980, No. 298, eff. 11-1-80; CR 05-058: am. Register January 2010 No. 649, eff. 2-1-10; correction made under s. 13.92 (4) (b) 7., Stats., Register January 2010 No. 649.

NR 115.03 Definitions. For the purpose of this chapter:

(1d) "Access and viewing corridor" means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

(1h) "Boathouse" means 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 these structural parts.

(1p) "Building envelope" means the three dimensional space within which a structure is built.

(2) "County zoning agency" means that committee or commission created or designated by the county board under s. 59.69 (2) (a), Stats., to act in all matters pertaining to county planning and zoning.

(3) "Department" means the department of natural resources.

(3m) "Existing development pattern" means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

(4) "Flood plain" means the land which has been or may be hereafter covered by flood water during the regional flood. The flood plain includes the floodway and the flood fringe as those terms are defined in ch. NR 116.

(4g) "Impervious surface" means an area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious.

(4r) "Mitigation" means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

(5) "Navigable waters" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin 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 s. 281.31 (2) (d), Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, Stats., and this chapter do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching or had no previous stream history; and

(c) Such lands are maintained in nonstructural agricultural use.

Note: In *Muench v. Public Service Commission*, 261 Wis. 492 (1952), the Wisconsin Supreme Court held that a stream is navigable in fact if it is capable of floating any boat, skiff, or canoe, of the shallowest draft used for recreational purposes. In *DeGayner and Co., v. Department of Natural Resources*, 70 Wis. 2d 936 (1975), the court also held that a stream need not be navigable in its normal or natural condition to be navigable in fact. The DeGayner opinion indicates that it is proper to consider artificial conditions, such as beaver dams, where such conditions have existed long enough to make a stream useful as a highway for recreation or commerce, and to consider ordinarily recurring seasonal fluctuations, such as spring floods, in determining the navigability of a stream.

(6) "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 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. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

(7) "Regional flood" means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics once in every 100 years.

Note: The regional flood is based upon a statistical analysis of streamflow records available for watershed and/or an analysis of rainfall and runoff characteristics in the general watershed region. The flood frequency of the regional flood is once in every 100 years. In any given year, there is a 1% chance that the regional flood may occur. During a typical 30-year mortgage period, the regional flood has a 26% chance of occurring.

(7m) "Routine maintenance of vegetation" means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

(8) "Shorelands" means lands within the following distances from the ordinary high-water 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 flood plain, whichever distance is greater.

(9) "Shoreland-wetland zoning district" means a zoning district, created as a part of a county shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the department.

(10) "Special exception (conditional use)" means a use which is permitted by a shoreland zoning ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the board of adjustment or, where appropriate, the planning and zoning committee or county board.

(11) "Unnecessary hardship" means that circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the zoning ordinance.

(13) "Wetlands" means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation, and which have soils indicative of wet conditions.

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80; renum. (2) to (12) to be (3) to (13), cr. (2), r. and recr. (7), am. (11) and (13), Register, October, 1980, No. 298, eff. 11-1-80; corrections in (2) (a) 1. and (b) 2. made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 05-058: am. (intro.), renum. (1) to be (1h), cr. (1d), (1p), (3m), (4g), (4r) and (7m), r. (12) Register January 2010 No. 649, eff. 2-1-10.

NR 115.04 Shoreland-wetlands. (1) ESTABLISHMENT OF SHORELAND-WETLAND ZONING DISTRICTS. Counties shall adopt shoreland ordinances that include zoning regulations for shoreland-wetland zoning districts.

(2) AMENDMENT OF SHORELAND-WETLAND MAPS AND ZONING DISTRICTS. (a) *County review of wetland inventory map amendments.* After the department amends final Wisconsin wetland inventory maps:

1. The department shall transmit to the county zoning agency designated under s. 59.69 (2) (a), Stats., digital files or paper copies of amended wetland inventory maps for that county.

2. If the county believes that the amended maps are inaccurate, within 30 days of receiving the amended maps the county shall note discrepancies on the maps with an accompanying narrative explaining the amended problem areas and return a copy of the notated map and narrative to the department.

3. The department shall, at department expense, consult available soil survey maps and conduct on-site inspections, if appropriate, in order to evaluate the county recommendations, and shall then prepare final amended Wisconsin wetland inventory maps for that county.

Note: As of 1985 all counties adopted official wetland zoning maps and amendments occur as accuracy increases.

(b) *County amendment of shoreland-wetland maps and zoning districts.* 1. Within 6 months after receipt of final amended Wisconsin wetland inventory maps for that county from the department, a county shall zone all shorelands designated as wetlands on the amended Wisconsin wetland inventory maps in a shoreland-wetland zoning district. If a county fails to zone all shoreland-wetlands within this 6 month period, s. NR 115.06 (3) (b) shall apply.

2. Ordinance text and map amendments creating or amending shoreland-wetland zoning districts shall be referred to the county zoning agency for public hearing as required by s. 59.69 (5) (e) 2., Stats.

Note: Where an apparent discrepancy exists between a shoreland-wetland district shown on an amended map and actual field conditions, the county shall contact the department to determine if the amended map is in error. If the department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official map amendment must be initiated within a reasonable period of time, not to exceed one year following the determination.

3. At least 10 days prior to the public hearing, the county shall provide the appropriate regional office of the department with a copy of the proposed text and map amendments and with written notice of the public hearing.

(c) *Amendment of shoreland-wetland zoning districts.* 1. Official ordinance amendments are required for any proposed change in shoreland-wetland zoning. Such amendments shall be made in accordance with provisions of s. 59.69 (5) (e), Stats. Official amendments to the ordinance text shall be made promptly. Provided the ordinance text is promptly amended, a county may amend its official map within a reasonable period of time not to exceed one year following the change in shoreland-wetland zoning.

2. The county clerk shall submit a copy of every proposed amendment to a shoreland-wetland zoning district to the appropriate regional office of the department within 5 days of the filing of such proposed amendment with the clerk.

3. All proposed text and map amendments to shoreland-wetland zoning districts shall be referred to the county zoning agency for a public notice and hearing as required by s. 59.69 (5) (e) 2., Stats. The appropriate regional office of the department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.

4. In order to ensure that the shoreland protection objectives found in s. 281.31, Stats., will be accomplished by the county shoreland ordinance, a county shall not rezone a shoreland-wetland zoning district, or portion thereof, if the proposed rezoning may result in a significant adverse impact upon any of the following:

- a. Storm and flood water storage capacity;
- b. Maintenance of dry season stream flow, or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
- c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- d. Shoreline protection against 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.

5. If the department determines that the proposed rezoning may have a significant adverse impact upon any of the criteria listed in subd. 4., the department shall notify the county zoning agency of its determination either prior to or during the public hearing held on the proposed amendment.

6. As soon as possible after holding a public hearing, the county zoning agency shall submit its written findings and recommendations to the county board. Said findings shall outline the reason for the agency's recommendations. After receipt of the county zoning agency's findings and recommendations, the board may approve or disapprove of the proposed amendment.

7. The appropriate regional office of the department shall be provided with all of the following:

a. A copy of the county zoning agency's findings and recommendations on the proposed amendment within 10 days after the submission of those findings and recommendations to the county board;

b. Written notice of the board's decision on the proposed amendment within 10 days after it is issued.

8. If the county board approves of the proposed amendment and the department determines, after review as required by s. NR 115.06 (2) (c), that the county shoreland zoning ordinance if so amended would no longer comply with the requirements of s. 59.692, Stats., and this chapter, the department shall, after notice and hearing, adopt a complying ordinance for the county, under s. 59.692 (6), Stats.

9. If the department has notified the county zoning agency that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subd. 4., that proposed amendment, if approved by the county board, shall not become effective until more than 30 days have elapsed since written notice of the county board's approval was mailed to the department, as required by subd. 7. If within the 30-day period the department notifies the county board that the department intends to adopt a superseding shoreland zoning ordinance for the county under s. 59.692 (6), Stats., the proposed amendment shall not become effective while the ordinance adoption procedure is proceeding, but shall have its effect stayed until the s. 59.692 (6), Stats., procedure is completed or otherwise terminated.

(3) PERMITTED USES IN SHORELAND-WETLAND ZONING DISTRICTS. Within shoreland-wetland zoning districts, counties shall permit the following uses subject to the general requirements of s. NR 115.05, the provisions of chs. 30 and 31, Stats., and other state and federal laws, if applicable:

(a) Hiking, fishing, trapping, hunting, swimming 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 and that does not involve filling, flooding, draining, dredging, ditching, tiling or excavating.

(c) The practice of silviculture, including the planting, thinning and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling or excavating is done except as required to construct and maintain roads which are necessary to conduct silviculture activities, which cannot as a practical matter be located outside the wetland, and which are designed and constructed to minimize the adverse impact upon the natural functions of the wetland, or except as required for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on the conduct of silvicultural activities if not corrected.

Note: Local units of government, in the development and application of ordinances which apply to shoreland areas, must consider other programs of statewide interest and other state regulations affecting the lands to be regulated, i.e. regulations and management practices applicable to state and county forests and lands entered under the forest cropland and managed forest land programs.

(d) The pasturing of livestock and the construction and maintenance of fences, provided that no filling, flooding, draining, dredging, ditching, tiling or excavating is done.

(e) The cultivation of agricultural crops if cultivation can be accomplished without filling, flooding or artificial drainage of the wetland through ditching, tiling, dredging or excavating except that flooding, dike and dam construction, and ditching shall be allowed for the purpose of growing and harvesting cranberries. The maintenance and repair of existing drainage systems (such as ditching and tiling) shall be permitted. The construction and maintenance of roads shall be permitted if the roads are necessary for agricultural cultivation, cannot as a practical matter be located outside the wetland, and are designed and constructed to minimize the adverse impact upon the natural functions of the wetland.

(f) The construction and maintenance of duck blinds provided that no filling, flooding, draining, dredging, ditching, tiling or excavating is done.

(g) The construction and maintenance of nonresidential structures, not to exceed 500 square feet, used solely in conjunction with the raising of waterfowl, minnows, or other wetland or aquatic animals, or used solely for some other purpose which is compatible with wetland preservation if the structure cannot as a practical matter be located outside the wetland, provided that no filling, flooding, draining, dredging, ditching, tiling or excavating is done.

(h) The construction and maintenance of piers, docks and walkways, including those built on pilings, provided that no filling, flooding, dredging, draining, ditching, tiling or excavating is done.

(i) The establishment and development of public and private parks and recreation areas, boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, provided that no filling is done and that any private wildlife habitat area is used exclusively for that purpose. The owner or operator of a new private recreation or wildlife area to be located in a shoreland-wetland zoning district shall be required to notify the county zoning agency of the proposed project before beginning construction. Ditching, excavating, dredging, dike and dam construction shall be allowed in wildlife refuges, game preserves, and private wildlife habitat areas for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

(j) The construction and maintenance of electric, gas, telephone water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, which cannot as a practical matter be located outside the wetland, provided that any filling, excavating, ditching or draining necessary for such construction or maintenance is done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland.

Note: Major electrical generating facilities and high-voltage transmission lines that have obtained a certificate of public convenience and necessity under s. 196.491, Stats., are not subject to the requirements of local ordinances.

(k) The construction and maintenance of railroad lines which cannot as a practical matter be located outside the wetland, provided that any filling, excavating, ditching or draining necessary for the construction or maintenance is done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland.

(L) The maintenance, repair, replacement, and reconstruction of existing town and county highways and bridges.

(4) PROHIBITED USES IN SHORELAND-WETLAND ZONING DISTRICTS. Any use not permitted in sub. (3) is prohibited in a shoreland-wetland zoning district unless the wetland or portion thereof is rezoned by amendment of the county shoreland zoning

ordinance in accordance with s. 59.69 (5) (e), Stats., and the procedures outlined in sub. (2) (c).

History: CR 05-058: cr. Register January 2010 No. 649, eff. 2-1-10.

NR 115.05 Minimum zoning standards for shorelands. (1) ESTABLISHMENT OF SHORELAND ZONING STANDARDS. The shoreland zoning ordinance adopted by each county shall control use of shorelands to afford the protection of water quality as specified in chs. NR 102 and 103. At a minimum, the ordinance shall include all of the following provisions:

(a) *Minimum lot sizes.* Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

1. 'Sewered lots.' Lots served by public sanitary sewer shall have a minimum average width of 65 feet and a minimum area of 10,000 square feet.

2. 'Unsewered lots.' Lots not served by public sanitary sewer shall have a minimum average width of 100 feet and a minimum area of 20,000 square feet.

3. 'Substandard lots.' A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:

Note: Effective April 17, 2012, 2011 Wisconsin Act 170 created s. 59.692 (2m), Stats., which prohibits a county from enacting, and a county, city, or village from enforcing, any provision in a county shoreland or subdivision ordinance that regulates the construction of a structure or building on a substandard lot if the provision is more restrictive than the standards for substandard lots under ch. NR 115.

a. The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.

b. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.

c. The substandard lot or parcel is developed to comply with all other ordinance requirements.

4. 'Planned unit development.' A non-riparian lot may be created which does not meet the requirements of subd. 1. if the county has approved and recorded a plat or certified survey map including that lot within a planned unit development, if the planned unit development contains at least 2 acres or 200 feet of frontage, and if the reduced non-riparian lot sizes are allowed in exchange for larger shoreland buffers and setbacks on those lots adjacent to navigable waters that are proportional to and offset the impacts of the reduced lots on habitat, water quality and natural scenic beauty.

(b) *Building setbacks.* Permitted building setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.

1. 'Shoreland setback.' Except where exempt under subd. 1m., a setback of 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures. Where an existing development pattern exists, the shoreland setback for a proposed principal structure may be reduced to the average shoreland setback of the principal structure on each adjacent lot, but the shoreland setback may not be reduced to less than 35 feet from the ordinary high-water mark of any navigable waters.

Note: A property owner may seek a variance to a dimensional standard of the county ordinance and a county board of adjustment may review the request pursuant to s. 59.694 (7) (c), Stats.

1m. 'Exempt structures.' All of the following structures are exempt from the shoreland setback standards in subd. 1.:

a. Boathouses located entirely above the ordinary high-water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation.

Note: This chapter does not prohibit repair and maintenance of boathouses located above the ordinary high-water mark.

b. Open sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692 (1v), Stats.

c. Fishing rafts that are authorized on the Wolf river and Mississippi river under s. 30.126, Stats.

d. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.

e. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with ch. SPS 383, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.

f. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 60-inches in width.

2. 'Floodplain structures.' Buildings and structures to be constructed or placed in a flood plain shall be required to comply with any applicable flood plain zoning ordinance.

3. 'Boathouses.' The use of boathouses for human habitation and the construction or placing of boathouses beyond the ordinary high-water mark of any navigable waters shall be prohibited.

(c) *Vegetation.* To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following:

1. The county shall establish ordinance standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

Note: In developing and applying ordinances which apply to shoreland areas, local units of government must consider other applicable law and programs affecting the lands to be regulated, e.g., law and management practices that apply to state and county forests and lands entered under forest cropland and managed forest land programs, and ss. 59.692 (2) (a) and 59.69 (4) (a), Stats.

2. To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:

a. The county may allow routine maintenance of vegetation.

b. The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors, provided that the combined width of all access and viewing corridors on a riparian lot or parcel may not exceed the lesser of 30 percent of the shoreline frontage or 200 feet.

c. The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with "generally accepted forestry management practices" as defined in s. NR 1.25 (2) (b), and described in Department publication "Wisconsin Forest Management Guidelines" (publication FR-226), provided that vegetation removal be consistent with these practices.

d. The county may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.

Note: Information regarding native plants, shoreland and habitat management is available from the University of Wisconsin-Extension publications website: <http://clean-water.uwex.edu/pubs/index.htm>.

e. The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the

waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

(d) *Filling, grading, lagooning, dredging, ditching and excavating.* Filling, grading, lagooning, dredging, ditching and excavating may be permitted only in accordance with the provisions of s. NR 115.04, the requirements of ch. 30, Stats., and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.

(e) *Impervious surfaces.* Counties shall establish impervious surface standards to protect water quality and fish and wildlife habitat and protect against pollution of navigable waters. County impervious surface standards shall require all of the following:

1. 'Application.' Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface that is or will be located within 300 feet of the ordinary high water mark of any navigable waterway on any of the following:

a. A riparian lot or parcel.

b. A nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway

1m. 'Calculation.' Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the lot or parcel by the total surface area of that lot or parcel, and multiplying by 100. For the purposes of this subdivision counties may exclude impervious surfaces described in subd. 3m. If an outlot lies between the ordinary high water mark and the developable lot or parcel described in subd. 1. and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surfaces.

2. 'General standard.' Except as allowed in subds. 2m. to 4., a county may allow up to 15% impervious surface as calculated under subd. 1m on a lot or parcel described in subd. 1.

2m. 'Standard for highly developed shorelines.' At its discretion, a county may adopt an ordinance for highly developed shorelines that allows impervious surface as calculated under subd. 1m on lots or parcels described in subd. 1 as follows: up to 30% for residential land uses or up to 40% for commercial, industrial or business land uses.

a. A "highly developed shoreline" means a shoreline within an area identified as an Urbanized Area or Urban Cluster in the 2010 US Census or a shoreline that has a commercial, industrial or business land use as of January 31, 2013.

b. A county may establish, after conducting a hearing and receiving approval by the department, a map of additional areas of highly developed shorelines not included in subd. 2m. a.

c. An additional area of highly developed shoreline under subd. 2m. b., shall include at least 500 feet of shoreline and as of February 1, 2010, have either a majority of its lots developed with more than 30% impervious surface area as calculated under subd. 1m. or be located on a lake and served by a sewerage system as defined in s. NR 110.03 (30). To obtain approval from the department for an additional area, the county shall provide data to the department that establishes that the additional area meets the criteria under this subd. 2m. c.

3. 'Maximum impervious surface.' A county may allow a property owner to exceed the impervious surface standard under subds. 2. and 2m. provided that all of the following requirements are met:

a. For lots or parcels described under subd. 1. that exceed the impervious surface standard under subd. 2. and are not located within a highly developed shoreline as defined in subd. 2m., a county may allow more than 15% impervious surface but not

more than 30% impervious surface as calculated under subd. 1m on the lot or parcel.

b. For lots or parcels described under subd. 1. and located within an area defined by county ordinance as a highly developed shoreline under subd. 2m., a county may allow more than 30% impervious surface but not more than 40% impervious surface as calculated under subd. 1m on the lot or parcel for properties that have a residential land use, or more than 40% impervious surface but not more than 60% impervious surface as calculated under subd. 1m. for properties that have a commercial, industrial or business land use.

c. For lots or parcels described under subd. 1 that exceed the impervious surface standard under subds. 2. and 2m., but do not exceed the maximum impervious surface standard under subd. 3. a. or b., the county shall issue a permit that requires a mitigation plan approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall include enforceable obligations of the property owner to establish or maintain measures that the county determines adequate to offset the impacts of the impervious surface on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the impervious surface being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the county register of deeds.

3m. 'Treated impervious surfaces.' A county may exclude from the calculation under subdivision 1m., any impervious surface where the property owner can show that runoff from the impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bioswales or other engineered systems, or that the runoff discharges to internally drained pervious area that retains the runoff on the parcel to allow infiltration into the soil.

Note: A property owner may seek a variance to a dimensional standard of the county ordinance, for areas that exceed the maximum impervious surface standard in subd. 3. and do not meet the provisions in subd. 3m. A county board of adjustment must review the request pursuant to s. 59.694 (7) (c), Stats., and applicable case law.

Note: Nothing in this paragraph shall be construed to supersede the setback provisions in par. (b). New structures must meet all setback provisions in the county shoreland ordinance unless the property owner obtains a variance from the County Board of Adjustment.

4. 'Existing impervious surfaces.' For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the standards in subds. 2. and 3., the property owner may do any of the following as long as the property owner does not increase the percentage of impervious surface that existed on the effective date of the county shoreland ordinance:

a. Maintain and repair all impervious surfaces.

b. Replace existing impervious surfaces with similar surfaces within the existing building envelope.

c. Relocate or modify existing impervious surfaces with similar or different impervious surfaces, provided that the relocation or modification meets the applicable setback requirements in par. (b).

Note: For example this provision would allow an existing at-grade patio to be removed and replaced with a new building, if the new building meets the shoreland setback requirements.

Note: Nothing in this paragraph shall be construed to supersede other provisions in county shoreland ordinances.

(f) *Height.* To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a county may not permit any construction that results in a structure taller than 35 feet within 75 feet of the ordinary high-water mark of any navigable waters.

(g) *Nonconforming structures and uses.* 1. 'General rule for nonconforming uses.' Pursuant to ss. 59.69 (10) and 59.692 (2) (a), Stats., an ordinance enacted under those provisions may not prohibit the continuation of the lawful use of a building, structure or property, that exists when an ordinance or ordinance amend-

ment takes effect, which is not in conformity with the provisions of the ordinance or amendment.

2. 'Nonconforming use of temporary structure.' The continuance of the nonconforming use of a temporary structure may be prohibited.

3. 'Discontinued nonconforming use.' If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.

4. 'Maintenance of nonconforming principal structure.' An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under par. (b) 1. may be maintained and repaired within its existing building envelope. Maintenance and repair also includes such activities as interior remodeling, exterior remodeling, and the replacement or enhancement of plumbing or electrical systems, insulation, windows, doors, siding, or roof within the existing building envelope.

5. 'Expansion of nonconforming principal structure within the setback.' An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under par. (b) 1. may be expanded laterally or vertically, provided that all of the following requirements are met:

a. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.

b. The existing principal structure is at least 35 feet from the ordinary high-water mark.

c. Vertical expansion is limited to the height allowed in s. NR 115.05 (1) (f) and lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.

d. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall include enforceable obligations of the property owner to establish or maintain measures that the county determines adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the expansion being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the county register of deeds.

e. All other provisions of the shoreland ordinance shall be met.

Note: Other provisions include requirements such as impervious surface limitations.

Note: This code does not supercede s. 59.692 (1s), Stats.

5m. 'Expansion of nonconforming principal structure beyond setback'. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under par. (b) 1., may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements in par. (b) 1., and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required under par. (e) 3.

6. 'Replacement or relocation of nonconforming principal structure.' An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under par. (b) 1. may be replaced or relocated on the property provided all of the following requirements are met:

a. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.

b. The existing principal structure is at least 35 feet from the ordinary high-water mark.

c. No portion of the replaced or relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.

d. The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for replacement or relocation that will result in compliance with the shoreland setback requirement in par. (b) 1.

e. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the county register of deeds.

g. All other provisions of the shoreland ordinance shall be met.

Note: Other provisions include requirements such as height and impervious surface limitations.

Note: This code does not supercede s. 59.692 (1s), Stats.

Note: Effective April 17, 2012, 2011 Wisconsin Act 170 created s. 59.692 (2m), Stats., which prohibits a county from enacting, and a county, city, or village from enforcing, any provision in a county shoreland or subdivision ordinance that regulates the location, maintenance, expansion, replacement, repair, or relocation of a nonconforming building if the provision is more restrictive than the standards for nonconforming buildings under ch. NR 115.

(2) ESTABLISHMENT OF LAND DIVISION REVIEW. Each county shall review, pursuant to s. 236.45, Stats., all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review all of the following factors shall be considered:

(a) Hazards to the health, safety or welfare of future residents.

(b) Proper relationship to adjoining areas.

(c) Public access to navigable waters, as required by law.

(d) Adequate storm drainage facilities.

(e) Conformity to state law and administrative code provisions.

(3) ESTABLISHMENT OF SANITARY REGULATIONS. Each county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

(a) Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812.

(b) Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall, prior to July 1, 1980, be required to comply with ch. SPS 383, and after June 30, 1980, be governed by a private sewage system ordinance adopted by the county under s. 59.70 (5), Stats.

(4) ADOPTION OF ADMINISTRATIVE AND ENFORCEMENT PROVISIONS. The shoreland ordinance adopted by each county shall require all of the following:

(a) The appointment of an administrator and such additional staff as the workload may require.

(b) The creation of a zoning agency, as authorized by s. 59.69, Stats., a board of adjustment, as authorized by s. 59.694, Stats., and a county planning agency, as defined in s. 236.02 (1), Stats., and required by s. 59.692 (3), Stats.

(c) A system of permits for all new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of all applications shall be required to be filed in the office of the county zoning administrator.

(d) Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.

(e) A variance procedure which authorizes the board of adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, as long as the granting of a variance does not have the effect of granting or increasing any use of property which is prohibited in that zoning district by the shoreland zoning ordinance.

(f) A special exception (conditional use) procedure for uses presenting special problems.

(g) The county shall keep a complete record of all proceedings before the board of adjustment, zoning agency and planning agency.

(h) Written notice to the appropriate regional office of the department at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review under sub. (2).

(hm) Submission to the appropriate regional office of the department, within 10 days after grant or denial, copies of any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance.

(i) Mapped zoning districts and the recording, on an official copy of such map, of all district boundary amendments.

(j) The establishment of appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in s. 59.69 (11), Stats.

(k) The prosecution of violations of the shoreland ordinance.
History: Cr. Register, July, 1980, No. 295, eff. 8-1-80; r. and recr. (2) (a) 3., am. (2) (a) 6., (2) (c) 3., 5., 7., 9., 10., (3) (d), (3) (e) 1. and cr. (2) (c) 11. and 12., Register, October, 1980, No. 298, eff. 11-1-80; correction in (5) (a) and (b) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1995, No. 477; corrections in (2) (a) 1., (b) 2., (d), (e) 1. to 4. (intro.), 8. and 9., (3) (e) 1., (5) (b), (6) (b) and (j) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 05-058: am. (title), r. (1) and (2), renum. (3) to (6) to be (1) to (4) and am. (1), (2) (intro.), (4) (intro.) and (h), cr. (4) (hm) Register January 2010 No. 649, eff. 2-1-10; corrections in (1) (b) 1m. e. (5) made under s. 13.92 (4) (b) 7., Stats., Register February 2012 No. 674; correction in (1) (g) 1. made under s. 13.92 (4) (b) 7., Stats., Register January 2014 No. 697; CR 13-051: am. (1) (c) 2. d., r. and recr. (1) (e), am. (1) (g) 4., 5. (intro.), a., c., 6. a., r. (1) (g) 6. f., 7., am. (4) (h), (hm) Register September 2014 No. 705, eff. 10-1-14; corrections in (1) (e) made under s. 13.92 (4) (b) 7., Stats., Register September 2014 No. 705.

NR 115.06 Department duties. (1) ASSISTANCE TO COUNTIES. To the full extent of its available resources, the department shall provide advice and assistance to counties in the development, adoption, administration and enforcement of their shoreland zoning and land division ordinances, seeking the highest practicable degree of uniformity consistent with the shoreland protection objectives found in s. 281.31, Stats. As a part of this effort, the department shall prepare a model shoreland zoning ordinance which counties may use in meeting the requirements of s. 59.692, Stats., and this chapter.

(2) REVIEW AND APPROVAL OF SHORELAND ZONING AND LAND DIVISION ORDINANCES. When determining whether a shoreland zoning or subdivision ordinance or any subsequent amendment enacted by a county complies with s. 59.692, Stats., the department shall compare the ordinance and amendments with the minimum standards and requirements for shoreland regulation in this chapter.

(a) *Initial ordinance.* The department shall issue a certificate of compliance when a county has, in the opinion of the department, complied with s. 59.692, Stats., and this chapter.

(b) *Amendments to ordinance.* The department and each county shall assure that the county shoreland ordinance continues to comply with this chapter by doing the following:

1. 'County duties.' A county shall keep its shoreland zoning and subdivision ordinances in compliance with s. 59.692, Stats., and this chapter by doing all of the following:

a. A county shall amend its shoreland and subdivision ordinances to meet the minimum standards in this chapter within two years after October 1, 2014.

Note: On September 12, 2010, the Secretary of the Department of Natural Resources signed an executive order extending the date by which a county must adopt or amend shoreland and subdivision ordinances to meet the revised standards in ch. NR 115. The date was extended to February 1, 2014.

b. Pursuant to s. NR 115.05 (4) (h) and (hm), a county shall provide the department notice of hearing on any proposed ordinance amendment and a copy of any decision denying or enacting an amendment.

2. 'Department duties.' a. The department may periodically reevaluate county shoreland zoning and subdivision ordinances for continuing compliance with s. 59.692, Stats., and this chapter.

b. The department shall review any ordinance amendment enacted pursuant to subd. 1. a. and shall issue a certificate of compliance when the amended ordinance, in the opinion of the department, complies with s. 59.692, Stats., and this chapter.

(c) *Proposed amendments to shoreland-wetland districts.* The department shall review all proposed amendments to shoreland-wetland zoning districts pursuant to s. NR 115.04 (2) to determine whether an ordinance which is amended as proposed will comply with s. 59.692, Stats., and this chapter.

(3) DETERMINATION OF NONCOMPLIANCE. (a) *Failure to enact initial ordinance or amendments.* A county that does not have a shoreland zoning ordinance and subdivision ordinance in effect or that fails to amend its ordinance as required by sub. (2) (b) 1. shall be deemed to be in noncompliance with s. 59.692, Stats., and this chapter. Pursuant to s. 59.692 (6), Stats., and after notice and hearing, the department shall adopt an ordinance if a county fails to do one of the following:

1. Draft and enact shoreland and subdivision ordinances or required amendments within a time period specified by the department.

2. Contract with a consultant to draft the shoreland and subdivision ordinances or required amendments and enact the ordinances within a time period specified by the department.

3. Cooperate with department staff to draft shoreland and subdivision ordinances or required amendments to be enacted by the county within a time period specified by the department not to exceed 180 days.

(b) *Failure to meet minimum standards in initial ordinance or amendments.* Counties which have shoreland zoning and subdivision ordinances or amendments that the department has reviewed under sub. (2) and found do not meet the minimum standards in this chapter shall be deemed to be in noncompliance with the requirements of s. 59.692, Stats., and this chapter, and the procedures in par. (a) shall apply. If a county fails to modify its ordinance to meet the minimum standards within 6 months after receipt of final amended Wisconsin wetland inventory maps for that county as required by s. NR 115.04 (2) (b), the department shall adopt an ordinance for the county, after notice and hearing, pursuant to s. 59.692 (6), Stats.

(c) *Extension of time.* The department may extend the time periods specified in pars. (a) and (b) if it determines an extension is in the public interest.

(d) *Costs.* Pursuant to ss. 59.692 (6) and 87.30 (1) (c), Stats., the costs of any actions by the department under this subsection to adopt an ordinance or amendments shall be assessed against the county concerned and collected in substantially the same manner as other taxes levied by the state.

(4) MONITORING. It is the responsibility of the department, to aid in the fulfillment of the state's role as trustee of its navigable waters, to monitor the administration and enforcement of shore-

land zoning and land division ordinances. In so doing, the department:

- (a) Shall review decisions granting special exceptions (conditional uses), variances and appeals to ensure compliance with the applicable shoreland zoning ordinances and this chapter;
- (b) May appeal the actions of county zoning officials to county boards of adjustment, under s. 59.694 (4), Stats.; and
- (c) May seek court review of the decisions of boards of adjustment, under s. 59.694 (10), Stats.

History: Cr. Register, July, 1980, No. 295, eff. 8-1-80; am. (3) (b), Register, October, 1980, No. 298, eff. 11-1-80; corrections in (1), (2) (a) and (c), (3) (a) (intro.) and (b), (4) (b) and (c) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 05-058; am. (2) and (3) Register January 2010 No. 649, eff. 2-1-10; CR 13-051; am. (2) (b) 1. a. Register September 2014 No. 705, eff. 10-1-14.

Chapters NR 115, NR 116 and NR 117 of the Wisconsin Administrative Code are adopted by reference. The content of the pages herein is from the State of Wisconsin Legislative website (legis.wisconsin.gov/rsb/code.htm) with effective dates at the bottom of each page. Please refer to the State website for the most current content of these chapters.

Chapter NR 116

WISCONSIN'S FLOODPLAIN MANAGEMENT PROGRAM

NR 116.01	Purpose.	NR 116.14	Development standards in other floodplain areas.
NR 116.02	Applicability.	NR 116.15	Nonconforming uses and nonconforming buildings.
NR 116.03	Definitions.	NR 116.16	Floodproofing.
NR 116.05	Adoption and upgrading of floodplain zoning ordinances.	NR 116.17	Levees, floodwalls and channel improvements.
NR 116.06	Areas to be regulated.	NR 116.18	Procedures for changing floodplain, floodway, floodfringe, shallow depth flooding, flood storage and coastal floodplain district limits.
NR 116.07	Standards for hydrologic and hydraulic studies.	NR 116.19	Appointment and duties of zoning administrator, zoning agency and board of adjustment or appeals.
NR 116.08	Uses downstream of dams.	NR 116.20	Municipal responsibilities.
NR 116.09	Data required to be shown on floodplain zoning maps.	NR 116.21	Permits, special exceptions, conditional uses, variances, appeals and amendments.
NR 116.10	Conflicts between water surface profiles and floodplain zoning maps.	NR 116.22	Department duties.
NR 116.11	Criteria for establishing and rezoning floodplain districts.		
NR 116.12	Development standards in floodway areas.		
NR 116.13	Development standards in floodfringe areas.		

Note: Chapter NR 116 as it existed on February 28, 1986 was repealed and a new chapter NR 116 was created effective March 1, 1986.

NR 116.01 Purpose. (1) The Wisconsin legislature in enacting chapter 614, laws of 1965, recognized that floodplain zoning is a necessary tool to protect human life, health and to minimize property damages and economic losses. Municipalities are required by s. 87.30 (1), Stats., to adopt reasonable and effective floodplain zoning ordinances within their respective jurisdictions to regulate all floodplains where serious flood damage may occur within one year after hydraulic and engineering data adequate to formulate the ordinance becomes available. If a municipality has a floodplain zoning ordinance already in effect, the provisions in s. NR 116.05 shall apply.

(2) The purpose of these rules is to provide a uniform basis for the preparation and implementation of sound floodplain regulations for all Wisconsin municipalities, to:

- (a) Protect life, health and property;
- (b) Minimize expenditures of public monies for costly flood control projects;
- (c) Minimize rescue and relief efforts, generally undertaken at the expense of the general public;
- (d) Minimize business interruptions;
- (e) Minimize damage to public facilities such as water mains, sewer lines, streets and bridges;
- (f) Minimize the occurrence of future flood blight areas;
- (g) Discourage the victimization of unwary land and home buyers; and
- (h) Prevent increases in the regional flood from occurring which will increase flood damage and may result in conflict and litigation between landowners.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.02 Applicability. The provisions of this chapter are applicable to all municipalities. Unless otherwise specifically exempted by law, all state agencies are required to obtain permits required by local zoning ordinances if s. 13.48 (13), Stats., applies.

Note: Corps of engineers dredged material disposal activities which are authorized pursuant to s. 30.202 (2), Stats., are exempt from the requirements of this chapter.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.03 Definitions. In this chapter:

(1) "Accessory structure or use" means any facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

(1e) "Campground" means 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.

(1s) "Camping unit" means 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.

(2) "Certificate of compliance" means a document that is issued to a property owner by a municipality certifying that the use of land or a building is in conformance with provisions of the floodplain zoning ordinance.

(3) "Channel" means a natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.

(4) "Coastal floodplain" means an area along the coast of Lake Michigan or Lake Superior which is inundated by the regional flood and which is also subject to additional hazards due to wave runup.

(5) "Conditional use" or "special exception" means a use which is not allowed unless certain conditions specified in the zoning ordinance are met and a permit is granted by the board of adjustment or appeals or, where appropriate, the zoning agency.

(6) "Dam" as defined in s. NR 333.03 (2) means any artificial barrier, together with appurtenant works, built across a waterway and which has the primary purpose of impounding or diverting water.

(6m) "Deck" means an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

(7) "Department" means the Wisconsin department of natural resources.

(8) "Developed area" means an area within a floodplain designated by a municipality and approved by the department which contains a minimum of 20 potential residential lots or a minimum of 5 acres of land zoned commercial, industrial or institutional wherein existing structures constitute a minimum of 50% of the structures that could be accommodated by the respective zoning density. The limits of the developed area are defined by a line connecting the existing structures on the outer perimeter of the majority of the structures. Vacant lots within that boundary are treated the same as lots with existing structures.

(9) "Development" means 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 substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials.

(10) "Dryland access" means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain.

(11) "Erosion" means a wearing away of land by the action of natural forces such as wind or water; on a coastal floodplain, the carrying away of soil by wave action.

(12) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas caused by:

- (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; and

(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.

(13) "Flood frequency" means the probability of a flood occurrence. A flood frequency is generally 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.

Note: For example, a 100-year flood event is expected to occur, or be exceeded, on the average of once in every 100 years, or which has a 1% chance of occurring or being exceeded in any given year. Any particular flood event could, however, occur more frequently than once in any given year.

(14) "Floodfringe" means that portion of the floodplain outside of the floodway, which is covered by flood water during the regional flood. The term, "floodfringe" is generally associated with standing water rather than flowing water.

(15) "Flood of record" means the highest known flood, the elevation of which can be determined through the use of physical or photographic data.

(16) "Floodplain" means that land which has been or may be covered by flood water during the regional flood. The floodplain includes the floodway, floodfringe, shallow depth flooding, flood storage and coastal floodplain areas.

(17) "Floodplain island" means a natural geologic land formation within the floodplain that is surrounded, but not covered, by flood water during the regional flood.

(18) "Floodplain management" means the full range of public policy and action for insuring wise use of floodplains. It includes everything from the collection and dissemination of flood data to the acquisition of floodplain lands and the enactment and administration of codes, ordinances and statutes for land use in the floodplain.

(19) "Floodproofing" means 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.

(20) "Flood protection elevation" means an elevation 2 feet above the regional flood elevation.

(21) "Flood storage" means those floodplain areas where storage of flood waters has been taken into account in reducing the regional flood discharge.

(22) "Floodway" means the channel of a river or stream, and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

(23) "Freeboard" means a flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of many factors that contribute to flood heights greater than those calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of

flood storage areas due to development and aggradation of the river or stream bed.

(24) "Habitable building" means any building, or portion thereof used for human habitation.

(25) "High flood damage potential" means potential damage as a result of flooding that is associated with any danger to life or health or any significant economic loss to a structure or building and its contents.

(26) "Human habitation" means a human residence or dwelling.

(27) "Hydraulic floodway lines" means those lines that delineate those portions of floodplain including the channel which are required to convey the regional flood discharge without any increase in regional flood heights.

(28) "Increase in regional flood height" means a calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting from 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.

(29) "Levee" means a continuous dike or embankment of earth constructed to prevent flooding of certain areas of land.

(30) "Littoral drift" means the movement of sedimentary material along the Lake Michigan or Lake Superior shoreline due to wave action and water currents.

(30m) "Mobile recreational vehicle" means a recreational vehicle that is carried, towed or self-propelled; is licensed for highway use, if registration is required; and is always capable of being driven or towed by a licensed vehicle.

(31) "Municipality" or "municipal" means a county, city or village.

(32) "NGVD" or "National Geodetic Vertical Datum" means elevations referenced to mean sea level datum, 1929 adjustment.

(33) "Nonconforming building" means an existing lawful building which is not in conformity with the dimensional or structural requirements of the floodplain zoning ordinance for the area of the floodplain which it occupies.

(34) "Nonconforming use" means an existing lawful use or accessory use of a structure, building or development which is not in conformity with the provisions of the floodplain zoning ordinance for the area of the floodplain which it occupies.

(35) "Obstruction to flow" means any development which physically blocks the conveyance of flood waters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

(36) "Official floodway lines" means those lines which have been approved by the department, adopted by the municipality, and which are shown on the official floodplain zoning maps and used for regulatory purposes. The official floodway lines are established assuming that the area landward of the floodway lines will not be available to convey flood flows.

(37) "Open space use" means a use which has a relatively low flood damage potential, such as uses associated with agriculture, recreation, parking, storage yards, or certain sand and gravel operations.

(38) "Private sewage system" means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the department of industry, labor and human relations 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.

(39) "Public utilities" means those utilities which employ underground or overhead transmission lines such as electric, tele-

phone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

(40) "Rapidly urbanizing watershed" means a watershed where more than 20% of the land area of the watershed has been developed for residential, commercial or industrial uses or where development of the watershed is projected to grow at a rate of 10% or more in the next 10-year period.

(41) "Regional flood" means a flood determined to be representative of large floods known to have occurred in Wisconsin or which may be expected to occur on a particular lake, river or stream once in every 100 years.

Note: The regional flood is based upon a statistical analysis of lake level or stream-flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed or both. The flood frequency of the regional flood is once in every 100 years. In any given year, there is a 1% chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26% chance of occurring.

(42) "Shallow depth flooding areas" means those areas where the maximum depth of flooding does not exceed one foot in depth nor 6 hours in duration during the regional flood.

(43) "Special exception" or "conditional use" has the meaning designated in sub. (5).

(44) "Stormwater management" means public policy and action to control stormwater runoff associated with development within a rapidly urbanizing watershed in order to prevent the occurrence of, or an increase in, flood damage potential. It includes, but is not limited to, development of stormwater runoff data, flood profiles and enactment and administration of ordinances regulating land use in a watershed.

(45) "Structure" means any man-made object with form, shape and utility, either permanently or temporarily attached to or placed upon the ground, river bed, stream bed or lakebed.

(46) "Study" means any analysis that results in the calculation of discharge or elevation of the regional flood or the determination or delineation of boundary lines for any area within a floodplain.

(47) "Undeveloped area" means an area which is not a developed area.

(48) "Unnecessary hardship" means that 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 the ordinance.

(49) "Variance" means an authorization by the board of adjustment or appeals under s. NR 116.21 (4), for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards contained in the floodplain zoning ordinance.

Note: A variance can only be granted by the board of adjustment or appeals. A variance may not permit a use of property otherwise prohibited by the floodplain zoning ordinance or allow construction not protected to the flood protection elevation; it may, however, permit deviations from dimensional standards.

(50) "Watershed" means the entire region or area contributing runoff or surface water to a particular watercourse or body of water.

(51) "Water surface profile" means 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.

(52) "Well" means an excavation or opening in the ground made by digging, boring, drilling, driving or other methods, for the purpose of obtaining groundwater regardless of its intended use.

(53) "Zoning agency" means a commission, board, committee or agency created or designated by the governing body of a municipality which acts on matters pertaining to planning or zoning. Under the provisions of s. 62.23 (7) (d) 2., Stats., the term

"zoning agency" also includes the governing body of a city or village.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; cr. (1e), (1s), (30m), Register, June, 1996, No. 486, eff. 7-1-96; CR 03-091: cr. (6m) Register August 2004 No. 584, eff. 9-1-04.

NR 116.05 Adoption and upgrading of floodplain zoning ordinances. (1) **ADOPTION.** Municipalities shall adopt, administer and enforce reasonable floodplain zoning ordinances for all floodplains where serious flood damage may occur within their respective jurisdictions. These ordinances shall meet or exceed the standards in this chapter.

(2) **INCLUSION IN LOCAL REGULATIONS, CODES AND PROGRAMS.** Where necessary, to insure the effectiveness of floodplain management and zoning objectives, the standards in this chapter shall be included in subdivision regulations, building and sanitary codes, flood insurance regulations, stormwater management regulations and other related programs.

(3) **SUBSTITUTION.** Where the department finds that one or more of the following regulations, codes or programs will accomplish the purpose of s. NR 116.01, these regulations, codes or programs may be substituted in lieu of all or portions of floodplain zoning ordinances:

(a) Zoning, acquisition of flooding easements or purchase of floodplain lands to permit only open space uses in floodplain areas.

(b) Flood warning systems.

(c) Building codes.

(d) Subdivision regulations.

(e) Private sewage system ordinances.

(f) Stormwater management regulations.

(4) **UPGRADING ORDINANCES.** Within 6 months from the time any of the information listed below is made available to a municipality by the department, the municipality shall upgrade its floodplain zoning ordinance, using the amendment procedure in s. NR 116.21, to reflect current floodplain information, including, but not limited to, the following:

(a) Changes in floodplain management statutes.

(b) Changes in floodplain management rules.

(c) Changes in floodplain management case law.

(d) New study data.

(e) Improved technical information and methods.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.06 Areas to be regulated. Municipalities shall develop floodplain zoning maps, reflecting the best available data, which show the areas to be regulated. They shall also develop floodplain zoning ordinances to define proper uses in those regulated areas. These floodplain maps and zoning ordinances shall regulate all floodplains where serious flood damage may occur. The minimum limits for regulatory purposes shall be all those areas covered by water during the regional flood.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.07 Standards for hydrologic and hydraulic studies. (1) **GENERAL.** The standards contained in this section shall be the basis for developing both hydrologic and hydraulic information to be used by municipalities for developing floodplain zoning maps and flood profiles, as defined in s. NR 116.09, and for administration of existing floodplain zoning ordinances as defined in s. NR 116.20 (2). The department shall review and approve all studies performed or completed under this section prior to use by any municipality.

(2) **CERTIFICATION AND RESPONSIBILITY OF THE STUDY CONTRACTOR.** Studies shall be completed under the direct supervision of the study contractor who is a registered professional engineer in the state of Wisconsin. The study contractor shall be responsible for the technical adequacy of the study.

(3) HYDROLOGIC ANALYSIS — DETERMINATION OF REGIONAL FLOOD DISCHARGE. (a) *Techniques.* Studies to determine the regional flood flow discharge may use the following techniques, if done in accordance with the requirements of par. (b):

1. The log–Pearson Type III distribution method as described in Bulletin #17B of the Hydrology Committee, U.S. Water Resources Council, entitled “Guidelines For Determining Flood Flow Frequency”, September, 1981.

2. The current USGS empirical equations, developed from regression analysis of stream gaging data. (See USGS publication entitled “Technique for Estimating Magnitude and Frequency of Floods in Wisconsin”, by Conger, March, 1981.)

3. Synthetic hydrographs, which are combined and routed through the basin to the downstream end of the study area.

4. When using the synthetic hydrograph technique in subd. 3., the results shall be calibrated to past events where such information is available.

5. Technical Release No. 55 (TR55), entitled “Urban Hydrology For Small Watersheds”, Engineering Division, SCS, U.S.D.A., January, 1975.

6. Comparison of similar drainage basins at gaged sites.

7. Historic flood data.

8. Other methods with department approval.

(b) *Required use of techniques.* The following shall be the minimum standards for determining the regional flood flow discharge:

1. The techniques to determine skew under par. (a) 1. may not be used if data from a gaging station in the watershed is not available or is available for a period of less than 10 years. In other cases, the technique to determine skew in par. (a) 1. shall be modified as follows:

a. If data from a gaging station in the watershed is available for 10 or more years but less than 26 years, the station skew shall be weighted with zero skew in accordance with Bulletin #17B.

b. If data from a gaging station in the watershed is available for 26 or more years, the station skew shall be used.

c. Skew values differing from those obtained in subd. 1. a. or b. may be used if they are approved by the department.

2. If the difference in the drainage area at the study site and the drainage area at a gaging station on the same watershed is less than or equal to 50%, the regional flood discharge at the study site shall be determined by transferring the calculated regional flood discharge at the gage by using Bulletin #17B techniques to the study site using a drainage area ratio taken to the “n” power, from page 12 of “Techniques for Estimating Magnitude and Frequency of Floods for Wisconsin Streams”, U.S.G.S., Open File Report 80–1214, March 1981.

3. If the difference in the drainage area at the study site and the drainage area at a gaging station in the watershed is more than 50%, or if there is no gaging station in the watershed, at least 2 of the techniques described in par. (a) 2. to 7. shall be used to determine a weighted value of the regional flood discharge.

4. Comparison of similar drainage basins under par. (a) 5. shall be based on basin characteristics using Bulletin #17B 100–year discharges.

5. When using USGS empirical equations under par. (a) 2., the results shall be compared with Bulletin #17B 100–year discharges at gaged sites on similar drainage basins.

6. In all cases where dams or reservoirs, floodplain development or land use upstream have significantly altered the storage capacity or runoff characteristics of the watershed so as to affect the validity of any of the techniques listed in par. (a), the synthetic hydrograph technique in par. (a) 3. or the Technical Release No. 55 in par. (a) 4. shall be used for the determination of the regional flood flow discharge.

7. In rapidly urbanizing watersheds, the municipality shall require that computations for regional flood flow discharges reflect increased runoff from all projected future development. These computations shall be made using one of the following techniques:

a. A synthetic hydrograph based upon projected watershed development shall be produced and routed to critical locations within the study limits.

b. A mathematical model shall be developed to determine the effects of all projected future development in the watershed on the regional flood flow discharge. Local units of government shall project what percentage of watershed development may occur under existing land use or subdivision ordinances and regional flood discharges shall be based upon that data. Where there are no existing land use or subdivision ordinances which control or regulate future development, total projected development shall be assumed to occupy 70% of the watershed. Where watersheds contain more than one municipality, agreements between those municipalities may be necessary to restrict future watershed development. In order to insure that future regional flood flows do not exceed the regional flood flow discharges used in local regulations, changes in existing land use or subdivision ordinances which may allow an increase or decrease in the projected development in the watershed shall be reflected in regional flood flow discharge values.

(4) HYDRAULIC ANALYSIS — DETERMINATION OF THE REGIONAL FLOOD ELEVATION. The following criteria shall be the basis for determining the regional flood profile:

(a) *Reconnaissance.* The study contractor is responsible for the collection of all existing data with regard to flooding in the study area. This shall include a literature search of all published reports in the study area and adjacent communities and an information search to obtain all unpublished information on flooding in the immediate and adjacent areas from federal, state and local units of government. This information shall include specific information on past flooding in the area, drainage structures such as bridges and culverts that affect flooding in the area, available topographic maps, available community maps, photos of past flood events and general flooding problems within the community. The study contractor will coordinate the collection of all available data and published reports with the department. A field reconnaissance shall be made by the responsible engineer to determine hydraulic conditions of the study area including type and number of structures, locations of cross sections and other parameters including roughness values which are necessary for the hydraulic analysis.

(b) *Base data.* Cross sections to be used for the hydraulic analysis may be obtained by one of several methods, including surveying or aerial photography. New or previously surveyed cross sections or topographic information obtained from aerial photographs may be used independently or in combination as the base data to be used in hydraulic analysis. The elevation datum of all of the information to be used in the hydraulic model shall be verified. All information used shall be referenced directly to NGVD unless the elevation datum is otherwise approved by the department.

(c) *Methodology.* Flood profiles shall be calculated by the standard step method, using the Corps of Engineers HEC–2 computer model. Other methods may be used with prior department approval provided that any computer models submitted to the department for review are in a form acceptable for entry into the department’s floodplain data repository.

(d) *Floodway determination.* The hydraulic floodway lines shall be determined from the limits of effective flow based on the calculated regional flood water surface profile. Transitions shall take into account obstructions to flow such as road approach grades, bridges or natural restrictions. General guidelines for transitions may be found in “HEC–2, Water Surface Profiles–Us-

ers Manual, appendix IV, Application of HEC-2 Bridge Routine” published by the Hydrologic Engineering Center, Davis, California. All areas of the floodplain including overbank areas that can be assumed to convey flood waters shall be included in the hydraulic floodway.

(e) *Previous floodplain studies.* If differences exist between a study previously approved by the department and the contractor’s calculated hydraulic floodways or flood profiles, the study contractor shall document justification and obtain departmental approval for these differences. Where the contractor’s study differs from existing flood profiles or hydraulic floodways for adjacent communities, verification of the differences will be necessary for department approval of the hydraulic analysis.

(f) *Calculation of the regional flood profile.* The regional flood profile and changes to that profile caused by development in the floodplain, as determined by the hydraulic model, shall be calculated to the nearest 0.01 foot.

(g) *Adequacy of the hydraulic model.* The following factors shall be considered by the department to determine the adequacy of the hydraulic model and the regional flood profile. Upon written request by the department the study contractor shall submit written justification for the following factors:

1. Cross section spacing.
2. Differences in energy grade.

Note: Significant differences in the energy grade from cross section to cross section are an indication that cross sections should be more closely spaced or that other inaccuracies exist in the hydraulic model.

3. Methods for analyzing the hydraulics of structures such as bridges and culverts.
4. Lack of flow continuity.
5. Use of gradually varied flow model.

Note: In certain circumstances, rapidly varied flow techniques shall be used in combination with a gradually varied flow model such as weir flow over a levee or dike, flow through the spillway of a dam or special applications of bridge flow.

6. Manning’s “n” values.
7. Calibration of the hydraulic model with past flood events.

(h) *Special applications.* The methods defined in par. (c) shall be used except in special cases, including circumstances where sediment transport, 2 dimensional flow or valley storage affects the accuracy of the hydraulic model. Where the standard step method is unwarranted, the department shall approve the method used for establishing the final water surface profile.

(i) *Base mapping.* In the preparation of a floodplain zoning map to be used by the municipality, the study contractor shall use the best available mapping to delineate floodplain limits.

(j) *Final report.* A narrative report shall accompany the maps and profiles and shall include the following:

1. Purpose of the study and description of the study area.
2. Coordination with other agencies.
3. Data collection.
4. Past flooding.
5. Engineering methods including a detailed description of the methodology used for hydrology, hydraulics and any special applications used in this study.
6. A floodway data table showing cross sections, drainage area, distance between cross sections, floodway top width, discharge, cross sectional area, mean velocity and regional flood elevation.
7. Previous studies on the same watercourse.
8. An appendix which includes:
 - a. Drainage basin maps.
 - b. Precipitation maps.
 - c. Pertinent photographs.
 - d. Soil and vegetation maps.
 - e. Sample calculations of the hydrologic analyses including all unit hydrographs.

- f. Stream flow records.
- g. Channel roughness values.
- h. Any other data required by the department.

(k) *Wave action on the Great Lakes.* Standards used to determine the regional flood elevation for all municipalities adjacent to the Great Lakes shall be those specified in the publication, “Guidelines and Specifications for Study Contractors, Federal Emergency Management Agency, September 1982, appendix 1B, Wave Runup Analysis”.

(5) DOCUMENT AVAILABILITY. The materials listed in this subsection are incorporated by reference in the corresponding subsections noted. The document referred to in sub. (3) (a) 1. may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (mention title and stock number 052-045-00031-2). The document referred to in sub. (3) (a) 2. is available for inspection at the Geological Survey — Water Resource Division, U.S. Department of the Interior, 1815 University Avenue, Madison, Wisconsin 53706. The document referred to in sub. (3) (a) 5. is available for inspection at the Soil Conservation Service, U.S. Department of Agriculture, 4601 Hammersley Road, Madison, Wisconsin 53711; it may be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22151 (mention title and appropriate accession number: TR55 = PB 244531/AS). The document described in sub. (4) (c) and (d) is available for inspection at the United States Army Corps’ Hydrologic Engineering Center, 609 2nd Street, Davis, California 95616. The document referred to in sub. (4) (k) is available for inspection at the Federal Emergency Management Agency Region V Office, 300 South Wacker Drive, Chicago, Illinois 60606 (mention title, date and appropriate appendix number).

(6) INSPECTION OF DOCUMENTS. Copies of the documents referred to in sub. (5) are also available for inspection in the following offices:

- (a) The department of natural resources, 101 South Webster Street, Madison, Wisconsin;
- (b) The office of the secretary of state, 30 W. Mifflin Street, Madison, Wisconsin;
- (c) The legislative reference bureau, One E. Main Street, Madison, Wisconsin.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; corrections made under s. 13.93 (2m) (b) 6., Stats., Register, September, 1995, No. 477; correction in (6) (c) made under s. 13.92 (4) (b) 6., Stats., Register March 2011 No. 663.

NR 116.08 Uses downstream of dams. (1) GENERAL. Adequately designed, constructed and maintained dams provide reduced damages and relief from flooding for developed areas. Areas downstream of dams shall be zoned and regulated by municipalities with floodplain zoning ordinances in compliance with the standards in this section, to reduce potential loss of life and property located downstream of the dams. Except as provided in sub. (2), areas downstream of all dams shall be delineated on floodplain maps in accordance with s. NR 116.09 (1) (b) 5. Flood studies and related mapping, completed and adopted prior to August 1, 2001, which calculated flood flow attenuation based on the existence of the dam structures within the contributing basin, may continue to use the dam in-place, no failure, profile.

(2) EXEMPTIONS. All dams having a structural height of 6 feet or less, or a storage capacity of 15 acre feet or less, and all dams having a structural height of more than 6 feet but less than 25 feet with a storage capacity of less than 50 acre feet are exempt from the requirements of this section unless the department determines pursuant to s. 31.19, Stats., that the dam is likely to endanger life, health or property.

(3) COMPLIANT DAMS. (a) A dam is considered compliant if all the following requirements are met:

1. The dam is structurally adequate to meet the conditions in ss. NR 333.05 (2) (k) and 333.07 (3) (b).

2. The dam is hydraulically adequate to meet the standards in s. NR 333.07 (1).

3. The dam has been certified by a professional engineer, registered in Wisconsin, to meet the requirements of subds. 1. and 2.

4. Written assurance of the dam owner's ability to operate and maintain the dam in good condition is obtained from the dam owner.

5. An emergency action plan to minimize loss of human life has been developed for the area downstream of the dam based on the assumption that the dam fails during the regional flood.

6. The department reviews and approves the material submitted under subds. 1. to 5.

(b) Developed areas downstream of compliant dams shall be zoned and regulated as follows:

1. For high hazard dams, assuming that the dam is nonexistent during the regional flood.

2. For significant or low hazard dams, assuming the dam fails during the regional flood.

(c) Undeveloped areas downstream of a compliant dam shall be zoned and regulated assuming that the dam fails during the regional flood.

(4) NONCOMPLIANT DAMS. (a) If an existing dam does not meet the standards in sub. (3) (a), the dam is considered noncompliant.

(b) Both developed and undeveloped areas downstream of a noncompliant dam shall be zoned and regulated assuming that dam failure occurs during the regional flood.

(c) The regional flood profile of the area downstream of the dam shall be calculated in accordance with s. NR 333.05 (2) (b).

(5) CONSTRUCTION OF NEW DAMS. (a) Dams constructed after August 1, 2001, shall be considered compliant if the requirements in sub. (3) (a) are met.

(b) Developed areas downstream of the construction of a new dam shall be zoned and regulated as if the dam does not exist until construction is 100% complete and all the conditions of sub. (3) (a) are met.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; CR 00-136: am. (1), (2), (3) (a) 1. to 5., (b), (c), (4) (a) and (b) and (5) (a), Register July 2001, No. 547 eff. 8-1-01.

NR 116.09 Data required to be shown on floodplain zoning maps. Municipalities shall delineate the entire floodplain on their floodplain zoning maps.

(1) If the regional flood profile has been determined, the profile shall be used to develop the floodplain zoning maps which the municipality shall use as the basis for floodplain zoning.

(a) The maps shall show the following:

1. The floodway district;

2. The floodfringe district;

3. The regional flood elevation consistent with the regional flood profile shall be clearly lettered at identifiable positions on the official floodplain zoning maps. If for any reason that elevation is not shown on the maps, the profile shall be attached to and made a part of the maps; and

4. Source and date of study.

(b) In addition to the information in par. (a), the floodplain zoning maps shall include the following information, where applicable:

1. The shallow depth flooding district.

2. The flood storage district.

3. The coastal floodplain district.

4. Floodplain islands.

5. For developed and undeveloped areas downstream of dams, the floodway and floodfringe districts based on 3 conditions:

a. Assuming the dam is in place,

b. Assuming the dam is not in place, and

c. Assuming failure of the dam during the regional flood.

6. For areas adjacent to levees, floodwalls and channel improvements, the floodway and floodfringe districts based on 2 conditions:

a. Assuming the levee, floodwall or channel improvement is not in place, and

b. Assuming the levee, floodwall or channel improvement is in place.

(c) If technical information is available to ascertain the magnitude of floods larger than the regional flood the floodplain limits of these large floods may be reflected on the official floodplain zoning maps and used for either public information purposes or for regulation.

(2) If the regional flood profile has not been determined, maps based upon historical floods, flood prone area maps, flood hazard boundary maps, aerial photos or detailed soils maps may initially serve as a basis for floodplain delineation, provided that the associated text of the zoning ordinance provides for a procedure similar to ss. NR 116.20 (2) and 116.21 (3) to ascertain the effects of all development upon flood flows and the regional flood elevation.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.10 Conflicts between water surface profiles and floodplain zoning maps. Accepted engineering principles and techniques shall govern the transfer of profile elevation for use in delineation of the floodplain limits on the official floodplain zoning maps. If a conflict exists between the floodplain limits illustrated on the maps and the actual field conditions, the elevations from the water surface profile shall be the governing factor in locating the official floodplain limits.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.11 Criteria for establishing and rezoning floodplain districts. (1) DELINEATION OF FLOODWAY, FLOODFRINGE AND COASTAL FLOODPLAIN DISTRICTS. Except as provided in sub. (2), the following criteria shall apply to the delineation of floodway, floodfringe and coastal floodplain districts.

(a) *Floodway district.* The official floodway lines shown on floodplain zoning maps shall be the hydraulic floodway lines. These hydraulic floodway lines shall be determined by studies complying with the standards contained in s. NR 116.07.

(b) *Floodfringe district.* All areas within the floodplain landward of the official floodway lines shall be shown as a "floodfringe district."

(c) *Coastal floodplain district.* All areas adjacent to Lake Superior or Lake Michigan within the regional floodplain shall be designated as a coastal floodplain district.

(2) REDELINEATION OR REZONING FLOODPLAIN DISTRICTS. In accordance with the criteria of sub. (3), the following redelineations or rezonings may occur:

(a) *Redelineation or rezoning the floodway district to floodfringe district.* Riverward delineations of the official floodway lines established in accordance with sub. (1) (a) are permissible provided the following criteria are satisfied:

1. Any increase in regional flood height due to the delineation of the official floodway lines riverward from the hydraulic floodway lines shall be approved by the department prior to becoming effective. Increases may only be approved by the department if the provisions of sub. (3) are satisfied.

2. The effects of delineating the official floodway lines riverward from the hydraulic floodway lines shall be calculated by comparing the regional flood profile determined from the hydraulic

lic floodway lines to that profile determined by assuming that the area landward of the revised floodway lines is not available to convey flood flows. Calculations shall conform to the standards contained in s. NR 116.07.

(b) *Redelineation or rezoning floodfringe district to floodway district.* Landward modifications of hydraulic floodway lines to delineate official floodway lines may be permitted provided the following conditions are satisfied:

1. The redelineation of the floodway lines is consistent with other municipal codes, ordinances, and ch. 30, Stats.; and
2. The current hydraulic floodway lines, which reflect the water surface profile used for regulation, shall be kept on file by the municipality.

(c) *Redelineation or rezoning floodway district to shallow depth flooding district.* For areas subject to shallow depth flooding, the official floodway lines may be delineated riverward of the hydraulic floodway lines, provided all of the criteria in this paragraph are satisfied:

1. The maximum depth of flooding during the regional flood in the shallow depth flooding district may not exceed one foot in depth nor 6 hours in duration. The duration shall be determined by a synthetic hydrograph developed for the watershed and routed through the area;
2. The area is developed complete with existing streets and sewers and is subject to a land use plan, which includes provisions for drainage ways through the area with the capacity to convey that percentage of the regional flood which is flowing through the area under existing conditions;
3. The municipality shall adopt standards outlined in s. NR 116.14 (1) pertaining to shallow depth flooding district;
4. All areas within the hydraulic floodway landward of the official floodway lines shall be designated as "shallow depth flooding district"; and
5. All areas within the floodplain landward of the hydraulic floodway lines shall be delineated as "floodfringe district".

(d) *Redelineation or rezoning floodfringe district to flood storage district.* A "flood storage district" may be established for the area landward of the floodway in lieu of the floodfringe designation where floodplain storage will decrease the calculation of discharge and therefore the regional flood elevation, provided the following criteria are met:

1. The department shall approve the methodology used to analyze floodplain storage to determine revised regional flood elevations.
2. The municipality shall adopt standards outlined in s. NR 116.14 (2) pertaining to the flood storage district.

(e) *Rezoning flood storage district to floodfringe district.* Any proposal to rezone flood storage district to floodfringe district shall comply with the following conditions:

1. Any increase in regional flood height shall be approved by the department prior to becoming effective. Increases in the regional flood elevation may only be approved by the department if the provisions in sub. (3) are satisfied; and
2. The effect of rezoning the flood storage district to the floodfringe district shall be calculated by comparing the regional flood profile used as the basis for zoning to the regional flood profile determined by assuming that the area to be rezoned is not available to store floodwater.

(f) *Rezoning the shallow depth flooding district to floodfringe district.* Any proposal to rezone the shallow depth flooding district to floodfringe district shall comply with the following conditions:

1. Any increase in regional flood height shall be approved by the department prior to the rezoning becoming effective. Increases in the regional flood elevation may only be approved by the department if the provisions in sub. (3) are satisfied;

2. The entire shallow depth flooding district shall be rezoned to floodfringe district; and

3. The effect of rezoning the shallow depth flooding district to the floodfringe district shall be calculated by comparing the regional flood profile determined by the hydraulic floodway lines to the regional flood profile determined by assuming that the entire shallow depth flooding district is not available to convey floodflows. Calculations shall conform to the standards contained in s. NR 116.07.

(3) CRITERIA FOR REDELINEATION OR REZONING FLOODPLAIN DISTRICTS. (a) *Initial determinations.* Prior to redelineation or rezoning any floodplain district a municipality shall:

1. Assure that the applicable provisions of sub. (2) are met;
2. Require adequate technical data from the applicant or the municipality and submit such data to the department for review and concurrence in the effect of the proposed amendment on the height of the regional flood;
3. Assure that the proposed amendments meet the purpose of s. NR 116.01;
4. Assure that the appropriate legal arrangements have been made with all property owners affected by the increased flood elevations; and
5. Notify all affected municipalities of increased regional flood elevations.

(b) *Amendment process.* Upon completion of the steps in par. (a), the municipality and any affected municipality shall meet all legal requirements for amending its water surface profiles, floodplain zoning maps and zoning ordinances as established in s. NR 116.21 (6).

(c) *Submission to the department for approval.* If the municipality amends its official floodplain map, it shall also amend its water surface profiles and floodplain zoning ordinance and submit these amendments to the department for approval pursuant to s. NR 116.21 (6). Prior to department approval, all municipalities affected by the increased regional flood elevation shall amend their water surface profiles, floodplain zoning maps and zoning ordinances to reflect the increased regional flood elevations.

(4) EXCEPTION TO CRITERIA FOR REDELINEATING OR REZONING FLOODPLAIN DISTRICTS. If, as a result of improved data generated by a revised study approved by the department, and not as a result of changes due to encroachments in the floodplain, the hydraulic floodway line is revised landward of the official floodway lines, the municipality may continue to regulate on the basis of the official floodway lines provided the municipality meets all of the requirements of sub. (3), except the requirement of sub. (3) (a) 4.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.12 Development standards in floodway areas. (1) PROHIBITED USES. Municipalities shall prohibit the following uses in floodway areas:

(a) Except as provided in sub. (2), any development which will cause an obstruction to flood flows or an increase in regional flood discharge or will adversely affect the existing drainage courses or facilities.

(b) A structure is always prohibited in, on or over floodway areas if the structure is:

1. Designed for human habitation;
2. Associated with high flood damage potential; or
3. Not associated with permanent open space uses.

(c) Any storage of materials that are buoyant, flammable, explosive or injurious to human, animal, plant, fish or other aquatic life.

(d) Any use which is not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts.

(e) Any sewage system, whether public or private, except portable latrines that are removed during flooding, or systems associ-

ated with recreational areas that meet the applicable provisions of local ordinances and ch. SPS 383.

(f) Any well, whether public or private, which is used to obtain water for ultimate human consumption, except systems associated with recreational areas that meet the applicable provisions of municipal zoning ordinances and chs. NR 811 and 812.

(g) Any solid or hazardous waste disposal facility.

(h) Any wastewater treatment pond or facility except as permitted in s. NR 110.15 (3) (b).

(i) Any sanitary sewer or water line except those used to service existing development or proposed development located outside of the floodway and which comply with the requirement for the floodplain area on which it is located.

(2) PERMITTED USES AND STRUCTURES. Municipalities, using the appropriate procedure described in s. NR 116.21, may issue permits in floodway areas allowing open space uses having a relatively low flood damage potential, such as those uses associated with agriculture, recreation, surface parking lots, storage yards or certain sand and gravel operations. Permits for the following uses or structures may be allowed only if such uses or structures are consistent with all of the standards contained in this subsection and sub. (3) and such uses or structures are not prohibited in sub. (1) (b) to (i).

(a) Certain structures which are accessory to permitted open space uses or historical areas, if the structures meet all of the following criteria:

1. Are not designed for human habitation;
2. Have a low flood damage potential;
3. Are associated with an open space use or are functionally dependant on a waterfront location:

Note: For example, an unloading structure is functionally dependant on a waterfront location to unload boats or barges, but a storage facility is not.

4. Except as provided in sub. (3), are to be constructed and placed on the building site so as to offer no obstruction to flood flows;

5. Are firmly anchored to prevent them from floating away and restricting bridge openings or other constricted sections of the stream or river; and

6. All service facilities, such as electrical and heating equipment, shall be at or above the flood protection elevation for the particular area.

(b) Campgrounds, provided all of the following criteria are met and approval is granted by the department:

1. The character of the river system and the elevation of all portions of the campground are such that 72 hours warning of an approaching flood can be given to all persons using that campground;

2. An adequate flood warning system is in existence which will provide for adequate advance notice to all persons in the campground and make evacuation mandatory. Such a system shall involve an annual renewable written agreement between the campground owner, the emergency government coordinator, the national weather service and the chief municipal law enforcement official which shall specify a flood elevation at which evacuation shall occur;

3. The campground complies with all applicable local and state laws and regulations, including those of the department of health services;

4. The campground shall have signs at all entrances warning of the flood hazard involved;

5. Only mobile recreational vehicles with self-contained holding tanks or easily removable tents or camper units are allowable. No other habitable structures or buildings are permitted; and

6. Litter collection facilities shall be placed at or floodproofed to the flood protection elevation or be removed during flooding.

(c) Uses permitted by the department pursuant to chs. 30 and 31, Stats., provided that the necessary permits are obtained from

the department and necessary amendments are adopted by the municipality to the official floodway lines, regional flood profiles, floodplain zoning maps and floodplain zoning ordinances.

(d) Public utilities, roads, streets and bridges provided that:

1. Adequate floodproofing measures are provided to the flood protection elevation; and

2. Except as provided in sub. (3), construction may not cause any obstruction to flood flows as reflected in the water surface profile based upon existing conditions.

(2m) PERMITTED USES, NO PERMIT REQUIRED. Camping in a camping unit in a floodway area outside of approved campgrounds under sub. (2) (b) is allowed without a permit if the camping unit consists of nothing more than an easily removable tent or if the following criteria are met:

(a) The camping unit is a mobile recreational vehicle;

(b) The camping unit is on a parcel of land that has less than 4 camping sites and the parcel is not advertised, represented or used as a camping area; and

(c) The camping unit may not occupy the site for a period of more than 180 consecutive days.

(3) FLOODWAY DEVELOPMENT REQUIRING AMENDMENTS. Any development in a floodway which will cause an obstruction to flood flows may be authorized by the municipality, but only if amendments are made to the official floodway lines, regional flood profile, floodplain zoning maps and floodplain zoning ordinances in accordance with the criteria established in s. NR 116.11. All such amendments shall meet the provisions of s. NR 116.21 (6).

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; correction made in (1) (f) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1995, No. 477; cr. (2m), Register, June, 1996, No. 486, eff. 7-1-96; correction in (1) (e) made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547; correction in (2) (b) 3. made under s. 13.93 (2m) (b) 6., Stats., Register April 2004 No. 580; correction in (2) (b) 3. made under s. 13.92 (4) (b) 6., Stats., Register March 2011 No. 663; correction in (1) (e) made under s. 13.92 (4) (b) 7., Stats., Register January 2012 No. 673.

NR 116.13 Development standards in floodfringe areas. (1) GENERAL. (a) Municipalities, using the appropriate procedure described in s. NR 116.21, may issue permits allowing uses in floodfringe areas which are compatible with the criteria in this section.

(b) All floodfringe developments shall be compatible with local land use plans. In the absence of formal plans, development shall be compatible with the uses permitted in adjoining districts.

(c) Floodfringe developments may be permitted only if such developments do not cause an obstruction to flood flows of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems or if amendments are made to the affected official floodway lines, water surface profiles, floodplain zoning maps and floodplain zoning ordinances in accordance with the provisions of ss. NR 116.11 and 116.21 (6).

(d) Floodfringe developments may be permitted only if such developments do not affect the conveyance capacity by causing an obstruction to flow or storage capacity of the floodplains, such that it causes any increase in the regional flood height or discharge.

(2) RESIDENTIAL USES. (a) Any structure or building used for human habitation (seasonal or permanent), which is to be erected, constructed, reconstructed, structurally altered or moved into the floodfringe area shall be placed on fill with the finished surface of the lowest floor, excluding basement or crawlway, at or above the flood protection elevation. If any such structure or building has a basement or crawlway, the surface of the floor of the basement or crawlway shall be at or above the regional flood elevation and shall be floodproofed to the flood protection elevation in accordance with s. NR 116.16. No variance may be granted to allow any floor below the regional flood elevation. An exception to the basement requirement may be granted by the department, but only in those communities granted such exception by the federal emergency management agency (FEMA) on or before March 1, 1986.

(b) For all uses under this subsection:

1. Fill shall be not less than one foot above the regional flood elevation;
2. Fill shall extend at such elevation at least 15 feet beyond the limits of any structure or building erected thereon; and
3. Dryland access shall be provided.

(c) If existing streets or sewer lines are at elevations which make compliance with par. (b) impractical, the department may approve the use of other floodproofing measures or methods in accordance with s. NR 116.16. The structure or building shall be floodproofed to the flood protection elevation.

(d) If existing streets or sewer lines are at elevations which make compliance with par. (b) 3. impractical, the municipality may permit new development and substantial improvements where access roads are at an elevation lower than the regional flood elevation, provided:

1. The municipality has an adequate natural disaster plan which has been concurred in by the division of emergency government and approved by the department; or
2. The municipality has written assurance from the appropriate units of police, fire and emergency services that rescue and relief can be provided by wheeled vehicles to the structures during regional flooding, taking into account the anticipated depth, duration and velocity of the regional flood event in the area, thereby protecting human life and health and minimizing property damage and economic loss.

(3) ACCESSORY USES. Accessory structures not connected to a principal structure, including nonresidential agricultural structures, shall meet the applicable provisions of s. NR 116.12 (2) (a) 1., 2., 5. and 6. and sub. (6). Any such accessory structure may be constructed at elevations lower than the flood protection elevation. However, no accessory structure may be inundated to a depth greater than 2 feet or subject to flood velocities greater than 2 feet per second upon the occurrence of the regional flood.

(3m) PERMITTED USES, NO PERMIT REQUIRED. Camping in a camping unit in a floodfringe area outside of an approved campground under s. NR 116.12 (2) (b) is allowed without a permit if the camping unit consists of nothing more than an easily movable tent or if the following criteria are met:

- (a) The camping unit is a mobile recreational vehicle;
- (b) The camping unit is on a parcel of land that has less than 4 camping sites and the parcel is not advertised, represented or used as a camping area; and
- (c) The camping unit may not occupy the site for a period of more than 180 consecutive days.

(4) COMMERCIAL USES. Any commercial structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodfringe area shall meet the requirements of sub. (2). Certain yards, parking lots and other accessory structures or uses may be at elevations lower than the flood protection elevation. However, no such area in general use by the public may be inundated to a depth greater than 2 feet or subjected to flood velocities greater than 2 feet per second upon the occurrence of the regional flood. Inundation to depths greater than 2 feet may be approved provided an adequate warning system exists to protect life and property.

(5) MANUFACTURING AND INDUSTRIAL USES. Any manufacturing or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodfringe district shall be protected to the flood protection elevation utilizing fill, adequate floodproofing measures or any combination thereof. On streams or rivers having protracted flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with these criteria and the criteria in sub. (4), may be permissible for storage yards, parking lots and other accessory structures or uses.

(6) STORAGE OF MATERIALS. Storage of any materials which are buoyant, flammable or explosive, or which in times of flooding could be injurious to property, water quality or human, animal, plant, fish or aquatic life, shall be either floodproofed to or placed at or above the flood protection elevation. Adequate measures shall be taken to assure that these materials will not enter the river or stream during flooding.

(7) PUBLIC UTILITIES, STREETS AND BRIDGES. (a) If failure or interruption of public facilities would result in danger to the public health or safety or if such facilities are essential to the orderly functioning of the area, adequate floodproofing measures shall be provided to the flood protection elevation; a lesser degree of protection may be provided for minor or auxiliary roads or utilities if these conditions do not exist.

(b) Public utilities, roads, streets and bridges within the floodfringe shall be designed to be compatible with the local floodplain development plans.

(8) PRIVATE SEWAGE SYSTEMS. All private sewage systems shall meet the applicable provisions of the local ordinances and ch. SPS 383.

(9) WELLS. All wells, whether public or private, shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of chs. NR 811 and 812.

(10) SOLID OR HAZARDOUS WASTE DISPOSAL FACILITIES. All solid or hazardous waste disposal facilities, whether public or private, are prohibited in floodfringe areas.

(11) DEPOSITION OF MATERIALS. Any deposition of materials for any purpose may be allowed only if the provisions of this section are met.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; correction in (9) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1995, No. 477; cr. (3m), Register, June, 1996, No. 486, eff. 7-1-96; correction in (8) made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547; correction in (8) made under s. 13.92 (4) (b) 7., Stats., Register January 2012 No. 673.

NR 116.14 Development standards in other floodplain areas. In cooperation with municipalities, and to insure sound floodplain management, the department may designate or approve the following floodplain districts, in addition to those established in ss. NR 116.12 and 116.13, providing the criteria in s. NR 116.11 are met:

(1) SHALLOW DEPTH FLOODING DISTRICT. The standards for permitting development in a floodfringe area under s. NR 116.13 shall be applicable to a shallow depth flooding area except that such development may not result in an obstruction to flood flows. If development does cause an obstruction to flood flows, the development may not be permitted unless the entire shallow depth flooding district is rezoned to floodfringe district according to the criteria established in s. NR 116.11 (2) (f).

(2) FLOOD STORAGE DISTRICT. (a) *General.* Municipalities using the appropriate procedure described in s. NR 116.20, may issue permits for development in flood storage areas which are compatible with the criteria for floodfringe areas, as described in s. NR 116.13, providing the provisions of par. (b) are met.

(b) *Flood storage modifications.* When any proposed development would remove flood storage volume, an equal volume of storage, as defined by the ground surface and the regional flood elevation, shall be provided to compensate for the volume of storage which is lost. Excavation below the groundwater table is not considered as providing an equal volume of storage.

(c) *Rezoning of flood storage district.* If compensatory storage cannot be provided, the area may not be developed unless the entire flood storage district is rezoned to floodfringe district utilizing the criteria established in s. NR 116.11 (2) (e).

(3) COASTAL FLOODPLAIN DISTRICT. The standards for permitting development in a floodfringe area under s. NR 116.13 shall be applicable in a coastal floodplain area, except that no development may be allowed which:

- (a) Will be adversely affected by wave runup along the shore of Lake Michigan or Lake Superior; or
- (b) Is associated with a high flood damage potential.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.15 Nonconforming uses and nonconforming buildings. (1) **GENERAL.** Insofar as the standards in this section are not inconsistent with the provisions of ss. 59.69 (10) and 62.23 (7) (h), Stats., they shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance. These standards apply to the modification of, or addition to, any building and to the use of any building or premises which was lawful before the passage of the ordinance. The existing lawful use of a building or its accessory use which is not in conformity with the provisions of a floodplain zoning ordinance may be continued subject to the following conditions:

(a) No extension of a nonconforming use, or modification or addition to any building with a nonconforming use or to any nonconforming building, may be permitted unless they are made in conformity with the provisions of this section. For the purposes of this section, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, rebuilding or replacement of any existing building, accessory building or accessory use, except as provided in pars. (am) and (as).

(am) For the purposes of this section, ordinary maintenance repairs are not considered an extension, modification or addition; ordinary maintenance repairs include internal and external painting, decorating, paneling, the replacement of doors, windows and other nonstructural components; and the maintenance, repair or replacement of existing private sewage systems, water supply systems or connections to public utilities;

(as) For the purposes of this section, 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 principal 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 building is discontinued for 12 consecutive months, it is no longer permitted and any future use of the building shall conform with the appropriate provisions contained in ss. NR 116.12, 116.13 and 116.14.

(c) No modification or addition to any nonconforming building or any building with a nonconforming use, which over the life of the building would exceed 50% of its present equalized assessed value, may be allowed unless the entire building is permanently changed to a conforming building with a conforming use in compliance with the applicable requirements of this chapter. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.

(d) If any nonconforming building or any building with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the provisions of ss. NR 116.12, 116.13 and 116.14 are met. For the purpose of this subsection, restoration is deemed impracticable where the total cost of such restoration would exceed 50% of the present equalized assessed value of the building.

(2) **FLOODWAY AREAS.** (a) No modifications or addition to any nonconforming building or any building with a nonconforming use in a floodway area may be allowed, unless such modification or addition has been granted by permit, special exception, conditional use or variance and meets all of the requirements of sub. (1) and the following criteria:

- 1. The modification or addition to a building may not increase the amount of obstruction to flood flows; and

2. Any addition to a building shall be floodproofed in accordance with the requirements of s. NR 116.16, by means other than the use of fill, to the flood protection elevation.

(b) No new private sewage system, or addition to an existing private sewage system, may be allowed in a floodway area. Any maintenance, repair or replacement of a private sewage system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. SPS 383.

(c) No new well, or modifications to an existing well, which is used to obtain water for ultimate human consumption may be allowed in a floodway area. Any maintenance, repair or replacement of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and 812.

(3) **FLOODFRINGE AREAS.** (a) Except as provided in par. (b) or (c), no modification or addition to any nonconforming building or any building with a nonconforming use in the floodfringe area may be allowed unless such modification or addition has been granted by permit, special exception, conditional use or variance and the modification or addition is placed on fill or is floodproofed in compliance with the applicable regulations contained in s. NR 116.13 (2).

(b) If compliance with the fill or floodproofing provisions of par. (a) would result in unnecessary hardship, and only if the building will not be used for human habitation and will not be associated with a high flood damage potential, the county board of adjustment or the city or village board of appeals, using the procedures established in s. NR 116.21 (4), may grant a variance for modifications or additions which are protected to elevations lower than the flood protection elevation if:

- 1. Human lives will not be endangered;
- 2. Water or private sewage systems will not be installed;
- 3. Flood depths will not exceed 2 feet;
- 4. Flood velocities will not exceed 2 feet per second; and
- 5. The building will not be used for storage of materials described in s. NR 116.13 (6).

(c) An addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in a floodfringe area on a one time basis only if:

- 1. The addition has been granted by permit, special exception, conditional use or variance;
- 2. The addition does not exceed 60 square feet in area; and
- 3. The addition, in combination with other modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.

(d) All new private sewage systems, or additions to, maintenance, repair or replacement of a private sewage system, in a floodfringe area shall meet the applicable requirements of all municipal ordinances and ch. SPS 383.

(e) All new wells, or additions to, replacement, repair or maintenance of a well, in a floodfringe area shall meet the applicable provisions of the floodplain zoning ordinance and chs. NR 811 and 812.

(4) **SHALLOW DEPTH FLOODING AREA.** No structural repairs, modifications or additions to an existing building, the cost of which exceeds, over the life of the existing building, 50% of its present equalized assessed value, may be allowed in a shallow depth flooding area unless the entire building is permanently changed to conform with the standards prescribed in s. NR 116.14 (1).

(5) **FLOOD STORAGE AREA.** No structural repairs, modifications or additions to an existing building, the cost of which exceeds, over the life of the existing building, 50% of its present equalized assessed value, may be allowed in a flood storage area unless the entire building is permanently changed to conform with the standards prescribed in s. NR 116.14 (2).

(6) COASTAL FLOODPLAIN AREA. No structural repairs, modifications or additions to an existing building, the cost of which exceeds, over the life of the existing building, 50% of its present equalized assessed value, may be allowed in a coastal floodplain area unless the entire building is permanently changed to conform with the standards prescribed in s. NR 116.14 (3).

(7) MUNICIPAL RESPONSIBILITIES. (a) Municipal floodplain zoning ordinances shall regulate nonconforming uses and nonconforming buildings in a manner consistent with this section and the applicable state statutes. These regulations shall apply to the modification or addition of any building or to the extension of the use of any building or premises which was lawful before the passage of the floodplain zoning ordinance or any amendment thereto.

(b) As permit applications are received for modifications or additions to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value and a list of the costs of those activities associated with changes to those buildings enumerated in sub. (2) (a) or (3) (a), (b) and (c).

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; correction in (2) (c) and (3) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1995, No. 477; correction in (1) (intro.) was made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547; CR 03-064: am. (1) (c) Register April 2004 No. 580, eff. 5-1-04; CR 03-091: am. (1) (a), cr. (1) (am) and (as), Register August 2004 No. 584, eff. 9-1-04; corrections in (2) (b), (3) (d) made under s. 13.92 (4) (b) 7., Stats., Register January 2012 No. 673.

NR 116.16 Floodproofing. (1) GENERAL STANDARDS. When floodproofing measures are required by either a municipal floodplain zoning ordinance or some other regulation which incorporates by reference the floodproofing requirements of this chapter, such measures shall be designed to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood, to assure that the structures are watertight and completely dry to the flood protection elevation without human intervention during flooding.

(2) CERTIFICATION. (a) Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:

1. Anchorage of structures, or addition of mass or weight to structures, to prevent flotation.
2. Reinforcement of walls and floors to resist rupture or collapse caused by water pressures or floating debris.
3. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters into such systems.
4. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors.
5. Cutoff valves on sewer lines or the elimination of gravity flow basement drains.
6. Placement of essential utilities above the flood protection elevation.

(b) Whenever floodproofing measures are required, a permit, special exception, conditional use or variance may not be issued until the certification required in par. (a) is submitted to the municipal zoning administrator.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.17 Levees, floodwalls and channel improvements. (1) GENERAL. The following standards shall apply to municipal floodplain zoning regulations for areas landward of levees, floodwalls and channel improvements.

(2) LEVEES OR FLOODWALLS. (a) A levee or floodwall shall be considered adequate if all of the following criteria and the requirements of par. (b) are met:

1. The minimum top elevation of the levee or floodwall shall be calculated using whichever of the following provides the greater protection from floods:

a. The profile of the regional flood with that regional flood confined riverward of the proposed levee or floodwall, plus 3 feet of freeboard; or

b. The standard project flood and/or the 500 year flood confined riverward of the proposed levee or floodwall.

c. Exceptions to the standards in subd. 1. a. and b. may be granted by the department on a case-by-case basis for levees and floodwalls not used to protect human life.

2. U.S. army corps of engineers standards for design and construction of levees and floodwalls shall be the minimum standard for levees and floodwalls.

3. Interior drainage shall be provided using designated ponding areas, pumps or other similar means, in accordance with U.S. army corps of engineers standards.

4. An emergency action plan, concurred in by the division of emergency government and approved by the department, shall be in effect for the area behind the levee or floodwall that would be in the floodplain without the proposed levee or floodwall in place.

5. The municipality shall provide notification to all persons receiving construction permits in the area behind the proposed levee or floodwall in place that they are in an area protected by a levee or floodwall which is subject to flooding if the levee or floodwall is overtopped.

6. The levee or floodwall shall be annually inspected and certified, by a professional engineer registered in Wisconsin, that the levee or floodwall meets the standards in subds. 1. to 5. Annual reports of the inspection and certification shall be sent to the department for review.

7. The department reviews and approves the material submitted under subds. 1. to 5.

(b) No obstruction to flood flows caused by construction of levees or floodwalls may be allowed unless amendments are made to the floodway lines, regional flood profiles, floodplain zoning maps and floodplain zoning ordinances in accordance with the provisions of ss. NR 116.11, 116.12 (3) and 116.21 (6). Calculations of the effect of the levee or floodwall on regional flood heights shall compare existing conditions with the condition of the regional flood confined riverward of the proposed levee or floodwall.

(c) Floodplain areas protected by the adequate levee or floodwall shall be designated as flood fringe but may be regulated as areas outside of the floodplain unless the department determines that the levee or floodwall is no longer adequate.

(3) INADEQUATE LEVEES OR FLOODWALLS. If the department determines that an existing levee or floodwall does not meet the criteria of sub. (2) (a), all floodplain areas landward of the inadequate levee or floodwall shall be regulated as if the levee or floodwall does not exist.

(4) CHANNEL IMPROVEMENTS. (a) Channel improvements shall be considered to reduce flooding potential provided the following criteria are met:

1. The channel improvements are designed and constructed in accordance with acceptable standards.

2. Velocities resulting from the channel improvements will not increase downstream erosion.

3. An engineer registered in Wisconsin certifies that the criteria in subds. 1. and 2. are met.

4. The municipality submits a plan detailing how the channel improvements will be maintained.

5. The department reviews and approves the material submitted under subds. 1. to 4.

6. The necessary permits under ch. 30, Stats., are obtained for construction of the channel improvements.

(b) Floodplain areas adjacent to channel improvements approved under par. (a) shall be zoned and regulated in accordance with the reduced regional flood profile provided the channel improvements are maintained in accordance with the plan submitted by the municipality under par. (a) 4.

(c) If the department determines that the channel improvements are not being maintained in accordance with the plan submitted by the municipality under par. (a) 4., the floodplain zoning map shall be amended to reflect existing channel conditions.

(5) NEW CONSTRUCTION OF LEVEES, FLOODWALLS OR CHANNEL IMPROVEMENTS. No anticipated changes in the flood protection elevations or floodplain and floodway limits, based upon proposed levees, floodwalls or channel improvements, may be effective until the improvements are constructed, operative and approved by the department.

(6) AGRICULTURAL LEVEES. (a) Municipalities may permit agricultural levees which meet all applicable provisions of this subsection. For purposes of this subsection, an agricultural levee is one constructed to protect agricultural lands from floods that occur on a 10-year frequency or more often.

(b) Agricultural levees shall be designed and constructed so that the levees will overtop upon the occurrence of the 10-year frequency flood.

(c) Increases in flood heights in the area upstream from agricultural levees may not exceed 0.5 foot (15 cm.) for the 10-year frequency flood. No increase is allowed unless the written consent of the affected property owners is obtained prior to construction.

(d) Agricultural levees shall be designed and constructed to be overtopped and to cause no increase in flood elevation during the occurrence of the regional flood.

(e) The municipality's zoning administrator shall notify the department of the construction of any agricultural levees.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.18 Procedures for changing floodplain, floodway, floodfringe, shallow depth flooding, flood storage and coastal floodplain district limits. Municipalities may not change the limits of the floodplain or the floodway, floodfringe, shallow depth flooding, flood storage or the coastal floodplain district without first amending the applicable portions of the water surface profiles, floodplain zoning maps and floodplain zoning ordinances in accordance with s. NR 116.11 and securing department approval for such amendments. No area in the floodplain may be removed from the floodplain unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside the floodplain.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.19 Appointment and duties of zoning administrator, zoning agency and board of adjustment or appeals. (1) APPOINTMENT POWERS. Municipalities shall provide in their floodplain zoning ordinances for the appointment of appropriate boards and staff, and the development of necessary policies and procedures, to administer the floodplain zoning ordinance in accordance with this section. If a zoning administrator, zoning agency or a board of adjustment or appeals has already been appointed to administer a zoning ordinance adopted under s. 59.69, 59.692 or 62.23 (7), Stats., these officials shall also administer the floodplain zoning ordinance.

(2) ZONING ADMINISTRATOR. A zoning administrator and such additional staff as needed shall be appointed and given the duties and powers to:

(a) Advise applicants of the provisions of the floodplain zoning ordinance and provide assistance in preparing permit applications and appeals;

(b) Issue permits and inspect properties for compliance with the floodplain zoning ordinance;

(c) Keep the official records of, and any changes to, all water surface profiles, floodplain zoning maps, floodplain zoning ordinances, nonconforming buildings and nonconforming uses and the official records of all permit applications, permits, appeals, variances and amendments related to the floodplain zoning ordinance;

(d) Submit copies of any required data, special exception permits, variances, amendments, case-by-case analyses, annual reports and any other required information to the department. An annual summary showing only the number and types of zoning actions taken by the municipality shall be submitted to the department by the zoning administrator; and

(e) Investigate, prepare reports and report violations of the floodplain zoning ordinance to the appropriate municipal committee and to the municipal attorney, corporation counsel or district attorney, with copies to the appropriate department district office.

(3) ZONING AGENCY. (a) A zoning agency shall be appointed and given the duties and powers to:

1. Oversee the functions of the office of the zoning administrator;

2. Review and act upon all proposed amendments to the floodplain zoning ordinance; and

3. Maintain a complete public record of all its proceedings.

(b) In some cases, a zoning agency may act in place of the board of adjustment or appeals, if so designated by the municipality, to hear and decide special exception or conditional use permits. However, a zoning agency cannot act upon requests for a variance.

(4) BOARD OF ADJUSTMENT OR APPEALS. A board of adjustment, in counties or board of appeals, in cities and villages shall be appointed and given the duties and powers in accordance with ss. 59.694 and 62.23 (7), Stats., to:

(a) Hear and decide appeals where there is an alleged error in any interpretation, order, requirement, decision, or determination made by the zoning administrator in the enforcement or administration of the floodplain zoning ordinance;

(b) Hear and decide all requested special exceptions or conditional uses to the terms of the floodplain zoning ordinance, using the criteria found in s. NR 116.21 (3);

(c) Hear and decide all requested variances to the terms of the floodplain zoning ordinance;

(d) Maintain a complete public record of all its proceedings; and

(e) Make all of its decisions within a reasonable time and in the form of a written statement, resolution or order signed by the secretary. The zoning administrator may not be the secretary of the board of adjustment or appeals.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; corrections in (1) and (4) (intro.) were made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547.

NR 116.20 Municipal responsibilities. (1) JURISDICTION. (a) The floodplain zoning ordinance shall require authorization through permits, special exceptions, variances and amendments, from the appropriate municipality for any of the following activities in floodplain areas:

1. Any new use or change in use of land or water.

2. Any new use or change in use of a structure or building.

(b) The activities in par. (a) include, but are not limited to, the following:

1. Any structure, building or accessory structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodplain area;

2. Any alteration, addition, modification, rebuilding or replacement of any existing structure, building or accessory structure or building;

3. Any deposition of materials for any purpose; and

4. Any sewage disposal system or water supply facilities, both public and private.

(2) ADMINISTRATIVE PROCEDURES. The floodplain zoning ordinance shall establish administrative procedures for obtaining all required permits, special exceptions, conditional uses, variances, appeals and amendments. These procedures shall provide for the following:

(a) An application shall be made to the zoning administrator for all zoning permits, special exceptions, conditional uses, variances and amendments. The application shall include, but not be limited to, the following information:

1. The name and address of the applicant and property owner;

2. The legal description of the property and the type of proposed use;

3. A map plan which accurately locates or describes the proposal with respect to the floodway and floodplain, and which provides all pertinent information such as the fill dimensions and elevations, building floor elevations, and floodproofing data; and

4. For all subdivision proposals, as defined in s. 236.02 (8), Stats., and for other land divisions or proposed developments which have a total area that exceeds 5 acres or which have an estimated cost that exceeds \$125,000, the applicant shall provide all of the computations which are required to show the effect of the proposal on flood heights, velocities and floodplain storage. The municipality may transmit this data to the department for review. For the purpose of this paragraph, the cost of the proposal shall be estimated to include all structural development and landscaping improvements such as access and road development, electrical and plumbing services development, and other similar items, which can be reasonably applied to the overall development costs, but may not include the cost of the land.

(b) For land divisions and proposed developments which do not exceed 5 acres in area and which have an estimated cost of \$125,000 or less, if the regional flood profile has not been determined and the conditions in par. (a) 4. are not present, the municipality may transmit the information required in par. (a) 1. to 3. to the department for a determination of flood protection elevations and for an evaluation of the effects of the proposal upon flood heights, velocities and floodplain storage. Additional information, such as valley cross sections or survey data, may be required by the department when needed to determine the effects of the proposal; this information shall then be obtained from the applicant by the municipality. The department shall advise the municipality of its findings within 30 days after receiving the data, or within 30 days after receiving all requested additional information. Failure of the department to respond within 30 days shall be construed to mean it has no comment.

(c) Public hearings shall be held by municipalities on all special exceptions, conditional uses, variances, appeals and amendments. Proper notice shall be given of such public hearings in accordance with appropriate statutes; mailed notice of such public hearings and a copy of the application shall be given to the appropriate department district office. Such notice shall specify the time and place of the hearing and give sufficient details concerning the subject matter of the public hearing.

(d) A copy of all decisions granting or denying a special exception, conditional use, variance or amendment to the floodplain zoning ordinance shall be mailed within 10 days to the appropriate department district office.

(3) CERTIFICATE OF COMPLIANCE. No vacant land in the floodplain, and no building hereafter erected, altered or moved into the floodplain, may be occupied or used until the applicant obtains a certificate of compliance from the municipality. Municipalities

shall require that the certificate be issued only after the applicant has submitted, prior to occupancy, to the municipal zoning administrator or building inspector a certification by a registered professional engineer or architect that the floodproofing requirements in the floodplain zoning ordinance have been met and a certification by a registered professional engineer, architect or registered land surveyor that the following are in compliance with the floodplain zoning ordinance:

(a) The elevation of fill; and

(b) The elevation of the lowest floor including basement floor.

(4) ENFORCEMENT AND PENALTIES. Each floodplain zoning ordinance shall include a separate section establishing appropriate penalties for violations of various provisions of the ordinance. An appropriate penalty, as reflected in s. 87.30 (2), Stats., may include an injunction for abatement or removal, and a fine or forfeiture. Any violation of the provisions of the floodplain zoning ordinance shall be investigated and reported to the appropriate municipal attorney, corporation counsel or district attorney for the prosecution of the violator.

(5) PUBLIC INFORMATION. (a) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.

(b) All available information in the form of maps, engineering data and regulations shall be readily available and should be widely distributed.

(c) All legal descriptions of property in the floodplain should include information relative to the floodplain zoning classification when such property is transferred.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

NR 116.21 Permits, special exceptions, conditional uses, variances, appeals and amendments. (1) GENERAL. The floodplain zoning ordinance shall list the specific types of uses which may be authorized by permit, special exception or conditional use, indicating the particular authorization required for each type of use. These authorizations may not be contrary to the provisions of this chapter or other state law, or to applicable municipal ordinances.

(2) PERMITS. Municipalities shall issue permits for uses in floodplain areas which are in compliance with the applicable provisions for permitted uses in their floodplain zoning ordinances. These permits shall be issued by the zoning administrator.

(3) SPECIAL EXCEPTIONS OR CONDITIONAL USES. Any use requiring a special exception or conditional use permit may be allowed only upon application to the zoning administrator, public hearing and issuance of a special exception or conditional use permit by the board of adjustment or appeals or, where appropriate, the zoning agency. When determining whether to grant or deny a special exception or conditional use permit, the board of adjustment or appeals shall assure compliance of the proposal with:

(a) The provisions of the floodplain zoning ordinance;

(b) The purpose and objective of floodplain management, as enumerated in s. NR 116.01; and

(c) Local land use plans and other land use controls.

(4) VARIANCES. Any prohibited deviation from the dimensional standards of the floodplain zoning ordinance, for which a permit has been denied by the zoning administrator, may be allowed only upon written request for a variance submitted to the zoning administrator, public hearing and issuance of a variance by the board of adjustment or appeals. The board of adjustment or appeals may, after a written request for a variance has been submitted and a public hearing has been held, authorize in specific cases such a variance from the dimensional standards of the ordinance which will not be contrary to the public interest if, owing to special conditions and the adoption of the floodplain zoning

ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship. A variance:

(a) Shall be consistent with the spirit of the floodplain zoning ordinance.

(b) May not permit a lower degree of flood protection in the floodplain area than the flood protection elevation.

(c) May not be granted for a use that is common to a group of adjacent lots or premises. In such a case, the zoning ordinance would have to be amended through proper amendment procedures.

(d) May not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the rights of other persons or property values in the area.

(e) May not be granted for actions which require an amendment to the floodplain zoning ordinance as described in sub. (6).

(f) May not have the effect of granting, increasing or extending a use of property which is prohibited in that zoning district by the floodplain zoning ordinance.

(g) May not be granted solely on the basis of economic gain or loss.

(h) May not be granted for a self-created hardship.

(5) APPEALS. Appeals to the board of adjustment or appeals or zoning agency may be taken by any party aggrieved by any decision of the zoning administrator. Requests for special exception or conditional use permits may be considered as appeals. Such appeals shall specify the grounds thereof and be filed within a reasonable period of time with the zoning administrator. The floodplain zoning ordinance shall set forth the time limitations for filing appeals. The zoning administrator shall forthwith transmit to the board of adjustment or appeals or zoning agency all records of the matter concerning the appeal. After public hearing, the board's or agency's decision shall either affirm, reverse, vary or modify in whole or in part the order, requirement, decision or determination appealed from. All appeal decisions shall conform to the applicable provisions of the floodplain zoning ordinance. The board's or agency's decision may be appealed to the courts in accordance with applicable state law.

(6) AMENDMENTS. (a) Official amendments are required for any changes in the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinance. Actions which require an amendment by the municipality include, but are not limited to, the following:

1. Any change in the official floodway lines or in the boundary of the floodplain area;

2. Settlement of conflicts between the water surface profiles and floodplain zoning maps, in accordance with s. [NR 116.10](#);

3. Any fill, encroachment or development into the floodway which will result in obstructing flood flows; and

4. Any upgrading of floodplain zoning ordinances in accordance with s. [NR 116.05](#).

(b) Amendments may be made upon petition of any interested party in accordance with the appropriate provisions of ss. [59.69 \(3\)](#) and [\(4\)](#) and [62.23 \(7\) \(d\)](#), Stats.

(c) All proposed amendments shall be referred to the appropriate municipal zoning agency for a public hearing and recommendation to the governing body which shall approve or disapprove the proposed amendment.

(d) Amendments of official floodway lines shall meet the provisions of s. [NR 116.11](#).

(e) No amendments to official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinances may become effective until they have been approved by the department.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; corrections in (6) (b) were made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547; reprinted to restore dropped copy in (4), Register October 2002 No. 562.

NR 116.22 Department duties. (1) ASSISTANCE TO MUNICIPALITIES. The department shall provide assistance to municipalities in the development, adoption and administration of their official floodway lines, water surface profiles, floodplain zoning maps and floodplain zoning ordinances. Such assistance shall include, but not be limited to, the activities described in this subsection.

(a) The department shall establish and upgrade standards for local floodplain zoning ordinances.

(b) When requested by a municipality, the department shall evaluate flood hazards and the effects of proposals in floodplain areas upon water surface profiles, floodway limits and flood velocities as provided in s. [NR 116.20 \(2\) \(b\)](#). Requests for such evaluations shall come from a municipality, not from individual property owners or applicants. Information needed to conduct the evaluation shall be provided by the applicant or the municipality.

(c) The department shall work with federal agencies to provide technical guidance and computer facilities for certain hydrologic, hydraulic and engineering studies. Generally, the necessary topographic and other base maps and field surveys will be the responsibility of the municipality.

(d) The department shall establish priorities for engineering studies to be done in municipalities by federal agencies.

(e) The department shall respond to the requests from municipalities to provide them assistance in enforcement actions against violations of their floodplain zoning ordinances.

(f) The department shall respond to requests from municipalities for assistance in developing hydraulic and official floodway lines.

(g) The department shall review all studies. No studies may be used until department approval has been secured.

(2) REVIEW AND APPROVAL OF FLOODPLAIN ZONING ORDINANCES. The department shall issue a certificate of approval to a municipality upon a finding that the adopted floodplain zoning ordinance meets the provisions of this chapter. The department review of floodplain zoning ordinances may include, but is not limited to, determinations that:

(a) The most accurate maps were utilized in delineating the floodplains;

(b) All floodplain zoning maps and floodplain zoning ordinances are compatible with all other shoreland regulations, existing zoning and land use plans;

(c) All water surface profiles, floodplain zoning maps and floodplain zoning ordinances are compatible with those of the adjoining municipalities on the same streams or rivers; and

(d) The floodway and floodplain lines shown on the floodplain zoning maps are accurate.

(3) MONITORING. The department shall monitor the administration and enforcement of floodplain zoning ordinances in municipalities. In so doing, the department may:

(a) Establish and upgrade standards for the review and evaluation of the administration and enforcement of floodplain zoning ordinances.

(b) Review and approve or deny proposed amendments to water surface profiles, floodplain zoning maps and floodplain zoning ordinances.

(c) Review floodplain zoning permits and all special exceptions, conditional uses, variances and amendments to floodplain zoning ordinances, to ensure in each instance compliance with the applicable floodplain zoning ordinances and this chapter.

(d) Review state and federal projects to assure that public works proposals in floodplains are compatible with local floodplain zoning ordinances and the provisions of this chapter.

(4) ENFORCEMENT. The department shall assist municipalities in achieving a consistent statewide approach to floodplain

enforcement. This assistance may include, but is not limited to, the measures listed in this subsection.

(a) The department may request that corrective action be taken by the municipality where construction is occurring in a floodplain area which is either contrary to an existing floodplain zoning ordinance or which would be contrary to an approved floodplain zoning ordinance. Such corrective action may include, where appropriate, the following:

1. Active prosecution of violations of the floodplain zoning ordinance;
2. An injunction to stop construction until an adequate floodplain zoning ordinance can be adopted and approved by the department; and
3. Adoption of an adequate floodplain zoning ordinance and submittal to the appropriate department district office for

approval.

(b) The department may seek an injunction to stop construction in the floodplain area until an adequate floodplain zoning ordinance is adopted and approved.

(c) The department may seek an injunction to stop construction in the floodplain area when the construction would violate an approved floodplain zoning ordinance or the provisions of this chapter.

(d) The department may seek adoption of an adequate floodplain zoning ordinance in accordance with the provisions of s. [87.30 \(1\)](#), Stats., or an upgrading of a floodplain zoning ordinance in accordance with s. [NR 116.05](#).

(e) The department may seek an injunction for abatement or removal or a fine or both for any violation of a floodplain zoning ordinance in accordance with s. [87.30 \(2\)](#), Stats.

History: Cr. [Register, February, 1986, No. 362](#), eff. 3-1-86.

Chapters NR 115, NR 116 and NR 117 of the Wisconsin Administrative Code are adopted by reference. The content of the pages herein is from the State of Wisconsin Legislative website (legis.wisconsin.gov/rsb/code.htm) with effective dates at the bottom of each page. Please refer to the State website for the most current content of these chapters.

Chapter NR 117

WISCONSIN'S CITY AND VILLAGE SHORELAND-WETLAND PROTECTION PROGRAM

NR 117.01 Purpose.
NR 117.02 Applicability.
NR 117.03 Definitions.

NR 117.05 Shoreland-wetland protection standards.
NR 117.06 Department duties.

NR 117.01 Purpose. The purpose of this chapter is to establish minimum standards for city and village shoreland-wetland zoning ordinances to accomplish the shoreland protection objectives of s. 281.31, Stats. Cities and villages are required by ss. 62.231 and 61.351, Stats., to adopt shoreland-wetland zoning ordinances within 6 months after receipt of final wetland inventory maps, which have been prepared by the department under s. 23.32, Stats.

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83; correction made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526.

NR 117.02 Applicability. (1) The provisions of this chapter are applicable to the adoption, administration and enforcement of city and village shoreland-wetland zoning ordinances adopted under ss. 62.231 and 61.351, Stats. Unless specifically exempted by law, all cities and villages, towns, counties and, when s. 13.48 (13), Stats., applies, state agencies are required to comply with, and obtain all necessary permits, under local shoreland-wetland zoning ordinances.

(2) If a city or village ordinance adopted under s. 62.23, 61.35 or 87.30, Stats., affecting wetlands in a shoreland area is more restrictive than an ordinance enacted under s. 62.231 or 61.351, Stats., affecting the same lands, it continues to be effective in all respects to the extent of the greater restrictions, but not otherwise.

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83.

NR 117.03 Definitions. For the purpose of this chapter:

(1) "City planning agency" means a city plan commission created under s. 62.23 (1), Stats., a board of public land commissioners created under s. 27.11, Stats., or a committee of the city council which acts on matters pertaining to city planning.

(2) "Department" means the department of natural resources.

(3) "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, 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.

(4) "Farm drainage ditch" means any artificial channel which drains water from lands which are currently used for agricultural purposes.

(5) "Floodplain" means the land which has been or may be covered by flood water during the "regional flood," as that term is defined in s. NR 116.03. The floodplain includes the floodway and the flood fringe.

(6) "High-water mark" means the mark left by water at its highest level.

(7) "Navigable water" or "navigable waters," as defined in s. 281.31 (2) (d), Stats., means Lake Superior, Lake Michigan, all natural inland lakes within this 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. Notwithstanding any other provision of law or administrative rule, a shoreland zon-

ing ordinance required under s. 59.692, Stats., and this chapter or a wetland zoning ordinance required under s. 61.351 or 62.231, Stats., and this chapter does not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of the drainage ditches adjacent to these lands were nonnavigable streams before ditching; and

(c) Such lands are maintained in nonstructural agricultural use.

Note: In *Muench v. Public Service Commission*, 261 Wis. 492 (1952), the Wisconsin Supreme Court held that a stream is navigable in fact if it is capable of floating any boat, skiff or canoe of the shallowest draft used for recreational purposes. In *DeGayner and Co., Inc. v. Department of Natural Resources*, 70 Wis.2d 936 (1975), the court also held that a stream need not be navigable in its normal or natural condition to be navigable in fact. The DeGayner opinion indicates that it is proper to consider artificial conditions, such as beaver dams, where such conditions have existed long enough to make a stream useful as a highway for recreation or commerce, and to consider ordinarily recurring seasonal fluctuations, such as spring floods, in determining the navigability of a stream.

(8) "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 as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

Note: Where the bank or shore of any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

(9) "Shorelands", as defined in s. 59.692 (1) (b), Stats., means the area within the following distances from the ordinary high-water mark of navigable waters, as defined in s. 281.31 (2) (d), Stats.:

(a) One thousand feet from a lake, pond or flowage. If the navigable water is a glacial pothole lake, this distance shall be measured from the high-water mark of the lake.

Note: The water level in a glacial pothole lake may remain above the "ordinary high-water mark" several years after flooding, resulting in a "high-water mark" which is above the "ordinary high-water mark." However, there would be no practical difference between the "high-water mark" of a glacial pothole lake and the "ordinary high-water mark" of a glacial pothole lake where the effects of such flooding are no longer evident.

(b) Three hundred feet from a river or a stream or to the landward side of the floodplain, whichever distance is greater.

(10) "Special exception (conditional use)" means a use which is permitted by a zoning ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the board of appeals or, where appropriate, the city or village planning agency or governing body.

(11) "Village planning agency" means a village planning commission created under ss. 61.35 and 62.23 (1), Stats., or a committee of the village board which acts on matters pertaining to village planning.

(12) "Wetland", as defined in s. 23.32 (1), Stats., means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83; correction in (9) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1995, No. 477; corrections in (7) and (9) made under s. 13.93 (2m) (b) 1. and 7., Stats., Register, October, 1999, No. 526.

NR 117.05 Shoreland-wetland protection standards. (1) ESTABLISHMENT OF SHORELAND-WETLAND ZONING REGULATIONS. (a) *City and village review of preliminary wetland inventory maps.* Before the department prepares final Wisconsin wetlands inventory maps:

1. The department shall transmit to the appropriate city or village officials copies of preliminary wetland inventory maps for that city or village.

2. The city or village shall have 90 days to review the preliminary maps unless the review period is extended by written approval of the department, but in no case shall the review period extend for more than 180 days.

3. The city or village may hold a public hearing to solicit public comments on the preliminary maps. Notice of the time and place of the hearing shall be published as a class I notice under ch. 985, Stats.

4. On or before the last day of the review period, the city or village shall return the preliminary maps to the department. If city or village officials believe that the preliminary maps are inaccurate, discrepancies shall be noted on the maps with an accompanying narrative explaining the problem areas.

5. The department shall schedule a meeting with city or village officials within 30 days of the return of the preliminary maps if the city or village has indicated that it believes that there are inaccuracies on the preliminary maps.

6. After meeting with city or village officials to discuss apparent map inaccuracies, the department shall, at department expense, consult available soil survey maps and conduct on-site inspections, if appropriate, in order to evaluate the city or village recommendations, and shall then prepare, adopt and deliver to the city or village the final wetland inventory maps for that city or village.

7. The adoption of a final wetland inventory map is a final decision of the department and may be reviewed as provided in ch. 227, Stats.

(b) *City and village adoption of shoreland-wetland zoning regulations.* 1. Except as provided in subd. 2. or 3., each city and village shall adopt an ordinance or an amendment to an existing ordinance or zoning code which creates a shoreland-wetland zoning district for all wetlands of 5 acres or more, and all portions of wetlands of 5 acres or more, which are shown on the final wetland inventory maps and which are located in shorelands within the incorporated area of the city or village. Such ordinance or amendment shall be adopted within 6 months after receipt of the final wetland inventory maps prepared by the department which cover that city or village. Cities and villages have the option of zoning any wetlands within their incorporated area, including wetlands which are less than 5 acres in size, except those wetlands described in subd. 2.

2. Subdivision 1. is not applicable to:

a. Any wetlands which are filled, prior to the date on which the city or village receives applicable final wetland inventory maps, in a manner that affects their wetland characteristics to the extent that the area would no longer meet the definition of wetland in s. NR 117.03; or

b. Any wetlands between the ordinary high-water mark and a bulkhead line established prior to May 7, 1982, under s. 30.11, Stats., that are located on the landward side of the bulkhead line.

3. Subdivision 1. is not applicable to any wetlands which the city or village rezones at the time that shoreland-wetland zoning regulations are initially adopted, if the city or village and the department have determined that such rezoning will have no significant adverse impact upon the wetland functions listed in sub. (4) (d). The provisions of sub. (4) (d) to (h) are applicable to such rezoning. In order to rezone certain mapped wetlands at the time that shoreland-wetland zoning regulations are initially adopted, the city or village shall publish a separate class II notice and hold

a separate public hearing on the proposed rezoning in conjunction with the public hearing on the adoption of the shoreland-wetland zoning ordinance, or amendment to an existing ordinance or zoning code, which is required by subd. 1.

4. A public hearing shall be held on the ordinance or amendment to an existing ordinance or zoning code, which creates a shoreland-wetland zoning district, as required by s. 62.23 (7) (d) 2., Stats. The appropriate district office of the department shall be provided with a copy of the proposed shoreland-wetland ordinance or amendment, and with written notice of the public hearing, at least 10 days prior to such hearing.

(2) PERMITTED USES IN SHORELAND-WETLAND ZONING DISTRICTS. Within shoreland-wetland zoning districts, cities and villages may permit, prohibit, or authorize as a special exception (conditional use) the following uses subject to the provisions of chs. 30 and 31, Stats., and other local ordinances and state and federal laws, if applicable:

(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 and that does not involve filling, flooding, draining, dredging, ditching, tiling or excavating.

(c) The practice of silviculture, including the planting, thinning and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling or excavating is done except as required for:

1. Temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on the conduct of silvicultural activities if not corrected; or

2. The construction and maintenance of roads necessary to conduct silvicultural activities, as permitted under par. (k).

Note: Local units of government, in the development and application of ordinances which apply to shoreland areas, must consider other programs of statewide interest and other state regulations affecting the lands to be regulated, e.g., regulations and management practices applicable to state and county forests and lands entered under the forest cropland and woodland tax law programs.

(d) The pasturing of livestock and the construction and maintenance of fences, provided that no filling, flooding, draining, dredging, ditching, tiling or excavating is done, except limited filling and excavating necessary for the construction and maintenance of fences.

(e) The cultivation of agricultural crops if cultivation can be accomplished without filling, flooding, or artificial drainage of the wetland through ditching, tiling, dredging or excavating except for:

1. Flooding, dike and dam construction, and ditching for the purpose of growing and harvesting cranberries;

2. The maintenance and repair of existing farm drainage ditches, where permissible under s. 30.20, Stats., or of other existing agricultural drainage systems (such as tiling) to restore the functional drainage of existing agricultural lands, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under ch. 30, Stats., and that dredged spoil is placed on existing spoil banks where possible; or

3. The construction and maintenance of roads necessary for agricultural cultivation, as permitted under par. (k).

(f) The construction and maintenance of duck blinds provided that no filling, flooding, draining, dredging, ditching, tiling or excavating is done.

(g) The construction and maintenance of nonresidential buildings provided that:

1. The building is used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals, or used solely for some other purpose which is compatible with wetland preservation;

2. The building cannot as a practical matter be located outside the wetland;

3. The building does not exceed 500 square feet in size; and

4. No filling, flooding, draining, dredging, ditching, tiling or excavating is done, except limited filling and excavating necessary to provide structural support for the building.

(h) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges, provided that no filling, flooding, dredging, draining, ditching, tiling or excavating is done, except limited filling and excavating necessary for the installation of pilings.

(i) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game farms and wildlife preserves, and public boat launching ramps, provided that:

1. No filling or excavating is done except for limited filling and excavating necessary for the development of boat launching ramps, swimming beaches or the construction of park shelters or similar structures.

2. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose.

3. The construction and maintenance of roads necessary for the uses permitted under this paragraph may be permitted if the requirements of par. (k) are met.

4. Ditching, excavating, dredging, dike and dam construction may be allowed in game refuges and closed areas, fish and wildlife habitat improvement projects, game farms, and wildlife areas provided that they are done for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

(j) The construction and maintenance of electric and telephone transmission lines and water, gas and sewer distribution lines, and related facilities, provided that:

1. Such lines cannot as a practical matter be located outside the wetland; and

2. Any filling, excavating, ditching or draining necessary for such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed under sub. (4) (d).

Note: Major electrical generating facilities and high-voltage transmission lines that have obtained a certificate of public convenience and necessity under s. 196.491, Stats., are not subject to the requirements of local ordinances.

(k) The construction and maintenance of roads which are necessary for the continuity of the city street system, necessary for the provision of essential utility and emergency services, or necessary to provide access to uses permitted under this subsection, provided that:

1. The road cannot, as a practical matter, be located outside of the wetland;

2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed under sub. (4) (d);

3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

4. Road construction activities are carried out in the immediate area of the roadbed only; and

5. Any filling, flooding, draining, dredging, ditching, tiling or excavating that is done must be necessary for the construction or maintenance of the road.

(L) The construction and maintenance of railroad lines provided that:

1. Such lines cannot as a practical matter be located outside the wetland; and

2. Any filling, excavating, ditching or draining necessary for such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed under sub. (4) (d).

(m) 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 under sub. (4) (d).

(n) The maintenance, repair, replacement, and reconstruction of existing county, city and village highways and bridges.

Note: Activities affecting waters of the state as defined in s. 281.01 (18), Stats., which are carried out under the direction and supervision of the department of transportation in connection with highway and bridge design, location, construction, reconstruction, maintenance and repair are not subject to the prohibitions or approval requirements specified under s. 29.601, 30.11, 30.123, 30.195, 30.20, 59.692, 61.351, 62.231, 87.30 or chs. 281 to 285 or 289 to 299, Stats., except s. 281.48, Stats., if they are carried out in accordance with interdepartmental liaison procedures established by the department of natural resources and the department of transportation for the purpose of minimizing the adverse environmental impact, if any, of the activity. However, at the earliest practical time prior to the commencement of these activities, the department of transportation is required to notify the department of natural resources of the location, nature and extent of the proposed work that may affect the waters of the state, under s. 30.2022, Stats.

(o) The maintenance and repair of existing non-agricultural drainage ditches, where permissible under s. 30.20, Stats., or of other existing non-agricultural drainage systems (such as tiling) to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under ch. 30, Stats., and that dredged spoil is placed on existing spoil banks where possible.

(3) PROHIBITED USES IN SHORELAND-WETLAND ZONING DISTRICTS. Any use not listed in sub. (2) is prohibited in a shoreland-wetland zoning district unless the wetland, or a portion thereof, is rezoned by amendment of the city or village shoreland-wetland zoning ordinance in accordance with s. 62.23 (7) (d) 2., Stats., and the procedures outlined in sub. (4).

(4) AMENDING SHORELAND-WETLAND ZONING REGULATIONS. (a) Official amendments to the existing ordinance or zoning code are required for all changes to shoreland-wetland zoning regulations. Such amendments shall be made in accordance with the provisions of s. 62.23 (7) (d) 2., Stats.

(b) A copy of each proposed text or map amendment to shoreland-wetland zoning regulations shall be submitted to the appropriate district office of the department within 5 days of the submission of the proposed amendment to the city or village planning agency.

(c) All proposed text and map amendments to shoreland-wetland zoning regulations shall be referred to the city or village planning agency, and a public hearing shall be held as required by s. 62.23 (7) (d) 2., Stats. The appropriate district office of the department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.

(d) In order to ensure that the shoreland protection objectives in s. 281.31, Stats., will be accomplished by the city or village shoreland-wetland zoning ordinance or amendment, a city or village may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, if the proposed rezoning may result in a significant adverse impact upon any of the following:

1. Storm and floodwater storage capacity;

2. 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;

3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

4. Shoreline protection against soil erosion;

5. Fish spawning, breeding, nursery or feeding grounds;

6. Wildlife habitat; or

7. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

(e) If the department determines that the proposed rezoning may have a significant adverse impact upon any of the criteria

listed in par. (d), the department shall notify city or village officials of its determination either prior to or during the public hearing held on the proposed amendment.

(f) The appropriate district office of the department shall be provided with:

1. A copy of the recommendations and report, if any, of the city or village planning agency on the proposed text or map amendment within 10 days after the submission of those recommendations to the city council or village board; and

2. Written notice of the city council's or village board's action on the proposed text or map amendment within 10 days after the action is taken.

(g) If the city council or village board approves the proposed amendment and the department determines, after review as required by s. NR 117.06 (2) (b), that the city or village shoreland-wetland zoning ordinance if so amended will no longer comply with requirements of s. 62.231 or 61.351, Stats., and this chapter, the department shall, after notice and hearing, adopt a complying ordinance for the city or village under s. 62.231 (6) or 61.351 (6), Stats.

(h) If the department has notified the city or village planning agency that a proposed amendment may have a significant adverse impact upon any of the criteria listed in par. (d), that proposed amendment, if approved by the city council or village board, may not become effective until more than 30 days have elapsed since written notice of the city council or village board approval was mailed to the department, as required by par. (f). If within the 30 day period, the department notifies the city council or village board that the department intends to adopt a superseding shoreland-wetland zoning ordinance for the city or village under s. 62.231 (6) or 61.351 (6), Stats., the proposed amendment may not become effective until the ordinance adoption procedure under s. 62.231 (6) or 61.351 (6), Stats., is completed or otherwise terminated.

(5) NONCONFORMING STRUCTURES AND USES. (a) Notwithstanding s. 62.23 (7) (h), Stats., an ordinance or amendment adopted under s. 61.351, Stats., may not prohibit the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure, or environmental control facility related to a legal nonconforming structure, in existence on the effective date of the shoreland-wetland zoning ordinance or amendment.

(b) Notwithstanding s. 62.23 (7) (h), Stats., an ordinance or amendment adopted under s. 62.231, Stats., may not prohibit the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure in existence on the effective date of the shoreland-wetland zoning ordinance or amendment, or of any environmental control facility in existence on May 7, 1982 related to that structure. Section 62.23 (7) (h), Stats., shall apply to any environmental control facility that was not in existence on May 7, 1982, but which was in existence on the effective date of the shoreland-wetland zoning ordinance or amendment.

(c) Every shoreland-wetland ordinance or amendment adopted under s. 62.231 or 61.351, Stats., and this chapter shall provide that:

1. If a nonconforming use or the use of a nonconforming structure is discontinued for a period of 12 months, any future use of the property or structure shall conform to the requirements of the ordinance or amendment; and

2. Any legal nonconforming use of property which does not involve the use of a structure and which exists at the time of the adoption or amendment of an ordinance adopted under s. 62.231 or 61.351, Stats., and this chapter may be continued although such use does not conform with the provisions of the ordinance. However, such nonconforming use may not be extended.

(d) The maintenance and repair of nonconforming boathouses which extend beyond the ordinary high-water mark of any navigable waters shall be required to comply with s. 30.121, Stats.

(6) ADOPTION OF ADMINISTRATIVE AND ENFORCEMENT PROVISIONS. Every shoreland-wetland zoning ordinance or zoning code containing shoreland-wetland zoning regulations adopted under s. 62.231 or 61.351, Stats., shall provide for:

(a) The appointment of a new administrator, or the designation of an existing official, and such additional staff as the workload may require, to administer the shoreland-wetland zoning regulations.

(b) The creation of a board of appeals under s. 62.23 (7) (e), Stats.

(c) A system for the issuance of land use or building permits for all new construction, reconstruction, structural alteration or moving of buildings and structures, and for other types of development, including the construction and reconstruction of roads. A copy of all applications shall be required to be filed in the office of the zoning administrator.

(d) Regular inspection of permitted work in progress to insure conformity of the finished building, structure or other development with the terms of the ordinance or zoning code.

(e) Maintenance of a record of all proceedings before the board of appeals and the city or village planning agency, including, at a minimum, minutes of the proceedings, copies of all exhibits and records of all official actions.

(f) Written notice to the appropriate district office of the department at least 10 days prior to hearings on proposed special exception (conditional use) permits which are required by the city or village under sub. (2) in a shoreland-wetland zoning district, appeals for map or text interpretations of shoreland-wetland zoning provisions, and map or text amendments to the shoreland-wetland zoning regulations.

(g) Submission to the appropriate district office of the department of copies of decisions on special exception (conditional use) permits in a shoreland-wetland district, appeals for map or text interpretations of shoreland-wetland zoning provisions, and map or text amendments to the shoreland-wetland zoning regulations within 10 days after the decision is made.

(h) Mapped zoning district boundaries and the recording, on an official copy of such map, of all district boundary amendments.

(i) The establishment of appropriate penalties for violations of various provisions of the shoreland-wetland zoning ordinance or amendment to an existing ordinance or zoning code, including forfeitures. The shoreland-wetland zoning ordinance or amendment to an existing ordinance or zoning code shall be enforceable by the city or village, or any adjacent or neighboring property owner who is or would be specially damaged by the violation, by the use of injunctions to prevent or abate violations, as provided for in s. 62.23 (7) (f) 2., Stats.

(j) The prosecution of violations of the shoreland-wetland zoning ordinance or amendment to an existing ordinance or zoning code.

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83; correction in (4) (d) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526.

NR 117.06 Department duties. (1) ASSISTANCE TO CITIES AND VILLAGES. To the full extent of its available resources, the department shall provide advice and assistance to cities and villages in the development, adoption, administration and enforcement of shoreland-wetland zoning ordinances and amendments to existing ordinances or zoning codes, seeking the highest practicable degree of uniformity consistent with the shoreland protection objectives in s. 281.31, Stats. As a part of this effort, the department shall prepare model shoreland-wetland zoning ordinances which cities and villages may use in meeting the requirements of ss. 62.231 and 61.351, Stats., and this chapter.

(2) REVIEW AND APPROVAL OF SHORELAND-WETLAND ZONING ORDINANCES. (a) Compliance with requirements of s. 62.231 or 61.351, Stats., will be determined by the department by comparing the shoreland-wetland zoning regulations which have been

adopted by a city or village with the minimum standards for shoreland-wetland zoning regulations contained in s. NR 117.05. The department shall issue a certificate of compliance when a city or village has, in the opinion of the department, complied with s. 62.231 or 61.351, Stats., and this chapter.

(b) The department shall review all proposed amendments to shoreland-wetland zoning regulations under s. NR 117.05 (4) (e), to ensure that an ordinance or zoning code which is amended as proposed will retain its status of compliance with s. 62.231 or 61.351, Stats., and this chapter.

(3) DETERMINATION OF NONCOMPLIANCE. Cities and villages which do not have shoreland-wetland zoning regulations in effect within 6 months after receipt of final wetland inventory maps for that city or village shall be deemed to be in noncompliance with s. 62.231 or 61.351, Stats., and this chapter. Cities and villages which have shoreland-wetland zoning regulations that do not meet the minimum standards contained in s. NR 117.05 shall also be deemed to be in noncompliance with the requirements of s. 62.231 or 61.351, Stats., and this chapter. If a city or village fails to adopt an ordinance or modify its existing ordinance or zoning code to meet the minimum standards in s. NR 117.05 within 6

months after receipt of final wetland inventory maps for that city or village, the department shall adopt an ordinance or amendment to an existing ordinance or zoning code for the city or village after notice and hearing under s. 62.231 or 61.351, Stats. All costs for such action by the department shall be borne by the noncomplying city or village.

(4) MONITORING. (a) It is the responsibility of the department to:

1. Monitor the administration and enforcement of city and village shoreland-wetland zoning regulations in order to fulfill the state's role as trustee of navigable waters.

2. The department shall periodically reevaluate city and village shoreland-wetland zoning regulations to ascertain continuing compliance with s. NR 117.05. Every city and village shall keep its shoreland-wetland zoning regulations current, effective and enforceable to retain its status of compliance.

(b) The department may initiate enforcement under s. 87.30 (2), Stats., if it finds that a city or village has not adequately enforced its shoreland-wetland zoning regulations.

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526.