



**CITY OF MAYVILLE PLAN COMMISSION
MEETING AGENDA
APRIL 22, 2026
4:00 PM
MAYVILLE CITY HALL
15 S. SCHOOL STREET**

- 1. CALL TO ORDER AND ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE TO THE FLAG**
- 3. CITIZEN COMMENTS**

Citizen Comments are to be kept to a maximum of five minutes per speaker unless the chairperson allows an extension of time. Each citizen is to make comments at the podium after stating name and address. Each citizen may comment only one time per public hearing / meeting.
- 4. APPROVAL OF MINUTES**
 - 4.1. Approval of Minutes of the March 25, 2026, Plan Commission Meeting**
- 5. DISCUSS WITH POSSIBLE ACTION**
 - 5.1. Discuss, with Possible Action, City of Mayville Zoning Code Update**
- 6. FUTURE AGENDA ITEMS**
- 7. NEXT MEETING DATE AND TIME**
 - 7.1. Next Meeting Date - May 27, 2026, at 4:00 PM**
- 8. ADJOURNMENT**

Mayor Rob Boelk, Presiding Officer

NOTE: Persons with disabilities requiring special accommodations for attendance at the meeting should contact City Hall at least one (1) business day prior to the meeting.



CITY OF MAYVILLE PLAN COMMISSION
REGULAR MEETING MINUTES
March 25, 2026 04:00 PM
Mayville City Hall

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 4:00 PM by Mayor Rob Boelk, with the following roll call:

Present: Mayor Rob Boelk, Ald. Kim Olson, Larry Liebenow, James Baron, Travis Puls, Andy Shoemaker, Broc Fleischer.

Excused: None.

Absent: None.

Staff Present: Don Neitzel - Kunkel Engineering and Clerk/Executive Assistant Anastasia Gonstead.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by those in attendance.

3. CITIZEN COMMENT

None.

4. APPROVAL OF MINUTES

4.a Approval of Minutes of the November 19, 2025, Plan Commission Meeting

The motion to approve the minutes of the November 19, 2025, Plan Commission meeting was made by A. Shoemaker and seconded by B. Fleischer.

Vote: 7 ayes, 0 nays. Motion carried.

4.b Approval of Minutes of the December 8, 2025, Special Plan Commission Meeting

The motion to approve the minutes of the December 8, 2025, special Plan Commission meeting was made by B. Fleischer and seconded by T. Puls.

Vote: 7 ayes, 0 nays. Motion carried.

5. DISCUSS WITH POSSIBLE ACTION

5.a Discuss, with Possible Action, Partial Demolition of 403 Degner Street Property

Don Neitzel provided the background for this agenda item. Phoenix is seeking to demolish part of the building but leave the concrete and asphalt. He has some drainage concerns if it occurs as Phoenix is proposing. The north side of the lot has a temporary construction fence and the loading dock area is already full of water and not draining. The Body discussed pros and cons of letting them do as they have requested as opposed to requiring them to rebuild on the site right away or pull up the concrete, as well

as having them come for a conditional use or adding conditions to the demolition permit. There are some soil contamination issues on that lot that may have DNR oversight.

The motion to add conditions to the demolition permit to indicate within 12 months from the date of permit issuance, a new building must be erected or the concrete slab from the demolished building shall be removed, as well as the requirement to maintain the temporary fencing around the property, and at the end of 12 months the matter shall come before the Plan Commission for a status of the site, was made by T. Puls and seconded by B. Fleischer.

Vote: 7 ayes, 0 nays. Motion carried.

5.b Discuss, with Possible Action, City of Mayville Zoning Code §430- Commercial Zoning

The Body had an overview of where the zoning update left off. Clerk/Executive Assistant Gonstead explained she and Mr. Neitzel discussed once the Plan Commission has made the recommendations they believe should be implemented into the zoning code, this should be reviewed by a professional firm or legal counsel, as zoning matters have the potential to be litigious and we want to ensure the ability to enforce. The Body reviewed the format of the zoning code for Delafield, noting they appreciate the layout and functionality.

The motion to table this matter to the April Plan Commission meeting was made by T. Puls and seconded by J. Baron.

Vote: 7 ayes, 0 nays. Motion carried.

5.c Information on Workshop for Planning and Zoning Officials

Clerk/Executive Assistant Gonstead provided background for this agenda item. UW-Wisconsin Extension is hosting a "Fundamentals of Zoning and Land Use Decision Making" workshop in Juneau on May 20, 2026. She informed the members to let her know if they would like to be signed up.

6. NEXT MEETING DATE AND TIME

6.a Next Meeting Date - April 22, 2026, at 5:00 PM

Next meeting of the Plan Commission is April 22, 2026, at 4:00 PM. The 5:00PM start time on the agenda was a typo.

7. ADJOURNMENT

The motion to adjourn the meeting was made by Ald. Olson and seconded by B. Fleischer.

Vote: 7 ayes, 0 nays. Motion carried. The Plan Commission meeting was adjourned at 4:45 PM.

Respectfully submitted,

Anastasia Gonstead - Clerk/Executive Assistant

Chapter 52 - ZONING

ARTICLE I. - IN GENERAL

Sec. 52-1. - Authority.

These regulations are adopted under the authority granted by Wis. Stats. §§ 62.23(7) and 703.2(1).

(Code 1997, § 17.01; Rep. and Recr. #411)

Sec. 52-2. - Purpose.

The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics, orderly development, and general welfare of this community.

(Code 1997, § 17.02; Rep. and Recr. #411)

Sec. 52-3. - Intent.

(a) It is the general intent of this chapter to regulate and restrict the use of all structures and lands; regulate and restrict lot coverage, population distribution, and density and the size and location of all structures so as to:

- (1) Lessen congestion in and promote the safety and efficiency of the streets and highways.
- (2) Secure safety from fire, flooding, panic, and other dangers.
- (3) Prevent overcrowding.
- (4) Avoid undue population concentration.
- (5) Facilitate the adequate provision of public facilities and utilities.
- (6) Stabilize and protect property values.
- (7) Further conservation of natural resources and the appropriate use of land.
- (8) Preserve and promote the beauty and environmental quality of the community.
- (9) Implement the community's comprehensive plan or plan components.
- (10) Achieve those "purposes in view" set forth in Wis. Stats. § 62.23(7)(c).

(b) It is further intended to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

(Code 1997, § 17.03; Rep. and Recr. #411)

Sec. 52-4. - Abrogation and greater restrictions.

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

(Code 1997, § 17.04; Rep. and Recr. #411)

Sec. 52-5. - Interpretation.

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

(Code 1997, § 17.05; Rep. and Recr. #411)

Sec. 52-6. - Severability.

If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(Code 1997, § 17.06; Rep. and Recr. #411)

Sec. 52-7. - Repeal.

All other ordinances or parts of ordinances of the city inconsistent or conflicting with this chapter to the extent of such inconsistency or conflict only are hereby repealed.

(Code 1997, § 17.07; Rep. and Recr. #411)

Sec. 52-8. - Title.

This chapter shall be known as, referred to, or cited as the "Zoning Ordinance, City of Delafield, Wisconsin."

(Code 1997, § 17.08; Rep. and Recr. #411)

Sec. 52-9. - Effective date.

This chapter shall be effective March 11, 1997.

(Code 1997, § 17.09; Rep. and Recr. #411)

Sec. 52-10. - Jurisdiction.

The jurisdiction of this chapter shall include all lands and waters within the corporate limits of the city.

(Code 1997, § 17.10; Rep. and Recr. #411)

Sec. 52-11. - Definitions.

For the purpose of this chapter, the following definitions shall be used: words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory. Any words not defined herein shall be construed as defined in the Wisconsin Uniform Building Code or as defined by common dictionary usage.

Accessory building means a building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises.

Accessory use or structure means 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 principal structure. Earth satellite dishes are considered to be accessory structures.

Addition means any new construction whereby an existing building or structure or building or structure in course of construction is increased in area or cubical content.

Adjoining lot line means the line between adjoining lots, plots of land or parcels of land of different or same ownership.

Administrator means the city administrator or other city staff designated and authorized by the common council to administer this chapter.

Alley means a public right-of-way or easement which affords a secondary means of vehicular access to abutting properties. A street shall not be considered an alley.

Alteration means any change or modification in construction or occupancy.

Animal hospital means a totally enclosed sanitary structure, adequately soundproofed, for the express purpose of medically or surgically treating animals, but not serving as a commercial kennel.

Apartment means a room or suite of rooms which is occupied or which is intended or designed to be occupied by one family for living and sleeping purposes.

Area, as applied to dimensions, means the maximum horizontal projected area of a building, structure, room, apartment or open space, not including overhangs.

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

Attic means a space not suitable for human occupancy under the roof and above the ceiling of the topmost story of any building or part thereof.

Automobile service station or filling station means a place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including greasing and oiling on the premises and minor repairs, but which furnishes none of the other facilities of a public or storage garage.

Average improved slope means the grade line resulting from foundation backfill, originating at the top of slope finished grade and extended directly to the bottom of slope finished grade.

Base setback lines. Refer to *Setback lines, base.*

Basement means all portions of a building, the ceiling of which is not more than three feet above the average improved slope, or unimproved slope, which ever creates the greatest floor area ratio.

Bed and breakfast means a place of lodging licensed under Wis. Admin. Code ch. HFS 197 that provides eight or fewer rooms for rent to no more than 20 tourists or transients; provides no meals other than breakfast and provides breakfast only to renters of the place; is the owner's personal residence; is occupied by the owner at the time of rental.

Boarding means an accessory use in any residential district where meals or lodging and meals are regularly furnished by prearrangement for not more than two persons not members of the family and not open to transient customers.

Boathouse means an accessory structure that complies with Section 52-25, located close to the ordinary high water mark, and designed and used for the storage of boats and accessory marine equipment normally used in the daily activities of lakefront property.

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

Building area. Refer to *Floor area*.

Building height means the vertical distance measured from the average elevation of the proposed finished grade of the street facing façade, to the highest point of the top plate at the exterior wall or the elevation of the roof bearing point of the highest story. Buildings with more than one street facing façade shall be measured at the lowest average elevation. Exposed foundation, on facades not facing a street shall not be considered in determining building height.

Exception: Additional building height on a street facing façade shall be allowed to facilitate access to underground parking. A maximum of ten feet below the first-floor elevation may be permitted for up to 15 percent of the building perimeter.

Building inspector means an independent contractor engaged by the City of Delafield to conduct building inspections and administer and enforce certain provision of this chapter under the direction of the city administrator.

Building, principal means that building on a lot, intended or used for the primary use permitted by the regulations of the district in which it is located.

Building, utility means a building designed for the shelter and storage of gardening equipment, normal household goods and tools and materials customarily associated with a single-family residence. No utility building shall exceed 220 square feet in area. Truck bodies, trailers or vans shall not be permitted as utility buildings.

Business establishment means a place of business carrying on business operation, the ownership and management of which are separate and distinct from those of any other place of business located on the same lot.

Cellar. See *Basement*.

Clothing stores means retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery and millinery shops.

Community based residential facility means a place where three or more unrelated adults reside in which care, treatment, or services above the level of room and board, but not including nursing care, are provided to persons residing in the facility as a primary function of the facility.

Comprehensive plan means a comprehensive plan for the City of Delafield adopted pursuant to Wis. Stats. § 62.23(3).

Conditional uses means uses of a special nature as to make impractical their predetermination as a principal use in a district.

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

Development regulations means that part of this chapter that applies to elements including setback, height, lot coverage, and side yard requirements.

District, base, means a section of the city created for the purpose of establishing the general pattern of intended land uses consistent with the city comprehensive plan. Each basic district establishes regulations governing the height, area, and the use of buildings and land.

District, overlay, means overlay districts provided for the possibility of superimposing certain additional requirements upon a basic district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

Drive-in establishment means an establishment which is designed to provide, either wholly or in part, service to customers while in their automobiles parked upon the premises.

Dwelling, efficiency apartment, means a dwelling unit consisting of one principal room, an individual bathroom, and cooking facilities, with no separate sleeping room.

Dwelling, multifamily, means a residential building designed for or occupied by three or more families, with the number of families in residence not to exceed the number of dwelling units provided. Not including rooming and boarding houses and transient hotels and motels.

Dwelling, single-family, means a detached building designed for or occupied exclusively by one family for a period of not less than 90 consecutive days.

Dwelling, two-family, means a detached building containing two separate dwelling or living units, designed for occupancy by not more than two families.

Dwelling unit means one or more rooms which are arranged, designed, or used exclusively as a residence or living quarters for one family, but not including boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

Elderly households means one- or two-person households headed by a person over 62 years of age.

Election campaign sign means any sign that states the name and/or picture of an individual seeking election or appointment to a public office, or pertaining to a forthcoming public election or referendum, or pertaining to or advocating social or political views or policies.

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

Existing means a building, structure, equipment or premises completed or in course of construction or used or occupied and for which a legal permit has been issued prior to the effective date of the ordinance from which this chapter is derived.

Family means any number of persons related by blood, adoption or marriage, or not to exceed four persons not so related, including boarders, living together in one dwelling as a single housekeeping entity.

Farm, fur, means a tract of land devoted in whole or part to the raising of fur-bearing animals for commercial purposes.

Farm, pig, means a tract of land devoted in whole or in part to the raising or feeding of pigs and hogs.

Farm, poultry, means a tract of land devoted in whole or in part to the raising of poultry for commercial purposes.

Fence means a structure which creates an enclosure, barrier, or boundary; having a permanent location in the ground, or which is attached to something having a permanent location on the ground.

Floor area means the sum of the horizontal areas of all floors of all buildings on a lot, measured from the exterior faces of the exterior walls. The term "floor area" shall include all above grade levels of both principal and accessory buildings, interior balconies and mezzanines, penthouses, garages, elevator shafts, stairwells at each story, floor space used for mechanical equipment with structural headroom of 5.0 feet or more, and usable attic space providing structural headroom of 5.0 feet or more.

In residential properties basements, unenclosed exterior porches, decks, breezeways, and balconies, are not considered part of the gross floor area. All other areas under roof shall be calculated in the floor area.

Every building erected or relocated after the effective date of this ordinance shall comply with floor area herein defined.

Floor area ratio (FAR) shall be used to indicate the total floor area of buildings allowed on a given lot, expressed as a percentage ratio to the total area of the lot (i.e., an FAR of 100 percent allows a floor area equal to the lot, an FAR of 0.50 allows a floor area of one-half the total area of the lot, etc.). A floor area ratio of 0.50 could be applied to a one story building occupying 50 percent of the lot or a two story building occupying 25 percent of the lot.

Frontage means all the property abutting on one side of a street between two intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead-end of a street.

Frontage, reversed, means frontage facing at right angles or approximate right angles to each other within the same block.

Garage, private, means an accessory building in which private vehicles are kept for storage purposes only and wherein such use is accessory to the residential use of the property on which such vehicles are stored.

Garage, public, means any building or premises, other than an automobile service or filling station or a private or storage garage, where motor driven vehicles are hired, equipped, repaired, serviced, sold or stored as a business.

Garage, storage, means any building or premises used for the storage only of motor driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold as a business.

Gift stores means retail stores where items, such as art, antiques, jewelry, books and notions are sold.

Grade, building, means elevation of ground adjacent to the structure.

Grade, established, means the elevation of the finished street at the centerline as fixed by the city engineer or by such authority as shall be designated by law to determine such an elevation.

Handicapped households means one or two person households headed by a person who is under a disability or is handicapped as defined in section 3 of the U.S. Housing Act of 1937, as amended.

Hard surface means a surface of bituminous asphalt, concrete, or other comparable impervious material.

Hardware stores means retail stores where items, such as plumbing, heating and electrical supplies, sporting goods, and paints are sold.

Highway means a right-of-way designated on a comprehensive system for the principal purpose of providing vehicular thoroughfare and not necessarily affording direct access to abutting property (traffic artery).

Historical flood of record means the highest recorded water level for any lake or flood for any given stream or reach of stream.

Home business means an occupation for gain or support that has no more than one employee residing outside the residence and is conducted entirely within a principal or accessory building whose primary use is as a single-family or duplex residence, is incidental to the principal use of the premises as a residence, does not exceed 25 percent of the total floor area of a dwelling, does not require a sign larger than two square feet. A home business shall not include the use of any machinery, tools, or other appliances that create a nuisance to the surrounding residential area by reason of noise, vibration, dust, smoke or odor. Home business requires a conditional use permit (see [section 52-136](#)) and a plan of operation permit (see [section 52-89](#)).

Home occupation means an occupation for gain or support that is conducted entirely within the principal building whose primary use is as a single-family or duplex residence, is incidental to the principal use of the premises as a residence, does not exceed 25 percent of the total floor area of the principal structure, does not require a sign larger than two square feet, and does not involve the employment of any individual not living on the premises. A home occupation shall not include the use of any machinery, tools, or other appliances that create a nuisance to the surrounding residential area by reason of noise, vibration, dust, smoke or odor.

Horticulture means the culture of growing and cultivating fruits, flowers, and related plant material.

Hotel means a building in which lodging, with or without meals, is offered primarily for transients for compensation and having more than four sleeping rooms for this purpose.

Impervious surface means an area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surface includes, but is not limited to, rooftops, sidewalks, driveways, parking lots, patios, sport courts, swimming pools, hot tubs, retaining walls, decks with at least 50 percent impervious surface beneath the deck, and hard surfaces that surround fire pit rings.

Island means a tract of land surrounded on all sides by water or marshlands.

Kennel, commercial, means an establishment where more than three dogs or other household pets more than six months of age are raised, bred, boarded, or cared for as a gainful occupation.

Lane means a public or private way in the nature of easement, not more than 20 feet in average width, affording access to or from a lot or lots.

Living rooms means all rooms within a dwelling, except closets, foyers, storage areas, utility rooms, and bathrooms.

Loading space means an off-street space or berth on the same lot with a building or contiguous to a group of buildings and abutting on or affording direct access to a public street or alley for the temporary parking of a commercial vehicle while loading or unloading cargo.

Lot means 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 shall be bisected by a public street, 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 chapter.

Lot area means the area of contiguous land bounded by lot lines, exclusive of land provided for public thoroughfare.

Lot, corner, means a lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees on the side thereof on which such lot abuts. The point of intersection of the street lines is the "corner."

Lot depth means the mean horizontal distance measured between the front and rear lot lines or measured between the street line and the opposing rear or shore lot line.

Lot, flag, means a lot that may abut on a public street but where access to the public street system is by a narrow strip of land.

Lot lines means the lines bounding a lot as defined herein.

Lot lines, shore, means the ordinary high water line of a lake or stream on which a lot abuts.

Lot lines, side, means a lot line extending from a street line towards the interior of the block and separating adjoining lots.

Lot of record means a parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds. A lot or parcel of land created prior to the enactment of the city zoning code constitutes a lot of record.

Lot, through, means a lot having frontage on two parallel or approximately parallel streets.

Lot width means the width of a parcel of land measured at the required front building setback line or at the required building setback from the ordinary high water mark.

Machine shops means shops where lathes, presses, grinders, shapers and other wood and metal working machines are used as blacksmith, tinsmith, welding and sheet metal shops; plumbing, heating and electrical repair and overhaul shops.

Manufactured home means a dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with Federal Manufactured Housing Construction and Safety Standards (HUD Code).

Mobile home means a single-family dwelling unit designed for long-term occupancy which is or was as originally constructed, designed to be transported by any motor vehicle upon a public highway arriving at the site where it is to be occupied complete, with or without major appliances and furniture, and ready for occupancy, except for minor and incidental unpacking and hookup operations, and designed, equipped and used primarily for sleeping, eating, and living quarters or is intended to be so used and includes any additions, attachments, annexes, foundations, and appurtenances and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act, which became effective June 15, 1976.

Model home means a residential structure used for display and advertising purposes only. A sales office shall not be permitted in conjunction with a model home.

Modular homes means factory-built housing certified as meeting the Wisconsin Uniform Dwelling Code.

Motel means a building or series of related buildings on a lot in which lodging is offered primarily for transients for compensation, which may have more than four sleeping rooms or units for this purpose and which is distinguished from a hotel primarily by reason of providing direct independent access to and adjoining parking for each rental unit.

Navigable waters.

(1)

The term "navigable waters" means all natural inland lakes within the city and all streams, ponds, sloughs, flowages and other waters within the territorial limits of the city. Under Wis. Stats. § 144.26(2)(d), not promulgated thereunder, shoreland ordinances required under Wis. Stats. §§ 61.351 or 62.231, and Wis. Admin. Code ch. NR 117, 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 not navigable streams before ditching.
 - c. Such lands are maintained in nonstructural agricultural use.
- (2) Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. A stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of Wisconsin though it may be dry during other seasons.

Nonconforming lot means a lot of record existing at the time of adoption or amendment of the ordinance from which this chapter is derived, which does not conform with the lot area and/or lot width provisions of this chapter.

Nonconforming structure means a dwelling or other building that existed lawfully before the adoption or amendment of the ordinance from which this chapter is derived, but that does not conform with one or more of the development regulations of this chapter.

Nonconforming use of structures, land or water means any use of land, buildings, structures or water lawfully in existence, occupied or erected at the time of the effective date of the ordinance from which this chapter is derived or amendments thereto, which does not comply with the regulations of this chapter or amendments thereto. Any structure conforming in respect to use, but not in respect to frontage, width, height, area, yard, parking, loading or access requirements, shall be considered a nonconforming structure and not a nonconforming use.

Offset means the distance between any lot line, other than a street line, and the nearest portion or projection of a building. The offset distance shall be measured between a building or structure and the lot line, exclusive of such features which are permitted to project into a yard. See [section 52-16\(b\)](#).

Open space means that portion of the front, side or rear yard or court on a lot which is unoccupied by buildings or structures and is open and unobstructed to the sky.

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.

Parcel. See *Lot*.

Parking lot means a structure or premises containing parking space open to the public.

Parking space means a graded and surfaced area of not less than 160 square feet in area, either enclosed or open, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

Parties in interest includes all abutting property owners, all property owners within 200 feet, and all property owners of opposite frontages.

Pierhead line means 100 feet lakeward from the ordinary high water line of any navigable lake.

Plan of operation means a written expression of proposed activity to include at least the following items: description of operation; hours of operation; number of employees; operational characteristics, such as noise, smoke, odor, lighting, etc.; and plot plan indicating building location, parking, and other uses on the site. See [section 52-89](#).

Political message means a message intended for a political purpose or a message which pertains to an issue of public policy of possible concern to the electorate, but does not include a message intended solely for a commercial purpose.

Premises means a lot as otherwise used in this chapter.

Private club means a building or grounds used for regular or periodic meetings or gatherings of a group of persons privately organized for a nonprofit purpose, but not groups organized to supply goods or render services customarily carried on as a business.

Professional office means the offices of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other similar recognized profession, whose advertising is limited to professional signs permitted under this chapter.

Public access facility means a place at least 60 feet wide, providing access to the lake or stream, and meeting the requirements of Wis. Stats. § 236.16(3).

Public and semipublic buildings means structures, principally of an institutional nature and rendering as their principal activity a recognized public service, such as churches, hospitals, rest homes, schools, including private academic schools and nursery schools, libraries, museums, post offices, police and fire stations, public and private utilities and other public services, but not including such private commercial enterprises as clinics, business or trade schools or any enterprise other than a franchised utility, primarily devoted to sale of commodities or services.

Pyramiding means the act of obtaining or providing access to public bodies of water across private lots or lands in a manner which increases the number of families which have access to that water to a degree greater than what would occur with individual riparian owners having individual lots fronting on the water. The effect of pyramiding is to funnel backlot access from offshore lots or residences via a narrow parcel of land to provide access to water. Publicly owned access points shall not fall within this definition.

Quarrying means the removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other such process for the purpose of putting the removed material to use off of the premises.

Rain garden means a shallow depression in the soil into which stormwater runoff from impervious surfaces, i.e., pavement and roofs, are directed. Rain gardens are planted with native Wisconsin grasses and forbs with deep root systems, in compliance with the City of Delafield Lake Nagawicka Rain Garden Planting List, to allow water to infiltrate into the soil.

Rear yard means 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 on the back wall of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot. See also [section 52-16](#).

Recreational vehicle means any vehicle in excess of 20 feet in length whose primary use is intended for human occupancy in conjunction with recreational activities.

Regional flood. See Floodplain Zoning Code definitions.

Residential lake lot means a lot used or zoned for residential purposes and abuts a shoreland area as that term is defined in Wis. Stats. § 59.692(1).

Restaurant means an establishment where meals are regularly offered for compensation.

Road means a public or private right-of-way usually affording primary access to abutting property.

Roadside stand means a structure used or intended to be used solely by the owner or tenant of the property on which such structure is located for the sale of products raised on such property.

Rooming. See *Boarding.*

Sand or gravel pits. See *Quarrying.*

Service road. See *Street, frontage.*

Service station. See *Automobile service station.*

Setback means a distance specified in this chapter, measured horizontally on a lot from and at right angles to the front lot line or the right-of-way line of an existing or proposed street or from a base setback line, whichever results in the greater front yard depth. (See also *Yard, front.*)

Setback line, base, means a base line from which the building setback distance is measured. See [section 52-16\(a\)](#).

Shall, as used herein, is mandatory. Same for must.

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 floodplain, whichever distance is greater.

Sign means a name, identification, image, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, project, place, activity, facility, service, event, attraction, person, institution, organization or business and which is visible from any street, right-of-way, sidewalk, alley, park or other public property. Customary displays of merchandise or objects and material, without lettering, placed behind a store window are not signs or parts of signs.

Sign area means the entire area within a circle, triangle or parallelogram enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area or as the area of the larger face if the two faces are of unequal area.

Sign, on-premises, means a sign which advertises only goods, services, facilities, events, or attractions available on the premises where located or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premises signs.

Special exception means the granting of an adjustment or modification to the requirements of the zoning code which would otherwise apply to the property, where for good cause shown, the plan commission or common council determines that under certain circumstances, and subject to controls, conditions and/or limitations established by the plan commission or common council, the granting of the special exception would allow a reasonable use of the property which

would not be contrary to or inconsistent with the spirit and intent of the zoning code. When granting a special exception, the approving body shall find that good cause exists for the granting of the special exception, and, that the proposed special exception will not be hazardous, harmful, noxious, offensive, or a nuisance to the adjacent properties, the surrounding neighborhood, or natural resources. The approving body may impose such restrictions and conditions as the approving body deems necessary, which restrictions or conditions may include, but not be limited to, conditions and restrictions deemed necessary for the protection of adjacent properties, the surrounding neighborhood, natural resources, or the public safety, interest, and welfare of the residents of the City of Delafield. Special exceptions may only be granted for existing nonconforming lots, as set forth in [section 52-199](#) of the zoning code, and navigable water frontage and access restrictions as set forth in [section 52-22](#) of the zoning code.

Stable means a building for the shelter and feeding of horses. Note: Since a site plan will be required for new stables in all residential districts, the size and location of new stables will be subject to plan commission review and site plan approval.

Story means 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, then the space between the floor and the ceiling next above it. A basement or cellar having one-half or more of its height above grade shall be deemed a story for purposes of height regulation. The space under any roof, except a flat roof, if designed to be occupied for residential or commercial purposes, shall be counted as a full story.

Story, half, means the space under any roof, except a flat roof, which, if occupied for dwelling purposes, shall be construed to be a full story for the purposes of this chapter.

Street means all property dedicated or intended for public or private street purposes or subject to public easements therefor.

Street, frontage or service road means a street generally contiguous and generally parallel to a restricted access traffic artery and affording vehicular access between such artery and private lands.

Street line means a dividing line between a lot, tract or parcel of land and a contiguous street.

Structural alterations means any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

Structure means any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery and equipment, having a permanent location on the ground.

Structure, accessory, means a detached structure subordinate to the principal structure on the same lot as the principal structure and serving a purpose customarily incidental to the principal structure.

Structure, legal nonconforming, means a building, structure or portion thereof lawfully existing at the time of the passage of the ordinance from which this chapter is derived or amendments thereto, but which does not conform in one or more respects to the regulations of this chapter or amendments thereto.

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

Structure, principal, means the building containing the primary use of a property.

Structure, temporary commercial, means a movable commercial structure, including, but not limited to, vendor carts, seasonal produce stands, and holiday sales tents, used for the temporary shelter or protection of goods or services for sale for a specific period of time determined by the plan commission.

Structure, temporary construction, means a movable accessory structure not designed for human habitation or occupancy, but for the temporary protection of goods or property during construction of the principal structure. Such temporary period of use shall in no case exceed one year, unless a specific time extension is granted by the plan commission.

Sustained yield forestry means the management of forested lands to provide annual or periodic crops of forest products.

Tourist room means a room owned and managed for use by transient tourists owned and operated by a bed and breakfast establishment licensed under Wis. Admin. Code ch. HSS 197 and for which a conditional use permit has been granted by the city. The tourist room shall be operated as part of the bed and breakfast operation and shall be located within 800 feet of the licensed bed and breakfast establishment.

Townhouses means a group of single-family dwellings, also called row houses, having an unpierced common wall between each adjacent section and the end units having side yards.

Unimproved slope means the existing topographic condition in situ, for a period of no less than 24 months prior to new construction.

Unnecessary hardship means that circumstance where special conditions which were not self-created affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of [section 52-111\(y\)](#).

Use, accessory, means a use subordinate to and customarily incidental to the permitted principal use of the property or buildings and located upon the same lot as the principal use.

Use, principal, means the main or primary use of property, buildings or other structures as specified and permitted by the regulations of the district in which it is located.

Utilities means public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical, power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, sewage disposal plants and city incinerators.

Variance means a departure from the terms of this chapter as applied to a specific building or parcel of land, which the board of appeals may lawfully permit, and not in strict conformity with the regulations of this chapter for the district in which such building, structure or parcel of land is located, provided the public safety, health and welfare is secured.

Vending cart. See *Structure, temporary commercial*.

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

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

Wetlands means those geographical areas covered with shallow and sometimes temporary or intermittent waters and commonly referred to as marshes, swamps and bogs.

Yard means an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation. The street yard and rear yard extend the full width of a lot.

Yard, front, means a yard extending the full width of a lot that produces a direct and unencumbered space between the right-of-way and the buildable portion of the lot, the depth of which shall be the setback required by this chapter for the district in which such lot is located (see also *Setback*).

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

(Code 1997, § 17.24; Rep. and Recr. #411; Cr. #512; Cr. #602; Am. #602; Am. #620; Cr. #653; Am. #719)

(Ord. No. 759, § 1, 12-2-2019; Ord. No. 769, § 2, 2-17-2020; Ord. No. 777, § 1, 3-1-2021; Ord. No. 779, § 1, 4-19-2021; Ord. No. 816, § 1, 6-19-2023; Ord. No. 823, § 1, 11-6-2023; Ord. No. 829, § 1, 4-15-2024)

Sec. 52-12. - Compliance and use restrictions.

- (a) No structure or land shall hereafter be used and no structure or part thereof shall be located, 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.
- (b) Any structure erected, structurally altered, or relocated shall be placed on a lot.
- (c) For properties zoned residential or rural estate, any structure used for the principal use permitted in a particular zoning district shall constitute the principal structure. There shall be no more than one principal structure on a lot, unless authorized as a planned development or otherwise permitted in this article.
- (d) No accessory structure shall be permitted on a lot, unless a principal structure exists on the same lot or a building permit has been issued for a principal structure on the same lot.
- (e) No accessory structure shall remain on a lot after the principal structure has been removed, unless the following provisions are met:
 - (1) A new, principal structure is constructed on the same lot within three years of the date that a raze permit is issued by the city for the removal of the original, principal structure.
 - (2) At the time that the raze permit is issued for the removal of the principal structure, a letter of credit or other financial surety is submitted to the city in a form and amount sufficient to ensure that the accessory structure is removed within the time set forth in section 52-12(e)(1).
 - (3) A deed restriction is recorded against the lot in the Waukesha County Register of Deeds stating that a new, principal structure shall be constructed on the lot within the time set forth in section 52-12(e)(1) or the letter of credit on file with the city will be utilized to remove the accessory structure.
 - (4) The plan commission may grant an extension to the time set forth in section 52-12(e)(1) at the request of the property owner so long as such request is made at least six months prior to the date that the accessory structure is required to be removed. If the plan commission grants an extension, the letter of credit and deed restriction shall be modified to incorporate the approved extension.

(Code 1997, § 17.11; Rep. and Recr. #411; Rep. & Recr. #719; Ord. No. 816, § 2, 6-19-2023)

Sec. 52-13. - Reserved.

Editor's note— Ord. No. 816, § 3, adopted June 19, 2023, repealed § 52-13, which pertained to building location requirements and derived from Code 1997, § 17.12; Rep. and Recr. #411.

Sec. 52-14. - Antenna systems.

(a) *General.*

- (1) *Materials.* Antennas, counterpoise and lead-in conductors shall be of hard copper, bronze, aluminum alloy, copper clad steel or other high strength, corrosion resistant material. Soft drawn or medium drawn copper may be used for lead-in conductors where the maximum span between points of support is less than 35 feet.
- (2) *Supports.* Outdoor antennas and counterpoise and lead-in conductors shall be securely supported. They shall not be attached to poles or similar structures carrying electric light and power wires of more than 250 volts. Insulators supporting the antenna or counterpoise conductors shall have sufficient mechanical strength to safely support the conductors. Lead conductors shall be securely attached to the antenna.
- (3) *Contact avoidance.* To avoid the possibility of accidental contact, outdoor antennas and counterpoise and lead-in conductors from an antenna to a building shall not cross over electric light or power circuits. Where proximity to electric light and power service conductors of less than 250 volts cannot be avoided, the installation shall provide a clearance of at least two feet. Antennas and counterpoise conductors shall not cross under electric light or power conductors.
- (4) *Grounding and screening.* Metal structures supporting antennas shall be grounded permanently and effectively and provided with the following minimal screening: evergreens, a minimum of 6 feet high at the time of planting, eight feet in circumference at a radius of eight feet to ten feet from the dish support. If the location will not permit the above, the building inspector shall define adequate screening in harmony with the improvements already located on the premises.
- (5) *Proximity.* No metal structure supporting an antenna shall be more than ten feet from the building which it serves in the reception of electrical signals and impulses. Such structure shall conform to all setback and offset requirements of the zoning district in which it is located.

(b) *Specific.* Dish antennas/earth satellite stations are accessory uses (see section 52-11 for the definition of antenna). Subsection (a) of this section shall apply to dish antennas/earth satellite stations as far as applicable. In addition, the following restrictions shall apply to the installation of dish antennas/earth satellite stations.

- (1) No dish antenna shall be installed or erected in the city without a permit from the building inspector. The minimum building permit fee as determined by the common council by separate resolution shall accompany all applications for a permit.
- (2) The building inspector shall review the application and, if the application is complete, contains all required information and satisfies the following size, height, location and installation requirements, the building inspector shall issue the permit. The building inspector may refer an application for a dish antenna to the plan commission if there are special circumstances which, in the building inspector's opinion, require plan commission consideration, including, but not limited to, screening, color, location, height, visual impact and construction requirements. The building inspector shall refer all applications for permits in commercial and industrial districts to the plan commission.
- (3) Roof dish antennas are not permitted.
- (4) Dish antennas shall comply with the following size, height, location and installation requirements:

- a. Dish antennas shall have a maximum diameter of no more than ten feet.
 - b. Dish antennas shall have a maximum total height of no more than 12 feet.
 - c. Not more than one dish antenna shall be permitted on a residential lot. The number of dish antennas per lot for commercial or industrial parcels shall be set by the plan commission.
 - d. Dish antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All installations shall meet a minimum wind load design velocity of 80 miles per hour and all electrical installations in connection with such units, including grounding of the system, shall be in accordance with city electrical code requirements.
 - e. Portable or trailer mounted dish antennas are not allowed.
 - f. Dish antennas shall be located and designed to reduce their visual impact on surrounding properties, and the building inspector may require adequate screening and unit color that harmonizes with such screening and the improvements already located on the premises.
 - g. Dish antennas shall be allowed in rear and side yards; however, in side yards they may not be any closer to the street line than the established setback of the principal building or structure.
 - h. Side and rear yard setbacks shall be equal to or greater than the required side and rear yard setbacks for the principal structure within the respective zoning district, but not less than the total vertical height of the dish antenna.
- (5) Any installation of a dish antenna that cannot meet the size, location, or installation requirements set forth above may be authorized only by the zoning board of appeals in accordance with the procedures outlined for variance appeals in this section.
- (6) When any dish antenna is no longer functional and ceases to be used by the property owner or occupant, such system shall be removed upon written order of the building inspector.

(Code 1997, § 17.125; Rep. and Recr. #411)

Sec. 52-15. - Grade and drainage requirements.

- (a) *Street grade.* Every building erected, structurally altered or relocated shall be at a grade which shall reasonably assure proper drainage in relation to the grade of existing streets and driveways.
- (b) *Restriction on filling and/or cutting of land and change of topography.*
 - (1) Except as provided in subsection (b)(5) of this section, no land shall be filled or cut within the city that exceeds 3,000 square feet or 30 cubic yards. The existing drainage or topographic characteristics of land within the city may only be changed upon the owner of such land first obtaining a grading permit from the building inspector allowing for such filling, cutting or change in drainage or topographic characteristics. Grading associated with an otherwise permitted structure is not subject to a grading permit unless it is determined necessary by the building inspector. The building inspector may request the city engineer's review of any grading activities proposed within the city. All applicable land altering activity proposed within the city shall comply with chapter 16, article III of the City of Delafield Code of Ordinances.
 - (2) The application for a grading permit shall include a site plan showing all existing and proposed improvements on the property and topography map showing the topography of the land both before and after the implementation of the proposed change in the topography of the land. All slopes shall be protected

against erosion in a manner approved by the city engineer. No land shall be altered in any way if such alteration would adversely affect roadways, sidewalks, walkways, or key drainage characteristics on or off-site.

- (3) The fill or change in topography shall not alter the existing drainage characteristics of the parcel that would in any way divert additional drainage waters onto any highway, sidewalk, or abutting parcel.
 - (4) The slope resulting from the fill or change in topography shall not exceed the normal angle of slippage of the material involved. The slope resulting from the fill or change in topography shall not exceed a ratio of three horizontal feet to one vertical foot within 20 feet of any lot line, street line, or the natural shore or bank of any lake or stream, unless the slope exceeded such ratio prior to the proposed land altering activity. Plan commission may waive the slope ratio required under this subsection if it determines that the slope would not adversely impact the roadways, sidewalks, waterways, or key drainage characteristics on or off-site.
 - (5) No existing land with a slope of 25 percent or greater shall be disturbed, regraded, or improved with a structure, unless approved by the plan commission. In its review of a proposal under this subsection, the plan commission shall determine that the area proposed for disturbance is isolated, the disturbance is necessary for development to occur, and the activities do not alter the overall topographic character of the site. Additional measures may be required to prevent erosion and preserve natural topography to the greatest extent possible. This subsection does not apply to existing single-family residential lots.
 - (6) No fill shall be deposited on any land within the conservancy zoning district.
 - (7) No fill shall be deposited on any land designated as wetlands by the Wisconsin Department of Natural Resources or the city, except for land lying between the ordinary high water mark and the bulkhead line of Lake Nagawicka. Floodplain fill shall comply with chapter 16, article II of the City of Delafield Code of Ordinances.
- (c) *Adequate drainage required.* No principal building shall be erected, structurally altered or relocated on land that is not adequately drained at all times nor which is subject to periodic flooding.

(Code 1997, § 17.13; Rep. and Recr. #411; Ord. No. 817, § 1, 7-17-2023)

Sec. 52-16. - Setback and yard requirements.

- (a) *Building setbacks.* Base setback lines from which the building setback shall be measured are hereby established for all streets and highways in the city as follows:
 - (1) All building setbacks required herein shall be measured from the ordinary high water mark, or the greater of the street or highway right-of-way line and the edge of the paved road surface.
 - (2) All building setback lines shall be parallel to and measured at right angles from the street or highway right-of-way line.
 - (3) No building shall be hereafter erected, altered or placed so that any portion or projection thereof is closer to the base setback line than the setback distance hereinafter specified for the district in which such building is located, except as a permitted yard projection.
 - (4) No structures of any kind, except necessary highway and traffic signs, public utility lines and necessary underground appurtenances to public utilities, fences, rural mailboxes and those signs permitted in a residence or agricultural district, shall be hereafter erected, altered or placed within the base setback area.
 - (5) Reserved.
 - (6)

In cases where the highways for which setback lines are established by this chapter are located on municipal boundaries, such establishment shall apply only within the city.

- (7) On corner lots of record as of the date of the ordinance from which this chapter is derived, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet for its entire length inclusive of offset, providing the lot has a width of not less than 50 feet. Also see [section 52-174](#).

(b) *Yard requirements.*

- (1) No building shall be hereafter erected or structurally altered so that any portion or projection thereof is closer to any lot line than the minimum yard requirements hereinafter specified by the regulations for the district in which a building is located, except as a permitted yard projection. Where a lot abuts upon a public alley, the yard requirements shall be measured from the alley right-of-way line abutting a lot.
- (2) Where a lot abuts a district boundary line, the yard requirements in the district of less restrictive use shall be not less than that required for the district of more restrictive use.

(c) *Maintenance and use of setback, side yard, and rear yard areas.* All required setback or side and rear yard areas shall be landscaped and kept clean and free from accumulations of debris or refuse and shall not be used for the storage or display of equipment, products, vehicles, or any other material.

(d) *Yard projections.* Except for the architectural features identified in this section, no architectural feature may extend into the front, side, corner, or rear yard setback. Only the following architectural features may extend into the front, side, corner, or rear yard setback if such feature is located at least five feet from a lot line:

- (1) Cornices, canopies, awnings, eaves, or other architectural features may extend up to 30 inches from the exterior surface of a building.
- (2) Uncovered stairs and necessary landings may extend up to six feet into a setback, provided that a stair or landing does not extend above the main entrance level of the building. The railing of a stair or landing may extend above the main entrance level of the building if the railing does not exceed three feet, six inches in height.
- (3) Bay windows, balconies, and chimneys may extend up to three feet from the exterior surface of a building, provided that such features do not collectively occupy more than one-third of the length of the building wall on which they are located.

(e) *Fences, walks and hedges.*

- (1) *Legislative purpose.* It is the intent of the city to establish and maintain substantial open space around structures for generous light, air, convenience of access, safety from fire and the enhancement of property values. Owners and occupants are encouraged to maintain their lawns, trees, shrubs and flowers as to achieve desired lot definition and privacy and to avoid the division of open areas by artificial means, such as the use of solid fences, that result in walled in yards.
- (2) *Permit required.* No person shall erect, construct, alter, or enlarge a fence without submitting a survey and obtaining a permit from the building inspector.
- (3) *Fences in residential districts including RE, RL, R1-R5.*

a. *Decorative fence defined:*

Decorative fence means picket, split rail, cyclone, post and rail, wrought iron and similar. Decorative fences must have a finished side facing neighboring properties. Decorative fence does not mean barbed or chicken wire, wire or mesh systems, wood pallets, snow fences, garden fencing, or use of steel rebar, T

or U posts, and similar.

b. *Location:*

1. Decorative fences at least 50 percent open and installed not more than four feet above grade must not be located within 35 feet of the ordinary high water mark.
2. Decorative fences less than 50 percent open or more than four feet in height can be installed in the rear yard only subject to all of the following:
 - A. Must provide minimum side and rear yards required in the zoning district.
 - B. Must provide a setback of at least 35 feet from ordinary high water mark.
3. All other fence locations must be approved by plan commission subject to the reasons found in section 52-58 of the zoning code.

c. *Height:* Fences more than six feet high or installed more than six feet above grade require plan commission approval.

d. *Materials:* Fences other than decorative fencing require plan commission approval subject to the reasons found in section 52-58 of the zoning code.

(4) Fences in non-residential districts or as specified below:

- a. Fences located in business, manufacturing, public, R6, R7EH, and conservancy districts are subject to site plan requirements in article II of the zoning code.
- b. Fences located in A districts shall meet the following criteria, unless subsection 52-16(e)(4)c. applies:
 1. The fence shall be five feet or less in height.
 2. The fence shall be at least 50 percent open.
 3. The fence shall not consist of barbed wire.
 4. All fences that do not meet these standards shall require plan commission approval subject to the reasons found in 52.58 of the zoning code.

c. *Residential uses in non-residential districts.*

1. Where the principal use is single family residential on a parcel zoned A, CBD1-3 or B the fence standards of subsection 52-16(e)(3) shall apply.

(5) *Maintenance.* Fences shall be kept and maintained in good, sound, and presentable condition at all times. Fences not so maintained that become an eyesore or otherwise adversely affect property values in the neighborhood shall be removed upon order of the building inspector. The order shall provide 20 days minimum for such removal. Such orders shall be appealable to the administrative review board under section 2-270 of this Municipal Code.

(6) *Vision clearance.* Section 52-174 of this chapter shall apply to all fences on corner lots.

(f) *Retaining walls.* Owners and occupants are encouraged to so grade and landscape their property as to preserve the natural terrain or, in the alternative, to create a natural appearance and to avoid the construction and maintenance of retaining walls.

(1) *Permit required.* No person shall after the effective date of the ordinance from which this chapter is derived erect, construct, alter or enlarge a retaining wall without obtaining a permit from the building inspector.

(2) *Exceptions.* No permit shall be required for:

a.

Edgings less than six inches in height of metal, stone, brick, concrete, timber, or other materials around driveways, patios, gardens, flower beds, plantings, or trees.

- b. Decorative walls not in excess of 18 inches in height and located at least five feet from the lot line used around gardens, plantings, trees, patios or driveways and constructed of natural stone, brick or timbers.

(3) *Permit processing.*

- a. The building inspector may issue a permit for a retaining wall that is three or less feet in height, at least five feet from any lot line, and the material, form and color are structurally sound.
- b. The plan commission shall consider permit applications for proposed retaining walls that do not satisfy the requirements of subsection 52-16(f)(3)a. In its review the plan commission shall determine that the proposed retaining wall is structurally sound in material, form and color, and does not have an adverse effect on property values in the neighborhood.

(4) *Standards.* Plan commission approval shall be based on the following standards:

- a. In the offset area, the difference in grade between lots is better controlled by a retaining wall.
- b. In the setback area where the terrain makes a slope to the road impractical.
- c. Plans showing that the retaining wall will be structurally sound and so constructed that it will properly contain and support the ground and pavements, walks and other nearby structures.
- d. The location and height shall be harmonious with the principal structure and consistent with the legislative purpose hereof.
- e. On corner lots the retaining wall shall not obstruct with the vision setback area.
- f. If a retaining wall is proposed to be constructed within five feet of a lot line, the adjacent property owner shall be notified of the proposal and plan commission review date.

(5) *Slopes.* Reserved.

(6) *Maintenance.* Retaining walls shall be kept and maintained in good, sound and presentable condition at all times. Retaining walls not so maintained that become an eyesore or otherwise adversely affect property values in the neighborhood shall be removed upon order of the building inspector. The order shall provide 20 days minimum for such removal.

(Code 1997, § 17.14; Rep. and Recr. #411; Cr. #512; Am. #603; Rep. & Recr. #719)

(Ord. No. 769, § 1, 2-17-2020; Ord. No. 780, § 1, 5-3-2021; Ord. No. 817, §§2—7, 7-17-2023; Ord. No. 818, § 1, 10-16-2023)

Sec. 52-17. - Height regulations.

- (a) *Maximum height restricted.* In any district no building or structure shall be hereafter erected or structurally altered to a height in excess of that hereinafter specified by the regulations for that district.
- (b) *Exceptions.* The following shall be excepted from the height regulations of all districts:
 - (1) Chimney and flues, transmission lines, towers and poles of public utilities, except as provided in subsection (b)(2) of this section.
 - (2) Subject to the recommendation of the plan commission and approval of the common council, items such as, but not limited to, the following: cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts,

aerials and necessary mechanical appurtenances and new intermunicipal transmission lines, towers and poles of public utilities, windmills, solar energy collector devices and accessory farm buildings.

(c) Reserved.

Exception: An increase in building height, above the first floor elevation, shall not be permitted in the CBD-1 district.

(Code 1997, § 17.15; Rep. and Recr. #411)

(Ord. No. 756, § 1, 11-4-2019; Ord. No. 816, § 4, 6-19-2023)

Sec. 52-18. - Building area regulations; floor area.

- (a) Any building intended in whole or part for residential purposes shall provide a minimum floor area as hereinafter specified by the regulations for the district in which such building is located. Such minimums are stated in terms of the minimum total floor area required for a building and that portion of the total which must be provided on the first floor level. Such minimum total shall be increased by 200 square feet for any building not having a basement at least 300 square feet in area.
- (b) The total floor area of all buildings on a lot shall not exceed the maximum floor area ratio (FAR) specified for the district in which the building is located. See definition of "floor area" in section 52-11 to determine the computation of floor area ratio.

(Code 1997, § 17.16; Rep. and Recr. #411)

(Ord. No. 817, § 8, 7-17-2023)

Sec. 52-19. - Lot area requirements.

- (a) No building shall be erected on a lot of less area than hereafter specified by the regulations of the district in which such building is located, except as in section 52-199.
- (b) In no event shall a lot be created if it violates the lot size, yard, setback, open space, lot width, or lot area requirements for the district in which such lot is located.
- (c) The minimum lot size for residential and commercial lots not served by public sanitary sewer shall be five acres. The minimum lot size for lots in sewered areas shall be as specified by the regulations of the district in which such lots are located. Lots used for government facilities, utilities, and essential services are exempted from the five-acre minimum lot size requirement. The plan commission may grant an exception for land outside the sanitary sewer service area, as delineated by the Southeastern Wisconsin Regional Planning Commission, that is not anticipated to be serviceable by public sanitary sewer in the foreseeable future.

(Code 1997, § 17.17; Rep. and Recr. #411)

(Ord. No. 817, § 9, 7-17-2023)

Sec. 52-20. - Open space.

- (a) No building shall be erected, structurally altered or placed on a lot so as to reduce the usable open area of such lot to less than that hereinafter specified by the regulations for that district.

(b)

To be usable such open area shall be of such topography, size and shape as will reasonably provide light, air, access, drainage and septic facilities where required. Garden, crop, pasture and wooded land may be included in computing such open area.

- (c) No part of the open space provided for any building shall be included as part of the open space required for another building, except as hereinafter provided for planned developments.

(Code 1997, § 17.18; Rep. and Recr. #411)

Sec. 52-21. - Street access requirements.

- (a) In this section 52-21(a), "vacant lot" shall mean a parcel of land that is not improved by a principal building and is not served by a sanitary sewer connection or septic system. To obtain a building permit to construct a principal building on a vacant lot, the vacant lot shall abut a public street or have a permanent easement providing adequate vehicular access to a public street. The permanent easement required under this section shall be demonstrated by written documentation satisfactory to the city and be approved by the fire chief to ensure emergency vehicles have adequate access to the vacant lot that is the subject of a requested building permit. Access to island properties may be waived under section 52-144.

- (b) The erection or attachment of a garage or accessory structure may be permitted on a lot that is improved by a principal building but does not conform with the access requirements of this section.

(Code 1997, § 17.19; Rep. and Recr. #411)

(Ord. No. 818, § 2, 10-16-2023)

Sec. 52-22. - Navigable water frontage and access restrictions.

- (a) No additional lots abutting a navigable water may be created unless the lot has at least 150 feet of shore frontage, measured at the ordinary high water mark. This restriction shall not apply to:

- (1) A conditional use permit issued in conjunction with a planned development in accordance with article IX of this chapter.
- (2) Public access points.
- (3) The transfer of lands from one existing lot to another existing lot, provided the shore frontage requirement of the underlying zoning district is complied with and no additional lots are created.

- (b) Joint or common ownership or easement of a water fronting lot for the purpose of providing water access to lots not immediately abutting the water, pyramiding, shall not be permitted.

- (c) The plan commission may grant a special exception to the restrictions contained in subsection (a) of this section provided the approval meets the terms of a special exception as defined in this article and provided there are no undesirable impacts on adjoining and nearby properties in the surrounding neighborhood or natural resources of the navigable waterway, including drainage, water quality, wildlife and aquatic habitat, and the proposal does not impact pier and navigation rights of adjoining riparian properties. The following additional standards shall be met:

- (1) All applications for a special exception shall be accompanied by supporting documentation that demonstrates that the granting of a special exception is justified in accordance with this section and the purpose and intent of the zoning code.

- (2) Before considering the granting of a special exception, the plan commission shall conduct a public hearing which shall be noticed as a class 2 notice in accordance with section 52-295 of the zoning code.
- (3) The plan commission, and, if appealed, common council have the authority to impose restrictions or conditions on any special exception approvals, such as greater limitations on height, floor area, open space, setbacks, impervious surface, building design, and landscaping that may exceed the restrictions otherwise provided in this article in order to protect adjacent properties, the surrounding neighborhood, natural resources, safety, or the public interest and welfare. The plan commission and common council shall explain the purpose and intent of any restrictions imposed.
- (4) Adverse drainage and excessive grading are prohibited.
- (5) The special exception, as well as any conditions imposed by the plan commission, shall be noted on the face of the land division.
- (6) The applicant, or any person aggrieved by a decision of the plan commission, shall have the right to appeal the decision of the plan commission to the common council. Such appeals shall be made in writing and filed within 30 days of the plan commission's decision and shall specify the particular grounds supporting the appeal. Upon such appeal, all records and findings concerning the application shall be submitted to the common council by the city planner. The common council may adopt the decision of the plan commission or overrule or modify the decision of the plan commission.

(Code 1997, § 17.20; Rep. and Recr. #411; Rep. & Recr. #712)

(Ord. No. 777, § 10, 3-1-2021)

Sec. 52-23. - Reserved.

Editor's note— Ord. No. 816, § 5, adopted June 19, 2023, repealed § 52-23, which pertained to pier length and placement and derived from Code 1997, § 17.205; Rep. and Recr. #411; Rep. & Recr. #719.

Sec. 52-24. - Private swimming pools.

- (a) *Permit required.* No person shall install, construct, enlarge, alter or remodel a swimming pool as herein defined, which pool is not within a permanent, fully enclosed building, unless such pool is constructed in accordance with this chapter and pursuant to a building permit issued by the building inspector.
- (b) *Application for building permit.* Application for a building permit for such pool shall show, in addition to such information as is usually required, the dimensions of the pool, details of construction, a description of construction materials thereof and details of fencing if fencing is required. A building permit shall be required only for swimming pools as hereinafter defined and no building permit shall be required for wading pools.
- (c) *Definitions.* A swimming pool is defined as an artificial structure, excavation or improvement of a natural pool or pond, which is larger than ten feet, either in diameter or side measurement, is capable of being filled with water to a depth of 24 inches or more at its deepest point and is designed and intended to be used for swimming or bathing whether the same be installed, constructed or erected above or below ground elevation and whether such pool be temporary or permanent. A wading pool is defined as a pool which measures less than ten feet as its longest dimension and is capable of being filled with water to a depth of less than 24 inches at its deepest point.

(d)

Re-erection of swimming pool. If a swimming pool has been dismantled or removed for any reason, it may be re-erected at its original location without a building permit.

- (e) *Pool exclusively for private use.* Each privately owned swimming pool and wading pool shall be used solely by residents of the property on which it is located and by bona fide gratuitous guests of such residents and no such pool shall be operated commercially.
- (f) *Distance and area requirements.*
 - (1) Every swimming pool, whether in-ground or above-ground, shall be subject to setback and offset requirements of the district in which such pool is to be located. A swimming pool may be erected or constructed on any lot or parcel of land without regard to minimum area or minimum width requirements of the district.
 - (2) No pool shall be sited closer than six feet from any building or fence other than a fence surrounding such pool and in the event a fence is erected surrounding such pool, an unobstructed areaway of not less than four feet shall be provided between the pool and such fence.
- (g) *Fencing.* Except as hereinafter provided, every swimming pool, whether heretofore or hereafter erected, shall be completely enclosed before filling the same, by a secure fence or wall not less than four feet above ground elevation. Such fence or wall shall be provided with a self-closing and self-latching gate or door with the latch located at the top of the gate or door or made inaccessible to small children in any other manner approved by the administrator. No such fence or wall shall be required in the case of above-ground pools, whose walls are perpendicular to the ground and are not less than four feet high, provided that the ladder or steps leading up to the pool is hinged at the top thereof and capable of being raised out of the reach of small children.
- (h) *Undesirable construction.* If any swimming pool proposed to be erected or which is hereafter erected will be or is a nuisance, hazard or otherwise undesirable, either to the public or surrounding properties, the issuance of a building permit therefor may be withheld. In the case of an existing pool, the administrator may order its removal or proper renovation with the right of the owner to appeal such decision to the plan commission.
- (i) *Electrical connections.* Electrical installations shall comply with the Wisconsin Electrical Code.

(Code 1997, § 17.21; Rep. and Recr. #411)

(Ord. No. 817, § 10, 7-17-2023)

Sec. 52-25. - Boathouses.

- (a) *Use permitted.* Boathouses as defined in section 52-11 and in Wis. Stats. § 30.01(1d), are permitted in any district abutting a public or private body of water in which a single-family dwelling is permitted by right, subject to the terms and conditions set forth herein and Wis. Stats. § 30.121. The interior of such boathouse must be designed and used exclusively for the storage of a boat and may also be used for the storage of marine and accessory items used by the occupants of the lot. Such boathouse shall be placed on a permanent frost-free foundation and shall contain at least 200 square feet in area to be considered a boathouse. The boathouse shall not contain any interior walls or separate rooms. The boathouse shall contain a large garage-type door for primary access on the side of the building facing the water, which shall consist of overhead retractable doors with no more than 25 percent transparent windows. Where a property line abuts the ordinary high water mark of a navigable

waterway and a boathouse is desired, such structure may be allowed subject to the five-foot shore setback provision. If any portion of the boathouse is located within the regulated floodplain, then the boathouse shall comply with the provisions of Chapter 16, Article II Floodplain Zoning.

- (b) *Lake protection.* All boathouse improvements and new construction shall occur in a manner that ensures all stormwater runoff from the boathouse and impervious surfaces within ten feet of the boathouse is directed to a water catchment device in accordance with subsections (b)(1) or (b)(2) below. The catchment device and any required plantings must be maintained as long as the boathouse exists.
 - (1) Rain garden in compliance with DNR publication "Rain Gardens: A how to manual for homeowners" (©2003) found on the City of Delafield website. Installation of plantings shall be in accordance with subsection (c) rain garden plant list, or similar species, as well as adhere to the most current Wisconsin Department of Natural Resources recommended planting guidelines.
 - (2) Water quality device or system, which shall provide the same level of environmental benefit as a rain garden and be approved by the city engineer.
- (c) *Plant selection.* Rain gardens shall utilize no less than five native species selected from the rain garden plant list. Grasses/sedges shall make up at least 40 percent of the total plant or seed composition. The homeowner or contractor shall verify with the nursery/supplier what species work best with the soil and sunlight conditions.

Rain Garden Plant List

Scientific Name	Common Name
<i>Grasses/Sedges:</i>	
Andropogon gerardii	Big Bluestem
Bouteloua curtipindula	Side-Oats Grama
Bromus ciliatus	Fringed Brome
Calamagrostis canadensis	Blue Joint Grass
Carex bebbii	Bebb's Sedge
Carex bicknellii	Copper-Shouldered Oval Sedge
Carex comosa	Bristly Sedge
Carex crinita	Fringed Sedge
Carex hystericiana	Porcupine Sedge
Carex stipata	Common Fox Sedge

Carex vulpinoidea	Brown ox Sedge
Elymus canadensis	Canada Wild Rye
Elymus virginicus	Virginia Wild Rye
Glyceria canadensis	Rattlesnake Grass
Glyceria grandis	Reed Manna Grass
Juncus dudleyi	Dudley's Rush
Juncus tenuis	Path Rush
Juncus torreyi	Torrey's Rush
Panicum virgatum	Switch Grass
Schizachyrium scoparium	Little Bluestem
Scirpus cyperinus	Wool Grass
Sorghastrum nutans	Indian Grass
Spartina pectinata	Prairie Cord Grass
<i>Forbs (Flowering Plants):</i>	
Allium cernuum	Nodding Onion
Asclepias incarnata	Marsh Milkweed
Aster azureus	Sky-Blue Aster
Aster ericoides	Heath Aster
Aster novae-angliae	New England Aster
Aster puniceus	Red-Stemmed Aster
Cassia hebecarpa	Wild Senna
Coreopsis palmata	Prairie Coreopsis

Desmodium canadense	Canada Tick Trefoil
Echinacea pallida	Pale Purple Coneflower
Eryngium yuccifolium	Rattlesnake Master
Eupatorium maculatum	Spotted Joe Pye Weed
Eupatorium perfoliatum	Boneset
Helenium autumnale	Sneezeweed
Helianthus grosseserratus	Saw-Tooth Sunflower
Heliopsis helianthoides	Early Sunflower
Hypericum pyramidatum	Great St. John's Wort
Liatris pycnostachya	Prairie Blazing Star
Liatris spicata	Marsh Blazing Star
Lobelia cardinalis	Cardinal Flower
Lobelia siphilitica	Great Blue Lobelia
Monarda fistulosa	Wild Bergamot
Napaea dioica	Glade Mallow
Physostegia virginiana	Obedient Plant
Pycnanthemum virginianum	Mountain Mint
Ratibida pinnata	Yellow Coneflower
Rudbeckia hirta	Black-Eyed Susan
Rudbeckia laciniata	Wild Golden Glow
Rudbeckia subtomentosa	Sweet Black-Eyed Susan
Sagittaria latifolia	Arrowhead

Silphium laciniatum	Compass Plant
Silphium perfoliatum	Cupplant
Solidago graminifolia	Grass-Leaved Goldenrod
Solidago ohioensis	Ohio Goldenrod
Solidago riddellii	Riddell's Goldenrod
Solidago rigida	Stiff Goldenrod
Verbena hastata	Blue Vervain
Vernonia fasciculata	Ironweed
Veronicastrum virginicum	Culver's Root
Zizia aurea	Golden Alexanders
<i>Shrubs:</i>	
Cornus stolonifera	Red Osier Dogwood
Physocarpus opulifolius	Ninebark
Viburnum opulus	American High-Bush Cranberry
Viburnum rafinesquianum	Downy Arrowwood

- (d) *Landscape screening.* Shrubs species intended to be planted in association with rain gardens must not be planted within the rainwater collection area. Care must be taken so that these shrubs do not out compete or shade the grass and forb species.
- (e) *Habitation prohibited.* A boathouse may not be used for human occupancy or habitation. This prohibition expressly forbids the installation of bathroom facilities, heating, ventilation, air conditioning, hot water, and other amenities typically found in a primary residence. Plumbing is limited to one hosebibb. No other plumbing fixtures are permitted. Pursuant to the Wisconsin Administrative Code, the installation of plumbing to a boathouse located in the floodplain is prohibited. Electricity supply is limited to a single 110-volt, 20-ampere circuit.
- (f)

Height limitations. No boathouse may contain more than one story and shall not exceed 12 feet in total height if a flat roof, excluding railings, and 18 feet in total height if a mansard, gable, gambrel, hip or pitch roof.

- (g) *Building and lot width.* No boathouse may be constructed on any lakeshore lot having less than 40 feet of lot width computed at the ordinary high water mark. The maximum boathouse width for lots ranging from 40 feet to 66 feet shall not exceed 30 percent of the lot width. The maximum boathouse width on lots with a width ranging from 66 feet to 150 feet shall not exceed 20 feet. The maximum boathouse width on a lot with a lot width greater than 150 feet shall not exceed 24 feet.
- (h) *Accessory to a single-family dwelling.* No boathouse is permitted unless a single-family dwelling is already present on the lot. Only one boathouse per lot is allowed.
- (i) *Building location.* A boathouse shall not be closer than five feet to the ordinary high water mark. On lots with a width less than 150 feet the back wall of the boathouse shall not be more than 30 feet from the front wall. On lots with a width greater than 150 feet the back wall of the boathouse shall not be more than 34 feet from the front wall. A boathouse shall not be located closer than six feet from a side lot line.
- (j) *Flat roof use.* Surfaces of boathouses may be used as open recreational living areas, but shall not be permanently enclosed. Canopies, railings and access stairs shall be considered ordinary appurtenances. Deck construction, railings, and canopies may not exceed four feet in height in addition to the 12-foot height limitation for boathouses with flat roofs set forth in subsection (f) of this section. Any railings constructed on a flat roof and/or deck shall be at least 50 percent open. No flat roof boathouses, including the "ordinary appurtenances" permitted above, shall exceed 16 feet total height.
- (k) *Lighting.* Lighting shall comply with the standards of section 52-27. All lighting shall be downward, full cut-off, and shielded. Lighting shall be turned off by 10:00 pm each night.
- (k) *Nonconforming boathouses.* The maintenance and repair of nonconforming boathouses that extend beyond the ordinary high water mark of any navigable water shall be required to comply with Wis. Stats. § 30.121.
- (l) *Required approvals.* All applications for the repair, remodeling, additions to, and newly constructed boathouses, shall be filed with the city for consideration by the lake welfare committee and plan commission prior to the issuance of a building permit. Upon receipt of a completed application, the city clerk shall provide written notice to those property owners within 300 feet of the subject property for comments and/or consideration prior to lake welfare committee consideration. The lake welfare committee shall make a recommendation to the plan commission who shall be the deciding body. Consideration shall be given to the location, architectural design, color and material to be used, compatibility with the principal structure, rain water remediation, buildings on adjacent properties, the lakeshore setting, and the neighbors' comments. Specific consideration shall be given to the visual impact of the boathouse from the lake and to any obstruction by the boathouse to an adjacent property owner's view of the lake.
- (m) *Rain water remediation installation.* See subsection (b) of this section. Installation and establishment of approved method and/or plant materials shall be completed within six months of boathouse completion and prior to occupancy and final inspection of the boathouse.

(Code 1997, § 17.22; Rep. and Recr. #411; Rep. & Recr. #719; Rep. and Recr. #737)

(Ord. No. 775, §§ 1, 2, 2-15-2021; Ord. No. 829, § 2, 4-15-2024)

Sec. 52-26. - Miscellaneous other general provisions.

- (a) *Manufactured and modular homes.* Manufactured and modular homes shall be permitted in any residential district providing all of the lot, yard, and floor area requirements applicable to site-built housing are met and the manufactured or modular home meets the following standards to assure compatibility with other site-built residences in the district in which the homes are located:
- (1) Manufactured and modular homes must have a pitched roof with overhanging eaves, comparable in appearance to other residential buildings in the district.
 - (2) Manufactured and modular homes must be on a permanent masonry foundation comparable to the foundations or basements of other residential buildings in the district.
 - (3) All wheels, axles, or any other appurtenances associated with transportation must be removed.
- (b) *Outdoor stacking or storing of equipment or materials.*
- (1) *General.* In any district, no equipment or materials of any kind shall be piled, stacked or stored out of doors, except when it is anticipated that such equipment or materials are to be utilized currently and ancillary to a lawful use of such premises. Except for construction materials used on site, agricultural, quarrying equipment or materials in appropriate districts, and domestic fuels, any material to be used more than 30 days from the time of such piling, stacking or storage shall not be considered as piled, stacked or stored for current use.
 - (2) *Restriction in residential districts.* No outdoor piling, stacking or storing of equipment or materials used for commercial purposes shall be permitted in any residential district other than equipment or materials associated with currently permitted building construction activity on the site. Any storage of materials, equipment or vehicles associated with a home business or home occupation or nonconforming commercial use in a residential district shall not be allowed except as where allowed by an approved plan of operation or other expressed action of the plan commission.
- (c) *Recreational vehicle parking.* Recreational vehicles shall not be used for the purpose of habitation in excess of seven days aggregate in any 365-day period. Recreational vehicles shall not be permanently parked or stored in the front yard in any residential or rural estate district.
- (d) Reserved.
- (e) *Keeping of horses.* The keeping of horses is permitted in agricultural, rural estate and residential districts, subject to the following conditions:
- (1) A minimum lot area of three acres is required in any rural estate or residential district.
 - (2) One horse per acre of lot area may be kept.
 - (3) Site plan required for barn or stable in conjunction with a residential dwelling. Barns or stables under this section shall be subject to section 52-110(9).

(Code 1997, § 17.23; Rep. and Recr. #411; Am. #420)

(Ord. No. 817, §§ 11, 12, 7-17-2023)

Sec. 52-27. - Outdoor lighting.

- (a) *Purpose, applicability and goals.*

(1)

The purpose of this section is to improve the health, safety and general welfare of all zoning districts by restricting the night-time emission of light rays which are the source of light trespass and/or unnecessary glare; and/or are detrimental to the safety and/or security of persons, property or vehicular traffic; and/or are detrimental to the traditional aesthetic values of the city; and/or unnecessarily restrict persons from the peaceful enjoyment of their property.

- (2) The provisions of this section shall apply to all outdoor luminaries used, installed, replaced, altered, moved or repaired in all zoning districts after the effective date of this section, except as this applicability is specifically expanded or reduced herein.
 - (3) The goal of this section is to have all outdoor luminaries in all zoning districts to be located, sized and/or downward directed unless upward illumination is allowed by this section so that the light emitted from the luminaries does not constitute light trespass as defined herein. Downward directed shall mean that the luminaire is shielded in such a manner that light rays emitted by the luminaire, whether directly from the lamp or indirectly from the fixture, are restricted to regions below an angle 15 degrees beneath the horizontal plane running through the lowest point on the fixture where light is emitted. Light rays shall be shielded so as not to be visible from beyond the boundaries of the property.
- (b) *Effect on other codes.* The provisions of this section are intended to supplement other applicable codes and requirements. Compliance with all applicable provisions of building, zoning, electrical and other codes must be observed. In the event of a conflict between the requirements of this Code and other requirements, the more stringent requirement shall apply.
- (c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Footcandle means a standard unit of illumination.

Light shield means any attachment which interrupts and blocks the path of light emitted from a luminaire or fixture.

Light trespass means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located with an intensity greater than one half foot candle at a point four feet above the ground at the property's boundary line and/or at a point four feet above the surface of the water and 150 feet from that property's shoreline when measured on the water.

Luminaire means the complete lighting system, including lamp and the fixture.

Private driveway means any way:

- (1) Serving not more than three lots;
- (2) Used primarily for ingress and egress to and from said lots by motor vehicles; and
- (3) For which ingress and egress right is established by private easement and/or private ownership.

Private road means any street, highway, road or other way that is privately owned, that is used primarily for ingress and egress to and from lots by motor vehicles, and that is not a private driveway as defined herein.

Public street means any street, highway, road or other way owned by or dedicated to the City of Delafield or governmental entity and used primarily for public travel in motor vehicles.

Residentially-zoned neighborhood means any area in the City of Delafield zoned R-1, R-1A, R-L1, R-L2, R-2, R-3, R-4, R-5, R-6, or R-7.

- (d) *Requirements.*

- (1) *Light trespass.* All outdoor luminaires shall be located, sized, shielded and/or directed in such a manner that they do not constitute light trespass as defined herein.
 - (2) *Safety.* No outdoor luminaire may be operated in such manner as to constitute a hazard or danger to persons, or to safe vehicular or boating operation.
 - (3) *Illuminating elevated objects.* In the case of state and national flags, statues, entrance way markers, or other top-of-pole mounted objects which cannot be illuminated with downward directed lighting, upward directed lighting may be used only in the form of one or two narrow-cone spotlights which confines the illumination to the object of interest, and provided that the lighting is restricted to an angle of not less than 75 degrees up from horizontal.
 - (4) *Pole fixtures.* Outdoor light pole fixtures shall not exceed a maximum height of 30 feet.
- (e) *Special exemptions.* The following are exempt from the requirements of this section, to the extent described as follows:
- (1) *Temporary exemption.* Request for temporary exemption from the provisions of this section may be submitted to the city administrator in written form describing the reason for the request and the nature of the request. If approved and granted in writing by the city administrator, such exemption shall be in force for not more than 30 days. Request for a maximum of a 30-day renewal may be made in a similar manner. The city administrator may terminate any temporary exemption for any reasonable cause, including, but not limited to, concerns about safety or light trespass.
 - (2) *Low voltage.* All low-voltage landscape or accent lighting and holiday lighting are exempt from the requirements of this section, except for the requirements of subsections (d)(1) and (4) of this section.
 - (3) *Security.* Motion detector security lights, which are normally off and which are activated on for less than four minutes occasionally when motion is detected, are exempt from the requirements of this section.
 - (4) *Public and private roads.* Outdoor luminaries used to provide illumination for public streets and private roads are exempt from the requirements of this section except as described in this section.

(Code 1997, § 17.235; Rep. and Rec. #411; Am. #491)

Sec. 52-28. - Impervious surfaces.

- (a) *Purpose and intent.* Impervious surface standards are intended to protect water quality, fish and wildlife habitat, and protect against pollution of navigable waters.
- (b) *Applicability.* Impervious surface standards shall apply to all residential properties located in the RL-1, RL-1a, and RL-2 Districts that have frontage on a navigable waterway as defined by the Wisconsin Department of Natural Resources. If a developed lot currently exceeds the standards of this article and the property is redeveloped, these standards shall apply.
- (c) *Limitations.* The following impervious surface standards apply to all lots that meet the applicability provisions of subsection (b):
 - (1) No impervious surfaces are permitted within 35 feet of the ordinary high water mark of a navigable waterway, with the following exceptions:
 - a. Boathouses that comply with all other provisions of this section and WDNR regulations.
 - b. A single walkway to the waterway with a width not to exceed five feet.

(Ord. No. 779, § 2, 4-19-2021)

Secs. 52-29—52-57. - Reserved.

ARTICLE II. - SITE PLAN AND APPEARANCE REQUIREMENTS

Sec. 52-58. - Intent.

Site plan and appearance approval is required for certain types of land uses permitted in this chapter. The approval of a site plan is required for the following reasons:

- (1) To promote the public health, safety, morals, comfort, and general welfare of the citizens of the city.
- (2) To enhance the values of property throughout the city.
- (3) To avoid and prevent deterioration of the general appearance of buildings, structures, landscaping, and open areas.
- (4) To encourage and promote an efficient use of the land.
- (5) To assure that site development takes into account the efficient provision of vehicular and pedestrian access, public utilities, stormwater management facilities, and other elements of public infrastructure and public facilities.
- (6) To encourage and promote acceptability, attractiveness, cohesiveness, and compatibility of new buildings, development, remodeling and additions.
- (7) To preserve and protect the appearance and aesthetic quality of the city.

(Code 1997, § 17.25; Rep. and Recr. #411)

Sec. 52-59. - Site plan and appearance approval requirements.

- (a) No person shall commence any use, erect any structure or obtain a building permit without first obtaining the approval of a site plan and appearance review submittals by the plan commission as set forth in this section and no use shall be carried on and no structure erected or enlarged, except as shown upon an approved site plan and appearance review submittals.
- (b) No certificate of occupancy shall be granted until all improvements shown on an approved site plan and appearance review submittals have been completed in accordance therewith, provided that upon a finding by the administrator that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer and that temporary occupancy prior to completion will involve no health or safety hazard, he may issue a temporary certificate of occupancy bearing an expiration date, which date shall allow reasonable time for completion, upon posting a cash bond equivalent to the sum estimated by the administrator to be needed to complete all required improvements, conditioned on completion of all required improvements prior to the date of expiration of the temporary certificate of occupancy.
- (c) Acceptance of a temporary certificate of occupancy implies consent to application of the bond money to completion of any required improvements not completed prior to the expiration date of the temporary certificate of occupancy and forfeiture of any portion thereof not so applied, but no action or inaction by the city

in respect to any required improvement shall serve to extend the time of validity of any temporary certificate of occupancy or excuse any violation of this chapter.

- (d) A temporary certificate of occupancy may, however, be extended in time and from time to time for good cause shown and any such extension shall operate to extend for the same period the time for completion under the terms of the bond.

(Code 1997, § 17.26; Rep. and Recr. #411)

Sec. 52-60. - Exemptions from site plan and appearance approval requirements.

The following structures and uses are exempt from the site plan and appearance approval requirements:

- (1) Single-family dwellings and permitted accessory structures.
- (2) Minor exterior alterations such as painting, re-siding, re-roofing, window replacement and other repairs to the exterior of a structure that do not alter the color, size, shape, architectural character or illumination of the property.
- (3) Signs that replace existing sign panels without changing the dimensions or character of the sign and type or intensity of lighting or illumination.
- (4) Structures on farms over ten acres in size in the A-1 or AE-1 district directly related to the operation of the farming business.
- (5) In the Historic Downtown Delafield District, colors of all non-masonry structures, signs, and site amenities shall be compatible to the adopted Historic Downtown Delafield District color palette. All color changes may be approved by city administrator or the administrator's designee.

(Code 1997, § 17.27; Rep. and Recr. #411; Am. #445; Cr. #521; Resc. #616; Am. #719)

Sec. 52-61. - Required form of and information on site plan and appearance approval applications.

Every site plan and appearance approval application shall be submitted to the administrator along with two full, complete signed copies of all items required on application and listed below, as well as property owner and applicant signatures. Additionally the all of the same shall be submitted to the city clerk-treasurer in digital (i.e., PDF) format.

- (1) The boundary dimensions of the area included in the site plan and the lot area of the land included in the site plan.
- (2) Existing and proposed grades, drainage systems, and structures with topographic contours at intervals not exceeding two feet. The topographic contours shall extend a minimum of 25 feet outside the property boundaries.
- (3) The shape, size, location, height, and floor area of all structures and the floor area and finished ground and basement floor grades.
- (4) Location and species of all trees over four inches in diameter at a height of five feet from the ground.
- (5) Natural features such as wood lots, drainage ways, streams, and lakes or ponds and manmade features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.
- (6) Adjacent properties and their uses shall be identified.
- (7)

Proposed streets, driveways, parking spaces, sidewalks, and other pedestrian or vehicular circulation facilities, with indication of direction of travel for one-way streets and drives and inside radii of all curves. The width of streets, driveways, and sidewalks and the total number of parking spaces shall be shown.

- (8) Architectural plans and general floor plans shall be provided for all new buildings. These drawings and plans should show sufficient detail to indicate the architectural design of the proposed buildings, but all design details are not required at this stage.
- (9) Landscape plan showing all new plantings and retained existing plant materials. The landscape plan shall include the number, species, time of installation, and size of materials at installation.
- (10) A colored rendering of the front elevation of the principal buildings showing colors and materials.
- (11) The location, general design, and dimension of all signs, including ground signs, wall signs, roof signs, and directory signs.
- (12) The location, height, design, and power of all exterior lighting.
- (13) The size and location of all existing and proposed public and private utilities on the site.
- (14) A vicinity sketch showing the location of the site in relation to the surrounding street system.
- (15) The name, address, and telephone number of the owner, developer and designer.
- (16) For residential projects, the number and size of dwelling units, anticipated resident population, and the anticipated population under 18 years of age.
- (17) For nonresidential projects, the amount of floor area, the number of anticipated employees, and number of parking stalls.
- (18) Any other information necessary to establish compliance with this chapter and other applicable city ordinances.

(Code 1997, § 17.28; Rep. and Recr. #411; Rep. & Recr. #674)

Sec. 52-62. - Criteria for site plan and appearance review.

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of the city's environment that the plan commission will use in reviewing site plan and appearance permit applications. These criteria are not intended to restrict imagination, innovation, or variety, but rather to assist in focusing on design principles that can result in creative solutions that will develop satisfactory visual appearance within the city, preserve taxable values, and promote the public health, safety, and welfare.

- (1) *Landscape and site treatment.*
 - a. Where natural or existing topographic patterns contribute to beauty and do not detract from the utility of a development, they shall be preserved and developed.
 - b. Landscape treatment shall be provided to enhance architectural features, improve appearance, screen parking areas and miscellaneous structures, provide wildlife habitat, provide shade, and enhance the streetscape.
 - c. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by coordination with landscaping on adjacent developments.
 - d. Plant materials shall be selected on the basis of size at maturity, hardiness, tolerance for site-specific environmental conditions, screening value, wildlife habitat values, and all season appearance.

- e. Use of plants that are indigenous to the area shall be encouraged.
 - f. Nonnative plants that are considered a nuisance or "invader" species, such as purple loosestrife, honeysuckle, and buckthorn shall not be used as plant materials.
 - g. Plant specimens shall be of sufficient size and quality to provide screening and landscape benefits within three growing seasons from the time of planting. Trees planted in traffic islands and in other areas where they could be subject to disturbance or other factors that could affect growth, should be at least two inches in diameter and eight feet high at the time of planting. Evergreens should be a minimum of six feet high at the time of planting. Shrubs should be balled and burlapped and a minimum of 18 inches high at the time of planting.
 - h. Irregular clusters of vegetation are generally preferable to isolated specimens or regularly spaced rows of plantings.
 - i. In locations where they will be susceptible to injury by pedestrian or motor traffic, plants shall be protected by appropriate curbs, tree guards, or other devices.
 - j. Planting in parking lot islands is required to break up large expanses of parking stalls. Parking lots of over 24 vehicles shall have a minimum of one tree island not less than 180 square feet for each 24 parking stalls or an equivalent number of perimeter plantings or tree rows that are designed as part of an overall landscape plan acceptable to the plan commission.
 - k. Large parking areas shall be treated with decorative screens consisting of building wall extensions, plantings, berms, or other innovative means so as to screen parking areas.
 - l. Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, planting, or combinations of these. Screening shall be equally effective in winter and summer. Screens shall be compatible and harmonious with the landscaping and site treatments on neighboring properties.
 - m. In areas where general planting will not prosper, other materials such as fences, walls, and paving of wood, brick, stone, gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.
 - n. Prohibition of disturbing steep slopes. Steeply sloped terrain with a natural grade of 25 percent or more may not be regraded, built upon or otherwise disturbed. The plan commission may grant an exception to this requirement where the area proposed for disturbance is an isolated area and providing such disturbance is necessary for the development to occur and does not alter the overall topographic character of the site. The total area granted such an exception may not exceed 20,000 square feet for the entire site.
 - o. Compliance with chapter 16, article III. All site plans must comply with the requirements of chapter 16, article III, pertaining to construction site erosion control and stormwater management. All site plans approved by the plan commission shall be subject to compliance with chapter 16, article III.
- (2) *Building design.*
- a. Architectural style is not restricted. Evaluation of appearance of a project shall be based on quality of its design and relationship to surroundings; however, architects and builders are encouraged to consider architectural styles and traditions appropriate to the area of the city.
 - b.

Buildings shall be compatible with neighboring properties with respect to size, scale, proportion, and materials.

- c. Buildings shall not be so out of character or incompatible with respect to neighboring properties that they would adversely affect the market values of property in the city.
- d. Materials shall be selected for suitability to the type of buildings and the design in which they are used. In developments with multiple structures, all structures shall be constructed with the same materials or those that are architecturally harmonious.
- e. Materials shall be of durable quality.
- f. In any design in which the structural frame is exposed to view, the structural materials shall be compatible with each other and harmonious to their surroundings.
- g. Building components, such as windows, doors, eaves, and parapets shall be proportionally related to one another.
- h. Principal building colors and color accents used on trims, fascia, and signage shall be coordinated and harmonious.
- i. Mechanical equipment or other utility hardware shall be fully screened with materials that are coordinated with the colors of the principal building.
- j. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened on all sides. Screening materials shall be coordinated with and harmonious with the overall architectural character of the principal building.
- k. Variation of detail, form, and siting shall be used to provide for visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent monotonous appearance.

(3) *Signs.*

- a. Signs shall be compatible with respect to size, proportions, materials and color with nearby buildings and surroundings.
- b. A sign shall be designed as an integral architectural element of the building and site to which it principally relates.
- c. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
- d. The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face.
- e. Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.
- f. Developers of projects, such as shopping centers or business buildings, in which individual signs for separate occupancies are permitted by ordinance, shall submit a comprehensive set or list of specifications that shall provide design review guidelines that would be administered for future signs in the project.
- g. Identification signs of a prototype design and corporation "logos" shall conform to the criteria for all other signs.

(4) *Miscellaneous structures, lighting, street furniture, and utility service.*

- a.

Miscellaneous structures, street furniture, and lighting shall be designed to be part of the architectural character, concept, and style of the primary structure. Materials shall be compatible with respect to size, proportion, materials, and colors of the primary structure.

- b. Lighting in connection with parking areas and miscellaneous structures shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
 - c. Exterior lighting shall be designed and located to minimize its illumination and glare as seen from neighboring properties and public rights-of-way.
 - d. Where feasible, utility service and associated hardware shall be installed underground. Where placement underground is not feasible, utility service and hardware shall be located and designed to be as unobtrusive as is feasible.
 - e. Exterior lighting shall be designed and directed so that existing and proposed residential areas will not be affected by the illumination. Illumination shall not exceed 0.5 footcandle measured at the lot line.
- (5) *Tree preservation.* The purpose of this section is to provide standards to preserve the city's character as a natural, wooded community by maintaining property values through the improvement and preservation of the natural environment of the city through tree preservation and site plan regulation. It is the intent of the city to preserve and protect the natural resources of the city by reducing the amount of soil erosion in the city that is the result of tree removal; to protect the quality of the waters of the state and the city; to protect and promote the health, safety, and welfare of the city through the preservation of trees and promote aesthetically attractive development.
- a. *Tree inventory required.* Applicants for site plan review shall be required to provide a plan map and inventory showing existing trees on those portions of the site that will be disturbed. The inventory shall include identification of all trees over four inches in diameter, measured at a height of 4.5 feet from the ground (referred to as "diameter at breast height" or "dbh"), from the following list of tree species, (hereinafter referred to as "protected tree species.") The inventory shall include reference to any listed tree that applicants believe to be damaged, diseased or dying.

PROTECTED TREE SPECIES

Common Name	<i>Scientific Name</i>
<i>Deciduous Trees</i>	
Red maple	Acer rubrum
Sugar maple	Acer saccharinum
American beech	Fagus grandifolia
Pin oak	Quercus palustris
White oak	Quercus alba
Swamp white oak	Quercus bicolor
Burr oak	Quercus macrocarpa
Red oak	Quercus rubra
Butternut	Juglans cinerea
Pignut hickory	Carya glabra
Shagbark hickory	Carya ovata

Horse chestnut	Aesculus hippocastanum
Black cherry	Prunis serotina
Black walnut	Juglan nigra
Basswood	Tilia americana
River birch	Betula nigra
Black spruce	Picea mariana
Blue spruce	Picea pungens glauca
Scotch pine	Pinus sylvestris
Eastern red cedar	Juniperus virginiana
White spruce	Picea glauca
Red pine	Pinus resinosa
Eastern white pine	Pinus strobus
American arborvitae	Thuja occidentalis

- b. *Sampling method.* If existing tree cover is determined by the city arborist to be too dense, too extensive, or impractical for a conventional inventory, mitigation requirements may be derived from scientific sampling. Sampling quadrates shall be measured and inventoried per the direction of the city arborist for each unique community or microclimate exhibited in the subject property. Data derived from sampling shall replicate the requirements described in subsection (5)a of this section.
- c. *Tree protection.* In developing a site plan and locating buildings, driveways and parking areas, applicants for site plan reviews shall be required to preserve, to the greatest extent feasible, all protected tree species. The plan commission shall consider the tree inventory and the applicant's efforts to protect and preserve existing trees, and the feasibility of preserving all protected tree species in their review of the site plan.
- d. *Clear cutting prohibition.* "Clear cutting" is herein defined as the act of complete removal of all vegetation, including, but not limited to, trees, from a lot or parcel, whether developed or undeveloped, as those terms are defined in section 52-11. The clear cutting of any lot or parcel within the municipal boundaries shall be prohibited except as provided for in this section. Clear cutting does not include the removal of exotic invasive plant species as those species are determined and defined by the State of Wisconsin Department of Natural Resources *Manual of Control Recommendations for Ecologically Invasive Plants*, as amended.
- e. *Tree removal limitations.* Subject to the provisions of this section, removal of trees four inches dbh or greater shall be permitted as follows:
 1. On proposed lots less than 20,000 square feet, up to 80 percent of said trees per lot may be removed, except in the C-1 and SW-1 zoning districts;
 2. On proposed lots 20,000 square feet to 39,999 square feet, up to 60 percent of said trees per lot may be removed, except in the C-1 and SW-1 zoning districts;
 3. On proposed lots 40,000 square feet to 87,119 square feet, up to 40 percent of said trees per lot may be removed except in the C-1 and SW-1 zoning districts;
 4. On proposed lots 87,120 square feet or greater, up to 20 percent of said trees per lot may be removed, except in the C-1 and SW-1 zoning districts;
 - 5.

In the C-1 and SW-1 zoning districts, up to ten percent of said trees per proposed lot may be removed.

Issuance of a building permit/erosion control permit shall constitute an approval of the land disturbance subject to any terms and conditions contained therein and placed on the applicant by the commission as well as the applicant's strict conformance with the regulations of this chapter.

f. *Tree/vegetation removal.*

1. *Removal outside the approved area of disturbance.* No trees or vegetation shall be removed outside the approved area of disturbance except as specifically exempted in this section.
2. *Removal inside the approved area of disturbance.* Except as exempted in this section, to the maximum extent feasible, significant trees and vegetation inside the limits of disturbance shall be maintained. Significant trees removed from within the area of disturbance shall be replaced as set forth in subsection (5)h of this section.
3. *Removal within the shoreland areas.* Within a strip paralleling any navigable body of water and extending 50 feet inland from all points along the ordinary high water mark of the shoreline, tree cutting and removal of existing vegetation shall be limited in accordance with the following provisions:
 - (i) No more than 30 percent of the length of a strip (measured along the ordinary high water mark as that term is defined in section 52-11) shall be clear-cut to the depth of the strip.
 - (ii) Cutting of this 30 percent pursuant to subsection (5)f.3(i) of this section, shall not create a clear-cut opening in the strip greater than 30 feet wide (as measured along and parallel to the ordinary high water mark as that term is defined in section 52-11).
 - (iii) Any paths, roads, or passages within the strip shall be so constructed and surfaced so as to control erosion in compliance with the terms and conditions of chapter 16, article III, pertaining to construction site erosion control and site stormwater management.
 - (iv) The plan commission may allow exceptions for the accommodation and/or provision of essential fire and police services.

g. *Special cutting plans.* As an alternative to subsection (5)f.3 of this section, a special cutting plan allowing for greater cutting than that allowed under this chapter may be permitted by the plan commission by issuance of and compliance with a conditional use permit issued under article V of this chapter.

1. *Plan requirements.* An application for a conditional use permit under this section shall include a site plan, including the following information:
 - (i) Location of all structures;
 - (ii) Location of parking and driveway;
 - (iii) Existing and proposed topography;
 - (iv) Existing tree inventory;
 - (v) Identification of proposed tree replacement.
2. *Approval criteria.* The plan commission may grant a conditional use permit only upon a finding that such special cutting plans will not cause undue erosion or destruction of the scenic beauty, and will not substantially reduce shielding from the water, structures and/or parking areas impacted or

immediately adjacent to the special cutting plan area. The plan commission may condition granting such a permit upon a guarantee by the applicant of tree planting by the lot owner per an approved planting plan.

h. *Tree replacement.* Where an existing tree over four inches in diameter of a species identified as a protected tree species is to be removed, tree mitigation shall occur, and a replacement of an equivalent amount of tree caliper inches, as measured by tree diameter or size at the time of planting, shall be required. In those instances, mitigation may be satisfied, but may not be limited, by:

1. On-site replacement, documented in a landscape plan submitted to and approved by the city arborist or the plan commission;
2. Off-site replacement, to be determined by the city arborist in accordance with this subsection (5)h, when site conditions are determined by the city arborist to be inappropriate for required mitigation quantities or plans;
3. Fees in lieu of tree mitigation or replacement as provided by subsection (5)i of this section; or
4. A combination of mitigation alternatives as determined and prescribed by the city arborist and approved by the plan commission.

Replacement trees shall be clearly identified on the landscaping and site plans and shall be of a type and species suitable for the site as determined by the city arborist or plan commission. All new replacement canopy trees shall be a minimum of 2.5-inch caliper, as measured six inches from the top of the nursery-stock root ball. Conifers, ornamental trees and shrubs over six feet in height, as measured from the top of the root ball, at the time of planting shall be credited as 2.5-inch caliper trees.

i. *Fees in lieu of tree replacement.*

(1) Where, in the determination of the plan commission, replacement plantings or other mitigation efforts that are required by this section, would not be feasible, the plan commission may require the applicant to pay a fee equal to \$250.00 per caliper inch of the tree that is removed or proposed to be removed. Valuation of trees removed or proposed to be removed may be reduced per the city forester, based on analysis of health and condition of trees to be replaced. In determining valuations and fees in lieu of replacement the plan commission shall take into consideration nursery stock prices in effect at the time of valuation. In the discretion of the plan commission the valuation per caliper inch may be modified to account for fluctuating commodity prices.

2. All fees collected as fees in lieu of replacement shall be deposited in the City of Delafield Tree and Brush Removal Fund and earmarked for landscaping and tree planting in public street rights-of-way and on other city-owned property.

j. *Penalty for unauthorized tree removal.* If it is determined by the city building inspector, city arborist, or city administrator that a violation of this section has occurred, or there has been unauthorized tree removal, with the exception of the removal of dead or diseased trees as determined by the city arborist, the forfeiture for said unauthorized removal shall be three times the amount determined pursuant to subsection (5)i of this section. The value of each and every unauthorized removed tree shall be determined by the city arborist. Each and every act of unauthorized tree removal shall be deemed a separate offense for which a forfeiture may be assessed.

(Code 1997, § 17.29; Rep. and Recr. #411; Cr. #443; Cr. #455; Rep. #455; Cr. #474; Am. #474; Am. #491; Rep. & Recr. #537; Am. #656; Am. #723)

(Ord. No. 786, § 1, 12-6-2021)

Sec. 52-63. - Design guidelines for special design review districts.

In addition to the general criteria for site plan appearance review described in [section 52-62\(2\)](#), the plan commission shall apply additional guidelines for review of applications within design review districts. A certified copy of the design review districts map shall be adopted and approved with the text as part of this section, shall bear upon its face the attestation of the city clerk, and shall be available to the public in the office of the city clerk-treasurer.

(1) *Downtown Delafield District design guidelines.* The following criteria shall be met when changes are proposed to an existing site plan, unless waived by the plan commission:

a. The Downtown Delafield District boundary shall encompass all structures on both sides of the streets and all corners of the intersections within the boundary further described:

Commencing at Stocks Drive and Genesee Streets, north to Wells Street, west to Dopkins Street, north to the Bark River, east along the river to Genesee Street, north to St. John's Street, south to the Bark River, east to Oneida Street, south to Milwaukee Street, east to Oneida Street, south to Wells Street, west to Genesee Street and south to Stocks Drive.

b. All buildings designed for retail use shall have storefront windows and display areas constituting at least 40 percent of the first floor facade.

c. All nonresidential uses that are new structures, or modifications, or additions to existing structures shall be required to demonstrate compatibility with surrounding architecture and exhibit traditional influence indicative of architectural styles and detailing found in the Delafield region at the time of city incorporation. Predominant architectural styles in the downtown district are Colonial, Neo-classical, Federal, Victorian and Greek Revival. New structures should incorporate such features as:

1. Pitched roofs;
2. Ornamental spires and rooftop ornamentation;
3. Use of horizontal wood siding or similar manmade material that replicates wood with four- to five-inch laps;
4. Use of white or other colors compatible with the approved Historic Downtown Delafield District color palette.

d. All buildings with occupied floors above the ground floor shall have window openings on the street facades displaying an organized rhythm of window openings.

e. New construction shall maintain the compatible overall size, height, scale, and orientation of other buildings on the same block.

f. Owners of existing structures shall be encouraged to maintain original materials similar to those used originally on historic structures. If vinyl, aluminum, or other similar modern siding materials are used on historic buildings, the style shall be four- to five-inch lap. Concrete block, artificial stone and artificial brick veneers shall be prohibited.

g. No new backlit signs or awnings shall be permitted. If sign lighting is needed, the preferred lighting is either ground lighting or mounted arm lighting. Existing legal nonconforming backlit signs and backlit awnings shall be considered grandfathered.

- h. Preferred signage areas include traditional sign panels above storefront windows, signage painted or applied to windows, small unlit projecting signs, and signage placed on traditional canvas awnings.
 - i. Signage shall be oriented to the pedestrian versus the automobile.
 - j. Maximum size for a flush wall mounted sign shall be 25 square feet.
 - k. The preferred form of parking in the downtown area is the "parking courtyard," which places the parking areas on the interior or rear of the blocks rather than along the street frontage.
 - l. Parking lots fronting on public streets or on residential zoned areas shall be screened from the streets and sidewalk or adjoining residential property either by walls or plantings or both. If walls are used, then the material shall be compatible with the walls of the existing adjacent buildings. Walls shall be at least 24 inches high.
 - m. Electronic message, both external and internal displays, shall be prohibited in the Downtown Delafield Design District.
- (2) *Southshore Redevelopment District design guidelines.*
- a. All structures shall be compatible in scale and massing with existing residential structures in the Southshore Redevelopment District.
 - b. Garages and carports shall face onto side yards or rear yards.
 - c. No backlit signs, including backlit awnings, shall be permitted.
 - d. Parking areas or parking lots designed for more than four vehicles shall be separated from the public rights-of-way by a decorative screen that is compatible and harmonious with the architectural character, concept, and style of the principal structure and adjoining structures.
 - e. The location and design of structures and landscaping shall preserve and protect vistas of the lake from the public rights-of-way.
- (3) *Highway Interchange District design guidelines.*
- a. Use of prefabricated metal panels or untextured concrete block exterior siding shall not be permitted as the primary building material on the facades of any structures visible from U.S. 94, STH 16 or STH 83. Textured or patterned concrete block and metal panels, exposed trusses, or other ornamentation is acceptable when used on architecturally designed buildings where such materials are used as an architectural element on a building of overall superior quality.
 - b. All commercial structures visible from Interstate Highway 94 or Highway 16 should have at least a 70 percent masonry facade or other quality materials of comparable durability and aesthetic character. In computing facade surface area, glass window and door openings shall be excluded from the facade surface calculations.
 - c. All equipment or truck parking, outside storage areas, loading bays, and trash receptacles shall be screened from view from all public rights-of-way and existing and proposed residential areas.
 - d. Landscaped terrace areas, decorative screens or berms shall be constructed as buffers separating parking areas for over 24 vehicles from major highways and frontage roads. All landscaped terrace areas separating parking areas from major highways and frontage roads shall be at least 15 feet in width.
 - e. Parking lots for over 24 vehicles shall have a minimum of one tree island of not less than 180 square feet for each 24 parking stalls or an equivalent number of perimeter plantings or tree rows that are designed as part of an overall landscape plan acceptable to the plan commission.

(Code 1997, § 17.30; Rep. and Recr. #411; Am. #534; Am. #603)

(Ord. No. 732, § 2, 3-19-2018)

Sec. 52-64. - Maintenance and upkeep criteria.

Maintenance and upkeep are an integral aspect of the quality of the overall appearance of the city. Both buildings and sites require regular maintenance to retain a good appearance. Improper or inadequate maintenance and upkeep result in a bad appearance and decrease taxable values. Therefore, it is necessary that maintenance be a concern of the plan commission. The building inspector shall enforce adequate maintenance and upkeep of all property under the jurisdiction of this section.

(1) *Site maintenance and upkeep.*

- a. Landscape materials, other than plantings, that have deteriorated or been damaged or defaced, shall be properly repaired or replaced.
- b. Plant materials that have deteriorated or died shall be replaced with healthy plantings of appropriate size to be harmonious with original design or the area redesigned with other treatment to provide an attractive appearance.
- c. Plantings shall be kept watered, fed, cultivated, and pruned as required to give a healthy and well-groomed appearance during all seasons.
- d. Parking areas shall be kept in good repair, properly marked, and clear of all litter and debris.
- e. Vacant property shall be kept free of refuse and debris and shall have the vegetation cut periodically during the growing season.
- f. Lawns and other landscaped areas shall be kept mowed and trimmed.

(2) *Building maintenance and upkeep.*

- a. Buildings and appurtenances, including signs, shall be cleaned and painted in a color harmonious with the original design or repaired as required to present a neat appearance.
- b. Deteriorated, worn, or damaged structures or portions of structures shall be rebuilt or replaced.
- c. Illumination elements of buildings and signs shall be kept in good repair so as to maintain the effect for which they were designed.

(Code 1997, § 17.31; Rep. and Recr. #411)

Sec. 52-65. - Site plan and appearance review administration.

(a) *Regulatory powers of the commission over new construction and remodeling.* No permit required by applicable ordinances of the city for the erection, construction, alteration or repair of any building or structure on public lands or within any zoning district, excluding single-family and two-family residences and which involves new construction or major exterior alterations, shall be issued by city officials except upon the granting of a site plan and appearance certificate of approval by the plan commission. If the building inspector determines that only a minor exterior alteration is involved in the work for which the permit is sought, no certificate of approval is required hereunder.

(b) *Procedure for site plan and appearance certificate of approval application review and approval.*

(1)

Application. An applicant for any construction permit that requires a site plan and appearance certificate of approval shall apply to the plan commission for such certificate on forms provided by the administrator and shall provide two full, complete signed copies of all items required on application and as specified in section 52-61, as well as property owner and applicant signatures. Additionally the all of the same shall be submitted to the city clerk-treasurer in digital (i.e., PDF) format.

- (2) *Schedule plan commission meeting.* Upon receipt of such application, the administrator shall schedule a meeting of the plan commission to be held within 45 days of the date of application, at which the applicant shall be given an opportunity to make a presentation and any interested party shall be given the opportunity to comment.
- (3) *Staff application review conference.* Any applicant or prospective applicant for any permit that requires a site plan and appearance certificate of approval shall have a preliminary review conference with the administrator and city planning staff. At such conference, the staff shall review the preliminary exterior drawings, sketches or photographic examples, landscape and site plans and materials on a specific project and provide the applicant with guidance in the development of a plan which would be consistent with requirements and purposes of this section.
- (4) *Preliminary plan commission conference.* Any applicant or prospective applicant for any permit that requires a site plan and appearance certificate of approval may file a written request for a preliminary conference with the plan commission. Such conference with the commission shall be held at the next scheduled commission meeting. At such conference, the commission shall give consideration to preliminary exterior drawings, sketches or photographic examples, landscape and site plans and materials on a specific project and provide the applicant with guidance in the development of a plan which would be consistent with requirements and purposes of this section.
- (5) *Plan commission meeting.* The plan commission may approve, deny or make recommendations as to changes in the site plan and exterior design features, which in the judgment of the commission would tend to achieve the general purpose of this section. If approval is granted contingent upon plan changes, revised documentation must be submitted in digital (i.e., PDF) format to both the city clerk and city engineer within 30 days of the approval.
 - a. The plan commission shall issue a certificate of approval if it finds that:
 1. The applicant's plans are substantially consistent with this section;
 2. The proposed exterior design features of the development are suitable and compatible with the character of neighboring buildings and structures and the character of the neighborhood;
 3. The exterior design features of the development will not be detrimental to the harmonious and orderly growth of the city; and
 4. The exterior design features of the development will not cause a substantial depreciation in the property values or taxable values in the neighborhood.
 - b. The plan commission shall render its decision at the meeting and shall notify the administrator and the applicant thereof. If the commission denies the issuance of a certificate of approval to the applicant, no permit shall be issued on the application, except by express direction of the common council, upon appeal as provided below.
- (6) *Follow-up by the building inspector.*
 - a.

Upon the granting of a certificate of approval, one copy of the exterior drawings, sketches, landscape and site plans, renderings and materials upon which the certificate was granted shall be retained by the city clerk and a second copy shall be retained by the building inspector, whose responsibility it shall be to determine, as the project is in progress and finally upon its completion, that there have been no deviations therefrom. Such deviations shall constitute a violation of this section, in which event the building inspector may stop work on the project in the same manner as for a violation of a chapter of this Code. Work may not be resumed until such deviations are corrected.

- b. The person to whom a certificate of approval has been granted shall comply with the requirements of the certificate and obtain such inspections as may be necessary in order to assure compliance. The building inspector shall give notice of any deficiencies found to exist. Failure to correct any deficiencies within ten days after notification of such deficiency shall constitute a violation of this section.
- c. When, by reason of nonavailability of planting materials or other valid circumstances, it becomes necessary to vary any of the provisions under which a certificate has been granted and, in the opinion of the building inspector, such variation shall be aesthetically equal to or better than the original provisions and will not conflict with the intent of this section, the building inspector shall have the power to grant such variation. To the extent that the building inspector exercises the above power, he shall submit a written report of the circumstances to the commission.
- d. Before any occupancy permit may be issued authorizing the use of any improvements constructed under the provisions of this section, a final inspection of the premises must be obtained. An occupancy permit will not be issued unless the completed work is found to be in compliance with plans approved by the commission and under which the certificate of approval was issued, except as provided in subsection (b) (6)f of this section.
- e. If it should become impossible by reason of weather, strike or any other circumstance beyond the control of the person, firm or corporation to whom the certificate has been granted to complete all work required before occupancy or start of use, a temporary occupancy permit may be granted upon either depositing with the city a cash escrow sufficient to guarantee completion of the work, or upon the execution of an agreement in a form satisfactory to the city attorney which shall bind the applicant to comply with the terms, provisions and conditions of the certificate as soon as circumstances permit. Refunds of any cash escrow may be made only in a lump sum upon final inspection and approval by the building inspector.
- f. If the person to whom the certificate of approval has been granted fails to complete the improvements above and a cash escrow amount has been deposited for more than 12 months from the date of deposit, the city shall be authorized to use all or such part of such deposit as may be required to complete the work in accordance with drawings submitted and approved by the plan commission and under which a certificate and other permits have been granted. The above time limit may be extended by the building inspector if it is in the public interest to do so. In such event, the party to whom the certificate was issued shall only be entitled to the refund of that portion, if any, of the cash deposit that remains in escrow after completion of the work entailed. The party to whom the certificate was issued, and the successors and assigns thereof, shall have a continuing obligation to maintain the exterior design features as approved, and failure to do so, within ten days after notification by the building inspector of such failure to maintain, shall constitute a violation of this section.

g.

Improvements in existence as of the effective date of the ordinance from which this section is derived shall be in compliance with this section, but such improvements shall be continuously maintained in a state of good repair. The building inspector shall have the same powers and authority to effectuate the proper maintenance of preexisting improvements as that person has with regard to improvements for which a certificate has been issued.

- (7) *Appeal to the council.* If the plan commission denies a certificate of approval or amendment thereto or fails to timely act as provided above, the applicant shall have the right to appeal directly to the common council. Such appeal shall be made in writing and filed within 30 days of the failure of the commission to act. The common council shall consider and decide such appeal within 30 days after the filing thereof. Upon such appeal, all records and findings concerning the applications shall be submitted to the common council by the building inspector. Thereupon, the common council may:
- a. Adopt the decision of the plan commission.
 - b. Overrule or modify the decision of the plan commission and direct the issuance of a certificate.
 - c. Or, if the plan commission has failed to timely act as provided above, direct or deny issuance of a certificate.
 - d. Amendments to a certificate of approval may be obtained by application in the same manner as provided for an original certificate.
- (8) *Performance bond or letter of credit.* The city may require a performance bond, letter of credit, or other assurance from the developer guaranteeing that all grading, erosion control, stormwater facilities, landscaping and restoration, and other site improvements required as a condition of site plan and appearance approval will be installed. Said bond or letter of credit shall be for 110 percent of the estimated cost of installation based on cost estimates approved by the city engineer. Such performance bond or letter of credit shall be retained by the city until all improvements are accepted and approved by the city engineer.
- (9) *Erosion control.* Erosion controls approved by the city engineer must be in place, inspected, and approved prior to issuance of any building permits or granting a permit for preliminary grading or site preparation. Erosion controls must meet the guidelines of the "Wisconsin Construction Site Best Management Practice Handbook."
- (10) *As-built plans.* Following completion of construction of required site improvements, developers shall provide the city with as-built plans for stormwater improvements, grading, and landscaping. As-built plans shall be submitted on Mylar, signed and sealed by a professional engineer and/or land surveyor of the state. Additionally, as-built plans shall be submitted to the city engineer in digital format (i.e., PDF) and in AutoCAD dwg format.
- (11) *Penalty.* Except as otherwise provided herein, any person found in violation of any provision of this section or any other rule or regulation made hereunder shall be subject to a penalty as provided in [section 1-4](#).

(Code 1997, § 17.32; Rep. and Recr. #411; Recr. #444; Recr. #587; Am. #587; Am. #674)

Secs. 52-66—52-88. - Reserved.

ARTICLE III. - PLANS OF OPERATION

Sec. 52-89. - Plans of operation.

- (a) *Plan of operation review and approval requirements.*
- (1) No person shall operate a commercial enterprise, industry, home business, church, school, nonprofit organization, or other nonresidential use, except as authorized by a plan of operation approved by the plan commission under this section.
 - (2) An amendment to an existing plan of operation requires approval by the plan commission if a business or institution increases the amount of employees, changes the nature of the product or service, or extends the hours of operation beyond those shown on the existing plan of operation.
 - (3) An amendment to an existing plan of operation may be approved by the city administrator, or its designee, upon a change limited to property ownership, business ownership, or operator name. An amendment approved under this provision shall be reported to the plan commission at the meeting following the approval.
- (b) *Temporary plan of operation permits.* The city administrator may issue a temporary plan of operation permit, which shall expire on the date of the plan commission meeting following the issuance of the temporary plan of operation permit.
- (c) *City of Delafield facilities.* City of Delafield facilities are exempt from plan of operation permit requirements.
- (d) *Required information for a plan of operation permit.* All plans of operation shall be submitted to the city administrator on forms supplied by the city. An application for a plan of operation permit shall include the following information:
- (1) Name, type, and address of the business or institution.
 - (2) Name and address of the property owner.
 - (3) Name and address of the manager, if other than the owner.
 - (4) The proposed hours of operation.
 - (5) The number of full-time and number of part-time employees.
 - (6) Plot plan for multitenant buildings, if applicable.
 - (7) Interior floor plan of tenant space, if applicable.
 - (8) A narrative explaining the operation, including types of indoor and outdoor uses, products, or services offered.
- (e) *Criteria for plan of operation approval.* The following criteria will be used by the plan commission in reviewing applications for plan of operation permits:
- (1) Proximity to residential neighborhoods and the potential for disturbing and disrupting residential uses.
 - (2) Adequacy of the principal building and other structures on the site for the proposed activity. Plan of operation permits will only be issued to businesses to be conducted in permanent structures. Temporary plan of operation permits may be issued, at the discretion of the plan commission, for temporary structures or facilities not on a permanent foundation, such as wheeled trailers, vendor carts, and season stands.
 - (3) Availability of adequate parking to meet the needs of employees and customers.
 - (4) Adequacy of street access.
- (f) *Hours of operation.*
- (1)

Authority. Based upon the impact on residential areas in proximity to commercial uses and the cost of police protection and other public services necessary to adequately serve the business with extended hours of operation, the common council finds that it is necessary to limit hours of operation for all businesses.

- (2) *Hours allowed.* The plan of operation required by this section shall contain a proposal for hours of operation. No business may be open with lit signage to the public between the hours of 2:00 a.m. and 5:00 a.m. except for the following uses:

Gasoline stations	24-hour operation allowed
Gasoline stations with incorporated food marts (under 5,000 square feet)	24-hour operation allowed
Hotels and motels	24-hour operation allowed
Restaurants and drinking establishments	As permitted by Wisconsin Statutes governing sale of alcohol beverages

- (3) *Setback from residences.* All 24-hour operations approved by the city after the effective date of the ordinance from which this chapter is derived shall conform to a 200-foot setback from any abutting residential property line.

(Code 1997, § 17.33; Rep. and Recr. #411; Am. #514)

(Ord. No. 818, § 3, 10-16-2023)

Secs. 52-90—52-106. - Reserved.

ARTICLE IV. - ZONING DISTRICTS

Sec. 52-107. - Establishment.

For the purpose of this chapter, the city is divided into the zoning districts described in this article.

- (1) *District boundaries.* Boundaries of these districts are hereby established as shown on a map entitled "Official Zoning Map, City of Delafield, Wisconsin." Such boundaries shall be construed to follow corporate limits; U.S. public survey lines; and centerlines of streets, highways, alleys, easements and railroad rights-of-way or such lines extended, unless otherwise noted on the zoning map.
- (2) *Boundaries of conservancy districts.* Boundaries of conservancy districts as drawn on the official zoning map are intended to represent the edge of wetlands, swamps, marshes and floodlands or the high water line along a stream or watercourse and the boundaries of public parklands. Modification of the conservancy district boundaries to exempt lands from this classification may be permitted if a property owner presents

documentation that the land or a portion of it does not contain soil types which are poorly drained, very poorly drained or wet alluvial land according to the Soil Survey for Waukesha County prepared by the U.S. Department of Agriculture Soil Conservation Service.

(3) *Boundaries of shoreland-wetland districts.*

- a. The Shoreland-Wetland Zoning District includes all wetlands in the city which are five acres or more in size and are shown on the final wetland inventory map that has been adopted and made a part of this chapter in section 52-111(ac)(9) and which are:
 1. Within 1,000 feet of the ordinary high water mark of navigable lakes, ponds or flowages. Ponds or flowages in the city shall be presumed to be navigable if they are listed in the department of natural resources' publication "Surface Water Resources of Waukesha County" or are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been made a part of this chapter in section 52-111(ac)(9).
 2. Within 300 feet of the ordinary high water mark of navigable rivers or streams or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this chapter in section 52-111(ac)(9). Floodplain zoning maps adopted in section 52-111(ac)(9) shall be used to determine the extent of floodplain areas.
- b. Determinations of navigability and ordinary high water mark location shall initially be made by the administrator. When questions arise, the administrator shall contact the appropriate district office of the department for a final determination of navigability or ordinary high water mark.
- c. When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and the actual field conditions at the time the maps were adopted, the administrator shall contact the appropriate district office of the department to determine if the shoreland-wetland district boundary as mapped is in error. If department staff concur with the administrator that a particular area was incorrectly mapped as a wetland, the administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official zoning maps, the administrator shall be responsible for initiating a map amendment within a reasonable period. See sections 52-292 to 52-296.
- d. Under Wis. Stats. § 144.26(2m), notwithstanding any other provision of law or administrative rule, wetland zoning ordinances required under Wis. Stats. § 62.231, and ch. NR 117, Wis. Admin. Code, do not apply to lands adjacent to farm drainage ditches if:
 1. Such lands are not adjacent to a natural navigable stream or river.
 2. Those parts of the drainage ditches adjacent to such lands were not navigable streams before ditching.
 3. Such lands are maintained in nonstructural agricultural use.
- e. Wetlands lying between bulkhead lines and the ordinary high water mark or which have been filled prior to adoption of the shoreland-wetland provisions of this chapter and the final wetland maps are not regulated by the shoreland-wetland provisions of this chapter.

(4)

Boundaries of residential lake districts. Boundaries of residential lake districts as drawn are intended to include subdivisions which immediately abut a lake or stream. A lot in a residential lake district subdivision shall not be subdivided so as to create an additional lot or lots which do not abut the lake or stream without prior permission of the plan commission.

- (5) *Vacation.* Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (6) *Zoning of annexed land.*
 - a. *Temporary zoning.* Pursuant to Wis. Stats. § 66.021(7), the common council shall refer to the plan commission for recommendation as to temporary zoning classification any land being considered for annexation and shall include in the annexation ordinance a provision designating a temporary zoning district classification for such area.
 - b. *Permanent zoning.* As soon as practical after the annexation is final, the zoning classification for such annexed area shall be established by zoning amendment.
- (7) *Environmental corridor boundary.*
 - a. *Purpose and intent.* Environmental corridor boundary, as mapped or intended to be mapped, includes primary or secondary environmental corridors as defined in the comprehensive plan, and is intended to be used to preserve, protect, enhance, and restore significant woodlands, upland wildlife habitat areas, scenic overlooks, slopes exceeding 12 percent, and upland wooded areas. Areas designated as being within the environmental corridor may be used for limited residential purposes; provided, however, that residential densities in such areas may not exceed one unit per five acres for all parcels or portions of parcels that lie within the environmental corridor boundary, exclusive of the C-1 conservancy areas. Where questions arise as to the exact location or boundary of an environmental corridor boundary, the extent and location of such corridors shall be field delineated in conjunction with SEWPRC standards for PEC and finally approved by the zoning administrator or his/her designee.
 - b. *Density and lot size.*
 1. In determining the density allowed for any proposed development which includes lands within the environmental corridor boundary one dwelling unit may be permitted for each five acres of land, in either private or common ownership, located entirely within the environmental corridor boundary area; provided, however, that the minimum residential lot size shall be determined in accordance with the underlying zoning district.
 2. Lots or parcels may be created which include lands located partially within the environmental corridor boundary, provided that the building envelope is located outside the environmental corridor boundary, and provided further that no earth altering activity shall be allowed within the environmental corridor boundary. These restrictions shall be noted on the face of any certified survey map or subdivision plat which create lots which include lands located partially within the environmental corridor boundary.
 - c. *Preservation of open space.*
 1. For parcels lying entirely within an environmental corridor boundary, no open space requirement shall apply. However, all area of disturbance, earth altering activity and vegetative removal, including building sites patio space, lawn area and driveways, shall not exceed 15 percent of five acres (32,600 square feet).

2. For parcels that lie partially within the environmental corridor boundary, the allowable area of disturbance shall be limited to that portion of the lot outside of the environmental corridor unless otherwise permitted by a building envelope on the certified survey map, subdivision plat or other document. The maximum allowable land disturbance within the environmental corridor boundary shall be proportional to the area of lot that falls within the defined boundary. Only 15 percent of the area within the environmental corridor boundary unique to each lot may be disturbed.

(8) *Wetland setback.* In all districts, a minimum setback shall be employed to protect and prevent deterioration of existing wetland assets. The wetland setback shall conform to the minimum interior side yard identified in the district bulk regulations.

(Code 1997, § 17.35; Rep. and Recr. #411; Cr. #619; Am. #719)

Sec. 52-108. - Zoning map.

(a) A certified copy of the zoning map shall be adopted and approved with the text as part of this chapter, shall bear upon its face the attestation of the mayor and city clerk and shall be available to the public in the office of the city clerk.

(b) Changes thereafter to the districts shall not be effective until entered and attested on this certified copy.

(Code 1997, § 17.36; Rep. and Recr. #411)

Sec. 52-109. - Permitted uses in all districts.

In all districts, no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:

- (1) Railroad rights-of-way and passenger depots, not including switching, storage, freight yards or siding.
- (2) Churches, rectories, parsonages, parish houses and synagogues as conditional uses, subject to the provisions of article V of this chapter.

(Code 1997, § 17.37; Rep. and Recr. #411)

Sec. 52-110. - Permitted accessory uses and structures in all residential districts.

Accessory uses and structures shall be on the same lot as the principal use. The following accessory uses and structures are permitted in the RE-3, RE-2, RE-1, RL-1, RL-1A, RL-2, R-1, R-1D, R-2, R-3, R-4, R-5a, R-6, R-7-EH, B-1, B-1-A, CBD-1, CBD-2, CBD-3, and CBD-4 Zoning Districts when a residential use already exists on a lot:

- (1) Attached garages.
- (2) A maximum of two accessory buildings, subject to the following provisions unless otherwise approved as part of a Planned Unit Development:
 - a. Aggregate square footage of accessory buildings shall not exceed 600 square feet on lots less than 10,000 square feet.
 - b. Aggregate square footage of accessory buildings shall not exceed 720 square feet on lots between 10,000 square feet and 32,000 square feet.
 - c. Aggregate square footage of accessory buildings shall not exceed 2.25 percent, up to a maximum of 1,200 square feet, on lots larger than 32,000 square feet.

- d. Plan Commission may grant approval for accessory buildings larger than 1,200 square feet on lots greater than three acres upon satisfaction of the standards set forth in Section 52-110(1)e.
 - e. Plan Commission approval is required for any individual accessory building that exceeds 720 square feet in size. The following standards apply to all accessory buildings that require Plan Commission approval:
 - 1. The accessory building shall be compatible with the principal building.
 - 2. Steel and aluminum sided structures must be located a minimum of 50 feet from a lot line and are only allowed on lots five acres or greater.
 - 3. Roofing materials are limited to dimensional shingles, tile, cedar shake, or manufactured slate. Metal roofing may be considered if it is compatible with the principal structure.
 - 4. Architectural requirements may apply, such as proportions or inundations of building materials, placement of windows, and number and type of doors.
 - 5. Exterior lighting shall comply with section 52-27. All lighting shall be limited to downward and shielded lighting.
 - 6. Landscaping may be required to minimize the impact of the structure on the neighborhood.
 - 7. The plan commission may require that a written restriction be drafted by city staff and recorded against the premises with Waukesha County Register of Deeds that documents any restrictions of plan commission's approval. The restrictions may also prohibit commercial operations and any human habitation, unless otherwise approved by this chapter.
 - f. No accessory structure shall contain the amenities of a living unit, and human habitation and sleeping quarters are prohibited.
 - g. Plumbing is limited to a single sink and toilet. Shower or kitchenette facilities are prohibited. A separate sewer connection is required. If any plumbing is proposed in an accessory building, a written restriction shall be drafted by city staff and recorded against the premises with Waukesha County Register of Deeds that prohibits commercial operations and any human habitation, unless otherwise approved by this chapter. Plumbing in boathouses shall comply with section 52-25 of this chapter.
- (3) Home occupations as defined in section 52-11 of this chapter, provided that such occupation does not substantially change the character of the premises or of the neighborhood, and no article is sold or offered for sale on the premises, unless produced by such occupation.
 - (4) Signs as indicated in section 52-230 of this chapter.
 - (5) Boathouses but limited to one per residential lake lot.
 - (6) Private piers complying with Wis. Stats. § 30.12, pertaining to structures and deposits in navigable waters.
 - (7) The housing of livestock is prohibited on lots less than three acres in size other than chickens as described in section 52-110(8).
 - (8) The keeping of chickens is permitted in all single-family residential districts provided that the lot area exceeds one acre and complies with the following:
 - a. A maximum of five adult chickens per acre, not to exceed a total of 20 adult chickens on the premises, may be kept for non-commercial use.
 - b. All chickens must be provided adequate shelter with appropriate ventilation.
 - c. Chickens must be allowed to roam in a confined pen outside of the shelter.

- d. All feed must be stored in sealed containers to prevent attracting vermin.
- e. Only female hens may be kept.
- f. Male roosters, or any chickens that crow, are prohibited.

(Code 1997, § 17.38; Rep. and Recr. #411; Cr. #648; Am. #648; Rep. & Recr. #679; Am. #719; Rep. #719)

(Ord. No. 827, § 1, 2-22-2024)

Sec. 52-111. - Zoning districts.

(a) *C-1 Conservancy District.*

- (1) *Intent.* The C-1 Conservancy District is intended to preserve, protect and enhance the ponds, streams, islands, wetlands and public parklands in the city. This district has been applied to wetland areas and other high value resource lands in accordance with the city's comprehensive plan. Filling, dumping and drainage are prohibited as are buildings and structures, except as may be permitted below. All structures shall be set back 50 feet from the ordinary high water mark. The boundaries of conservancy districts have been established as outlined in section 52-107.
- (2) *Permitted uses.* The following are permitted uses:
 - a. The harvesting of any wild crops, such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
 - b. Sustained yield forestry.
 - c. Dams and hydroelectric power stations.
 - d. Utility conduits and lines.
 - e. Nonresidential buildings used wholly in conjunction with the raising of animals, fowl or fish adapted to wetlands.
 - f. Public parks and buildings and recreational facilities used in conjunction with the operation and maintenance of a park.
- (3) *Conditional uses.* If through good site and engineering designs a development can be created which is compatible and harmonious with the natural amenities of the conservancy district area and with surrounding land uses, then a request for a conditional use for such development may be submitted. Such requests shall be accompanied by an overall plan of the entire site showing roads, parking areas, lot lines, easements, the location of tree cover, including the designation of individual trees of four inches in diameter or more, the location of other natural and biological features, such as wetlands and areas of valuable wildlife habitat, drainage ways and location of proposed structures, existing contours and proposed grading, drainage utilities and landscaping in such details as the administrator shall require before it may be reviewed by the plan commission. The approval of such request by the common council shall require a finding that:
 - a. The development will not detrimentally affect or destroy natural features, such as ponds, streams, wetlands and forested areas, but will preserve and incorporate such features into the development's site design.
 - b. The location of natural features and the site's topography have been considered in the design and siting of all physical improvements.
 - c.

Adequate assurances have been received so that the clearing of the site of topsoil, trees and other natural features before the commencement of building operations will occur. Only those areas approved for the placement of physical improvements may be cleared.

- d. The development will not substantially reduce the natural retention storage capacity of any watercourse, thereby increasing the magnitude and volume of flood at other locations.
 - e. The soil and subsoil conditions are suitable for excavation and site preparation and the drainage is designed to prevent erosion and environmentally deleterious surface runoff.
 - f. The development will be free from offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, fumes, water pollution and other objectionable influences.
 - g. The petitioner will be substantially damaged by being required to place the intended development outside the conservancy district.
 - h. A financial plan to guarantee the completion of the project shall be submitted to and approved by the common council prior to commencing work on any such project.
 - i. The Wisconsin Department of Natural Resources has indicated in writing that they have no objection to the proposed project.
- (b) *A-1 Agricultural and Residential Holding District.*
- (1) *Intent.* The A-1 Agricultural and Residential Holding District is intended to maintain and preserve existing large-scale farming operations and provide for small farm units located in areas which are predominantly agricultural in character. It is also intended to provide a holding zone for large parcels of land which are intended for rezoning for a more dense residential development at a future date.
 - (2) *Permitted uses.* The following are permitted uses:
 - a. Single-family dwellings.
 - b. Single-family dwellings in conjunction with an agricultural operation.
 - c. Ordinary farm uses, including dairying, truck farming and livestock and poultry raising, provided not more than one head of livestock nor more than 20 fowl are kept for each acre of lot area, except that the keeping of hogs, male goats or fur bearing animals shall not be permitted on less than 20 acres.
 - d. Accessory uses and buildings normally associated with an agricultural operation.
 - e. Signs not to exceed 12 square feet in area, displaying the name of a farm or farm organization.
 - f. Nurseries, greenhouses, hatcheries and horticulture.
 - g. Roadside stands, subject to the following:
 - 1. Off-street parking for a minimum of four vehicles shall be provided.
 - 2. No such stand shall be closer than 30 feet to the base setback line or closer than 20 feet to any other lot line nor more than 100 square feet in ground area.
 - (3) *Accessory uses.* See [section 52-110](#).
 - (4) *Conditional uses.* See article V of this chapter.
 - (5) *Minimum lot area.* Minimum lot area shall be three acres, unless otherwise required by [section 52-19\(c\)](#) if the lot is served by a private septic system.
 - (6) *Minimum lot width.* Minimum lot width shall be 200 feet.
 - (7) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet.

- (8) *Minimum interior side yard.* Minimum interior side yard shall be 30 feet.
 - (9) *Minimum corner side yard.* Minimum side yard shall be 30 feet.
 - (10) *Minimum rear yard.* Minimum rear yard shall be 50 feet.
 - (11) *Minimum setback from ordinary high water mark.* Minimum setback from ordinary high water mark shall be 50 feet.
 - (12) *Height regulations.*
 - a. *Residences.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak for gable, gambrel, hip and pitch roofs.
 - b. *Farm buildings.* 60 feet maximum.
 - c. *Other buildings.* Fifteen feet maximum, 20 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - (13) *Minimum building floor area.* See [section 52-18](#).
 - a. *Total one family.* 1,200 square feet.
 - b. *First floor.* 900 square feet.
 - c. *Site plan requirement.* None.
 - (14) *Minimum open space.* Minimum open space shall be 90,000 square feet.
- (c) *A-1E Exclusive Agricultural District.*
- (1) *Intent.* The A-1E Exclusive Agricultural District is designed to comply with Wisconsin's Farm Preservation Act and is intended to maintain and preserve existing large-scale farming operations and provide for small farm units of 35 acres or more located in areas which are predominantly agricultural in character.
 - (2) *Permitted uses.* One-family dwellings in conjunction with an agricultural operation to be occupied by the farmer, one of his relatives or a person working on the farm.
 - (3) *Accessory uses.* See [section 52-110](#).
 - (4) *Conditional uses.*
 - a. See article V of this chapter.
 - b. Conditional uses must be agriculturally related, religious, other utility, institutional or governmental uses, which do not conflict with agricultural uses and are found to be necessary in light of alternative locations available for such use.
 - (5) *Minimum lot area.* Minimum lot area shall be 35 acres for uses as in subsection (c)(2) of this section.
 - (6) *Minimum lot width.* Minimum lot width shall be 200 feet.
 - (7) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet.
 - (8) *Minimum interior side yard.* Minimum interior side yard shall be 30 feet.
 - (9) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
 - (10) *Minimum rear yard.* Minimum rear yard shall be 50 feet.
 - (11) *Height regulations.*
 - a. *Residences.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Farm buildings.* 60 feet maximum.

- (12) *Minimum building floor area.* See [section 52-18](#).
- a. *Total one family.* 1,200 square feet.
 - b. *First floor.* 900 square feet.
 - c. *Site plan requirement.* None.
- (13) *Minimum open space.* Minimum open space shall be 90,000 square feet.
- (d) *RE-3 Three-Acre Rural Estate District.*
- (1) *Intent.* This district is intended to provide for high quality, low density, single-family development on three-acre lots, unless otherwise required by [section 52-19\(c\)](#) if the lot is served by a private septic system.
 - (2) *Permitted uses.* Single-family dwellings and uses indicated in [section 52-109](#) are permitted uses.
 - (3) *Permitted accessory uses.* See [section 52-110](#). Also, noncommercial barns, stables, and sheds for use only by the resident lot owner are permitted accessory uses, subject to the requirements of [section 52-110\(9\)](#).
 - (4) *Permitted conditional uses.* See article V of this chapter.
 - (5) *Minimum lot width.* Minimum lot width shall be 200 feet.
 - (6) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet.
 - (7) *Minimum interior side yard.* Minimum interior side yard shall be 30 feet.
 - (8) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
 - (9) *Minimum rear yard.* Minimum rear yard shall be 30 feet.
 - (10) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - (11) *Minimum open space.* Minimum open space shall be 90,000 square feet.
 - (12) *Minimum building floor area regulations.* See [section 52-18](#).
 - a. *Total.* 1,500 square feet.
 - b. *First floor.* 900 square feet.
- (e) *RE-2 Two-Acre Rural Estate District.*
- (1) *Intent.* This district is intended to provide for high quality, low density, single-family development with two-acre lots.
 - (2) *Permitted uses.* Single-family dwellings and uses indicated in [section 52-109](#).
 - (3) *Permitted accessory uses.* See [section 52-110](#).
 - (4) *Permitted conditional uses.* See article V of this chapter.
 - (5) *Minimum lot area.* Minimum lot area shall be 87,120 square feet (two acres), unless otherwise required by [section 52-19\(c\)](#) if the lot is served by a private septic system.
 - (6) *Minimum lot width.* Minimum lot width shall be 200 feet.
 - (7) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet.
 - (8) *Minimum interior side yard.* Minimum interior side yard shall be 30 feet.
 - (9) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.

- (10) *Minimum rear yard.* Minimum rear yard shall be 30 feet.
- (11) *Maximum building height.*
- a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
- (12) *Minimum open space.* Minimum open space shall be 60,000 square feet.
- (13) *Minimum building floor area regulations.* See [section 52-18](#).
- a. *Total.* 1,500 square feet.
 - b. *First floor.* 900 square feet.
- (f) *RE-1 One-Acre Rural Estate District.*
- (1) *Intent.* This district is intended to provide for high quality, low density, single-family development on one-acre lots.
 - (2) *Permitted uses.* Single-family dwellings and uses indicated in [section 52-109](#) are permitted uses.
 - (3) *Permitted accessory uses.* See [section 52-110](#).
 - (4) *Permitted conditional uses.* See article V of this chapter.
 - (5) *Minimum lot area.* Minimum lot area shall be 43,560 square feet (one acre), unless otherwise required by [section 52-19\(c\)](#) if the lot is served by a private septic system.
 - (6) *Minimum lot width.* Minimum lot width shall be 140 feet.
 - (7) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet.
 - (8) *Minimum interior side yard.* Minimum interior side yard shall be 20 feet.
 - (9) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
 - (10) *Minimum rear yard.* Minimum rear yard shall be 20 feet.
 - (11) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
- (12) *Minimum open space.* Minimum open space shall be 30,000 square feet.
- (13) *Minimum building floor area regulations.* See [section 52-18](#).
- a. *Total.* 1,200 square feet.
 - b. *First floor.* 900 square feet.
- (g) *RL-1 Residential Lake District.*
- (1) *Permitted uses.* Single-family dwellings and uses indicated in [section 52-109](#) are permitted uses.
 - (2) *Permitted accessory uses.* See [section 52-110](#).
 - (3) *Permitted conditional uses.* See article V of this chapter.
 - (4) *Minimum lot area.* Minimum lot area shall be 40,000 square feet.
 - (5) *Minimum lot width.* Minimum lot width shall be 100 feet.

- (6) *Minimum front street yard setback.* Minimum front yard setback shall be 50 feet.
- (7) *Minimum setback from the ordinary high water mark.* Minimum setback from ordinary high water mark shall be 60 feet.
- (8) *Minimum shore frontage.*
 - a. *Existing lots.* 100 feet at ordinary high water mark.
 - b. *Newly created lots.* 150 feet at ordinary high water mark, see [section 52-22](#) for additional regulations.
- (9) *Minimum rear yard when not fronting on lake.* Minimum rear yard when not fronting on lake shall be 15 feet.
- (10) *Minimum interior side yard.* Minimum interior side yard shall be 15 feet.
- (11) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
- (12) *Maximum building height.*
 - a. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building other than a boathouse.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - c. *Boathouse above ordinary water level.* 12 feet or 18 feet. See [section 52-25](#).
- (13) *Maximum floor area ratio.* 0.25.
- (14) *Minimum open space.* Minimum open space shall be 30,000 square feet.
- (15) *Minimum building floor area regulations.* See [section 52-18](#).
 - a. *Single story.* 1,500 square feet.
 - b. *Two story.* 1,800 square feet.
 - c. *First floor.* 1,200 square feet.
- (16) *Impervious surface.* See [section 52-28](#).
- (h) *RL-1A Residential Lake District.*
 - (1) *Intent.* The RL-1A Residential Lake District is intended to include subdivisions which immediately abut a lake or stream and are intermediate between RL-1 and RL-2 densities.
 - (2) *Permitted accessory uses.* See [section 52-110](#).
 - (3) *Permitted conditional uses.* See article V of this chapter.
 - (4) *Minimum lot area.* Minimum lot area shall be 20,000 square feet.
 - (5) *Minimum lot width.* Minimum lot width shall be 80 feet.
 - (6) *Minimum front street yard setback.* Minimum front street yard setback shall be 50 feet.
 - (7) *Minimum setback from the ordinary high water mark.* Minimum setback from ordinary high water mark shall be 55 feet.
 - (8) *Minimum shore frontage.*
 - a. *Existing lots.* 80 feet at ordinary high water mark.
 - b. *Newly created lots.* 150 feet at ordinary high water mark, see [section 52-22](#) for additional regulations.
 - (9) *Minimum interior side yard.* Minimum interior side yard shall be 15 feet.
 - (10) *Minimum rear yard when not fronting on lake.* Minimum rear yard when not fronting on lake shall be 15 feet.

- (11) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
- (12) *Maximum building height.*
- a. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building other than a boathouse.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - c. *Boathouse above ordinary high water level.* 12 feet or 18 feet. See [section 52-25](#).
- (13) *Maximum floor area ratio.* 0.25.
- (14) *Minimum open space.* Minimum open space shall be 15,000 square feet.
- (15) *Minimum building floor area regulations.* See [section 52-18](#).
- a. *Single story.* 1,200 square feet.
 - b. *Two story.* 1,500 square feet.
 - c. *First floor.* 1,000 square feet.
- (16) *Impervious surface.* See [section 52-28](#).
- (i) *RL-2 Residential Lake District.*
- (1) *Intent.* The RL-2 Residential Lake District is intended to include subdivisions which immediately abut a lake or stream.
 - (2) *Permitted uses.* Single-family dwellings and uses indicated in [section 52-109](#) are permitted uses.
 - (3) *Permitted accessory uses.* See [section 52-110](#).
 - (4) *Permitted conditional uses.* See article V of this chapter.
 - (5) *Minimum lot area.* Minimum lot area shall be 10,000 square feet.
 - (6) *Minimum lot width.* Minimum lot width shall be 50 feet.
 - (7) *Minimum front street yard setback.* Minimum front street yard setback shall be 25 feet.
 - (8) *Minimum setback from the ordinary high water mark.* Minimum setback from ordinary high water mark shall be 50 feet.
 - (9) *Minimum shore frontage.*
 - a. Existing lots. 50 feet at ordinary high water mark.
 - b. Newly created lots. 150 feet at ordinary high water mark, see [section 52-22](#) for additional regulations.
 - (10) *Minimum interior side yard.* Minimum interior side yard shall be eight feet.
 - (11) *Minimum rear yard when not fronting on lake.* Minimum rear yard when not fronting on lake shall be eight feet.
 - (12) *Minimum corner side yard.* Minimum corner side yard shall be 25 feet.
 - (13) *Maximum building height.*
 - a. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building other than a boathouse.* Ten feet maximum, 15 feet maximum peak height.
 - c. *Boathouse above ordinary high water level.* 12 feet or 18 feet. See [section 52-25](#).
 - (14) *Maximum floor area ratio.* 0.40.

- (15) *Minimum open space.* Minimum open space shall be 7,000 square feet.
- (16) *Minimum building floor area regulations.* See section 52-18.
- a. *Total.* 1,100 square feet.
 - b. *First floor.* 900 square feet.
- (17) *Impervious surface.* See section 52-28.
- (j) *R-1 Single-Family Residence.*
- (1) *Intent.* This district is intended to provide for high quality single-family developments on approximately three-quarter-acre lots.
 - (2) *Permitted uses.* Single-family dwellings and uses indicated in section 52-109 are permitted uses.
 - (3) *Permitted accessory uses.* See section 52-110.
 - (4) *Permitted conditional uses.* See article V of this chapter.
 - (5) *Minimum lot area.* Minimum lot area shall be 30,000 square feet, unless otherwise required by section 52-19(c) if the lot is served by a private septic system.
 - (6) *Minimum lot width.* Minimum lot width shall be 120 feet.
 - (7) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet.
 - (8) *Minimum interior side yard.* Minimum interior side yard shall be 20 feet.
 - (9) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
 - (10) *Minimum rear yard.* Minimum rear yard shall be 20 feet.
 - (11) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - (12) *Minimum open space.* Minimum open space shall be 25,000 square feet.
 - (13) *Minimum building floor area regulations.* See section 52-18.
 - a. *Total.* 1,200 square feet.
 - b. *First floor.* 850 square feet. - (14) *Maximum floor area ratio.* 0.20.
- (k) *R-1D Single-Family Residence - Downtown.*
- (1) *Intent.* This district is intended to protect the predominantly single-family residential character of the neighborhoods in the older part of the city adjacent to the downtown business district. The purposes and intent of the district is similar to the R-1 Single-Family District, except that the R-1D Single-Family - Downtown district recognizes that many of the existing lots in the older sections of the city are smaller than the lot sizes required in the R-1 Single-Family District and the lot size requirements are reduced accordingly.
 - (2) *Permitted uses.* Single-family dwelling and uses indicated in section 52-109 are permitted uses.
 - (3) *Permitted accessory uses.* See section 52-110.
 - (4) *Permitted conditional uses.* See article V of this chapter.
 - (5) *Minimum lot area.* Minimum lot area shall be 10,000 square feet.

- (6) *Minimum lot width.* Minimum lot width shall be 100 feet.
- (7) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.
- (8) *Minimum interior side yard.* Minimum interior side yard shall be 15 feet.
- (9) *Minimum corner side yard.* Minimum corner side yard shall be 25 feet.
- (10) *Minimum rear yard.* Minimum rear yard shall be 20 feet.
- (11) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip, and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
- (12) *Minimum open space.* Minimum open space shall be 5,000 square feet.
- (13) *Minimum building floor area regulations.* See section 52-18.
 - a. *Total.* 1,200 square feet.
 - b. *First floor.* 850 square feet.
- (14) *Maximum floor area ratio.* 0.50.
- (l) *R-2 Single- and Two-Family Residential District.*
 - (1) *Permitted uses.* Single- and two-family residences and uses indicated in section 52-109 are permitted uses.
 - (2) *Permitted accessory uses.* See section 52-110.
 - (3) *Permitted conditional uses.* See article V of this chapter.
 - (4) *Minimum lot area.* Minimum lot area shall be 30,000 square feet, unless otherwise required by section 52-19(c) if the lot is served by a private septic system.
 - (5) *Minimum lot width.* Minimum lot width shall be 120 feet.
 - (6) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet.
 - (7) *Minimum interior side yard.* Minimum interior side yard shall be 20 feet.
 - (8) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
 - (9) *Minimum rear yard.* Minimum rear yard shall be 20 feet.
 - (10) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - (11) *Maximum floor area ratio.* 0.20.
 - (12) *Minimum open space.* Minimum open space shall be 22,000 square feet.
 - (13) *Minimum building floor area regulations.* See section 52-18.
 - a. *Total.* 1,200 square feet per family unit.
 - b. *First floor.* 850 square feet per family unit.
- (m) *R-3 Single- and Two-Family Residential District.*

- (1) *Permitted uses.* Single- and two-family residences and uses indicated in [section 52-109](#) are permitted uses.
 - (2) *Permitted accessory uses.* See [section 52-110](#).
 - (3) *Permitted conditional uses.* See article V of this chapter.
 - (4) *Minimum lot area.* Minimum lot area shall be 20,000 square feet, unless otherwise required by [section 52-19\(c\)](#) if the lot is served by a private septic system.
 - (5) *Minimum lot width.* Minimum lot width shall be 100 feet.
 - (6) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet.
 - (7) *Minimum interior side yard.* Minimum interior side yard shall be 16 feet.
 - (8) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
 - (9) *Minimum rear yard.* Minimum rear yard shall be 16 feet.
 - (10) *Minimum setback from ordinary high water mark.* Minimum setback from ordinary high water mark shall be 50 feet.
 - (11) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - (12) *Maximum floor area ratio.* 0.25.
 - (13) *Minimum open space.* Minimum open space shall be 15,000 square feet.
 - (14) *Minimum building floor area regulations.* See [section 52-18](#).
 - a. *Total.* 1,100 square feet per family unit.
 - b. *First floor.* 850 square feet per family unit.
- (n) *R-4 Single- and Two-Family Residential District.*
- (1) *Permitted uses.* Single- and two-family dwellings and uses indicated in [section 52-109](#) are permitted uses.
 - (2) *Permitted accessory uses.* See [section 52-110](#).
 - (3) *Permitted conditional uses.* See article V of this chapter.
 - (4) *Minimum lot area.* Minimum lot area shall be 7,900 square feet, unless otherwise required by [section 52-19\(c\)](#) if the lot is served by a private septic system.
 - (5) *Minimum lot width.* Minimum lot width shall be 66 feet.
 - (6) *Minimum front yard setback.* Minimum front yard setback shall be 25 feet.
 - (7) *Minimum interior side yard.* Minimum interior side yard shall be ten feet.
 - (8) *Minimum corner side yard.* Minimum corner side yard shall be 25 feet.
 - (9) *Minimum rear yard.* Minimum rear yard shall be ten feet.
 - (10) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.

- (11) *Maximum floor area ratio.* 0.65.
- (12) *Minimum open space.* Minimum open space shall be 4,000 square feet per family.
- (13) *Minimum building floor area regulations.* See section 52-18.
 - a. *Total, two families.* 900 square feet per family.
 - b. *Total, one family.* 1,000 square feet.
 - c. *First floor.* 850 square feet per family unit.
- (o) *R-5a PUD St. John's Single- and Two-Family Residential District.*
 - (1) *Intent.* The R-5a district was previously established specifically to regulate the development of St. John's-On-The-Lake subdivision. This zoning district includes additional regulations which are contained in conditional use documents applicable to St. John's-On-The-Lake subdivision. Additional districts of this type shall not be created elsewhere in the city.
 - (2) *Permitted uses.* Single- and two-family residences are permitted uses.
 - (3) *Permitted accessory uses.* As indicated in section 52-110.
 - (4) *Permitted conditional uses.* See conditional use documents.
 - (5) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet from Genesee Street; 35 feet from all other public streets in the project.
 - (6) *Minimum interior side yard.* Minimum interior side yard shall be 20 feet, except where abutting a more restrictive district, the minimum shall be 30 feet.
 - (7) *Minimum rear yard.* Minimum rear yard shall be 20 feet, except where abutting a more restrictive district, the minimum shall be 30 feet.
 - (8) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - (9) *Minimum setback from shore lot line.* Minimum setback from shore lot line shall be 60 feet.
 - (10) *Maximum floor area ratio.* 0.25.
 - (11) *Minimum project site area.* Minimum project site area shall be ten acres.
 - (12) *Minimum open space.* Minimum open space shall be 12,000 square feet per each dwelling unit.
 - (13) *Open space formula.* Open space = (total project area square feet) - (roads + ROW + first floor areas) divided by project density.
 - (14) *Minimum building floor area.* See section 52-18.
 - a. *Single-family.*
 - 1. *Single story.* 1,500 square feet per dwelling unit.
 - 2. *Two story.*
 - (i) First floor: 1,200 square feet per dwelling unit.
 - (ii) Total: 1,800 square feet per dwelling unit.
 - b. *Two-family.*

1. *Single story.* 1,400 square feet per dwelling unit.
 2. *Two story.*
 - (i) First floor: 750 square feet per dwelling unit.
 - (ii) Total: 1,400 square feet per dwelling unit.
- (15) *Relationship to chapter 44, pertaining to subdivisions.*
- a. Unless specifically waived by the plan commission in part or in whole, the regulations of chapter 44, pertaining to subdivisions, shall apply to this zoning classification and any developments shall apply to this zoning classification and any developments under the terms of this section shall be classified a subdivision irrespective of the definition of "subdivision" contained in chapter 44.
 - b. For the purpose of computing the dedication of sites or their alternate, each dwelling unit shall be considered as a separate residential dwelling unit and the provision of section 52-13 and/or chapter 44, pertaining to subdivisions, shall determine the appropriate ratio.
- (16) *Special provisions.* This district is subject to all regulations contained in the conditional use documents applicable to St. John's-On-The-Lake subdivision and on file in the city clerk-treasurer's office.
- (p) *R-6 Multiple-Family Residential District.*
- (1) *Intent.* The R-6 district is intended to provide for attached multiple-family housing developments. All housing permitted in this district shall be served by public sanitary sewer service, except for housing developments or complexes in districts zoned R-6 at the time of adoption of the ordinance from which this chapter is derived. Only multifamily developments or complexes in R-6 Districts existing prior to adoption of the ordinance from which this chapter is derived may be reconstructed or enlarged without public sanitary sewer service.
 - (2) *Permitted uses.* Attached multiple-family dwellings and uses indicated in section 52-109 are permitted uses.
 - (3) *Accessory uses.* See section 52-110.
 - (4) *Conditional uses.* See article V of this chapter.
 - (5) *Minimum lot area per dwelling unit.* The minimum lot area per dwelling unit shall be exclusive of parking area required.

Efficiency	2,500 sq. ft.
1 bedroom	3,000 sq. ft.
2 bedroom	3,500 sq. ft.
3 bedroom	4,000 sq. ft.

- (6) *Maximum number of units per building.* Maximum number of units per building shall be 36, of which not more than one in three may be efficiency units.
- (7) *Minimum lot width.* Minimum lot width shall be 100 feet.
- (8) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.

- (9) *Minimum interior side yard.* Minimum interior side yard shall be 15 feet each.
- (10) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
- (11) *Minimum rear yard.* Minimum rear yard shall be 50 feet.
- (12) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
- (13) *Minimum open space.* Minimum open space shall be 500 square feet per dwelling unit.
- (14) *Minimum dwelling unit floor area.* See [section 52-18](#).

Efficiency	450 sq. ft.
1 bedroom	800 sq. ft.
2 bedroom	1,000 sq. ft.
3 bedroom	1,200 sq. ft.

(q) *R-7-EH Multiple-Family Elderly Housing District.*

- (1) *Intent.* The R-7-EH district is intended to provide for attached multiple-family housing developments designed specifically for elderly residents and located in areas that are both compatible with and convenient to the residents of such a district. All housing in this district must either be deed restricted or licensed as an elderly housing facility, as allowed under state and federal fair housing regulations. All new housing permitted in this district shall be served by public sanitary sewer service.
- (2) *Permitted uses.* Attached multiple-family dwellings and uses indicated in [section 52-109](#) are permitted uses.
- (3) *Accessory uses.* See [section 52-110](#).
- (4) *Conditional uses.* See article V of this chapter.
- (5) *Minimum lot area per dwelling unit.* Minimum lot area per dwelling unit shall be as follows:

Efficiency unit	1,200 sq. ft.
1 bedroom unit	1,250 sq. ft.
2 bedroom unit	1,500 sq. ft. plus additional 250 sq. ft. for each additional bedroom above 2.

- (6) *Minimum lot width.* Minimum lot width shall be 100 feet.
- (7) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.
- (8) *Minimum interior side yard.* Minimum interior side yard shall be 15 feet for each side yard.
- (9) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
- (10) *Minimum rear yard.* Minimum rear yard shall be 25 feet.
- (11) *Maximum building height.*
 - a. *Residence.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
- (12) *Maximum number of units per building.* Maximum number of units per building shall be 60 units.
- (13) *Minimum dwelling unit floor area.* See [section 52-18](#).

Efficiency unit	450 sq. ft.
1 bedroom unit	550 sq. ft.
2 bedroom unit	850 sq. ft. plus additional 200 sq. ft. for each additional bedroom above 2.

- (14) *Minimum open space.* Minimum open space shall be 500 square feet per dwelling unit.
- (r) Reserved.
- (s) Reserved.
- (t) Reserved.
- (u) *B-1 Local Business and Residence District.*
 - (1) *Intent.* The B-1 district is intended to establish and preserve areas for convenience shopping and service needs which are located in close proximity to residential areas while minimizing the undesirable impact of such uses on the neighborhoods which they serve. This district requires amenities, such as increased open space, off-street parking and loading facilities, to make the commercial uses compatible with the character of adjacent residential districts. The district also permits dwelling units for the owner or proprietor or apartments to be located in a commercial building.
 - (2) *Permitted uses.* The following are permitted uses:
 - a. Generally recognized retail business that supply commodities on the premises for persons residing in adjacent residential areas, such as, but not limited to, groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware, including restaurants and taverns.
 - b. Personal service establishment which performs services on the premises, such as, but not limited to, repair shops (watches, radio, television, appliances, shoes), tailor shops, beauty parlors or barbershops, photographic studios and self-service laundries.

- c. Dry cleaning establishments or pickup stations dealing directly with the consumer. Central dry cleaning plants serving more than one retail outlet shall be prohibited.
- d. Business establishments that perform services on the premises, such as, but not limited to, banks, loan companies, insurance offices and real estate offices.
- e. Professional services, including medical clinics (outpatient only) and offices of doctors, dentists and similar or allied professions.
- f. Sales and service establishments, including only plumbing, heating and electrical showrooms and shops operating entirely within an enclosed building.
- g. Post office and similar governmental office buildings serving persons living in the adjacent residential area.
- h. Residential dwelling units in a commercial building for the owner or proprietor or rental apartments in a commercial building, both in accord with the following regulations:
 - 1. In a single-story structure, the residential units shall be located to the rear of the commercial portion of a building and not more than 25 percent of a building's total floor may be used for residential purposes.
 - 2. In a multistory structure, the residential units shall be located only above the ground floor and not more than 50 percent of a building's total floor area may be used for residential purposes. There shall be no mixture of commercial and residential uses on any floor in a multistory building containing residential units.
- i. Single-family residences.
- j. Essential services.
- k. Other uses similar to the above uses, subject to the recommendation of the plan commission and approval by the common council.
- l. Only accessory structures and uses customarily incidental to the above permitted uses are permitted.

(3) *Required conditions.*

- a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold on premises where produced.
- b. All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building, except for occasional outside storage.

(4) *Conditional uses.* See article V of this chapter.

(5) *Signs.* See article VIII of this chapter.

(6) *Lot area requirements.* In the B-1 district, there shall be provided a minimum lot area of 5,000 square feet for each business establishment located on a lot. In addition, for each dwelling unit located on a lot, there shall be provided additional lot area as follows:

Dwelling Type	Additional Lot Area Per Dwelling Unit
Efficiency unit	2,500
1 bedroom unit	3,000
2 bedroom unit	4,000

- (7) *Minimum lot width.* Minimum lot width shall be 100 feet. The minimum lot width does not apply to residential uses existing prior to the effective date of the ordinance from which this chapter is derived.
- (8) *Minimum interior side yard.* Minimum interior side yard shall be ten feet, except where abutting a residential district, the side yard adjacent to the residential district shall be 25 feet. However, there shall be no separation required between integrated buildings comprising a group of businesses.
- (9) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.
- (10) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
- (11) *Minimum rear yard.* Minimum rear yard shall be ten feet.
- (12) *Minimum setback from ordinary high water mark.* Minimum setback from ordinary high water mark shall be 50 feet.
- (13) *Maximum floor area ratio.* Maximum floor area ratio (FAR) shall be 0.50.
- (14) *Maximum building height.*
 - a. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* 10 feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
- (15) *Minimum residential dwelling unit floor area.* See [section 52-18](#).

Efficiency unit	450 square feet
1 bedroom unit	800 square feet
2 bedroom unit	1,000 square feet

- (16) *Special provisions.* The minimum lot width may be waived by the plan commission on lots with less than the minimum required width which were platted prior to the effective date of the ordinance from which this chapter is derived.
- (v) *B-1-A Business and Limited Residence.*
 - (1) *Intent.* The B-1-A district is intended for existing areas of combined business and residential use with the residential use being limited to one residential dwelling unit for the owner or proprietor of a business establishment. It is not intended to create additional districts of this type elsewhere in the city.
 - (2) *Permitted uses.* Permitted uses are as follows:
 - a. Only the following are permitted:
 - 1. Art studio.
 - 2. Bakery, not over six employees.
 - 3. Barbershop.
 - 4. Beauty parlor.
 - 5. Bank or savings and loan office.

6. Book or stationery store.
 7. Clinic.
 8. Confectionery store.
 9. Delicatessen.
 10. Drugstore.
 11. Essential services.
 12. Florist shop.
 13. Gift shop.
 14. Grocery.
 15. Hardware store.
 16. Interior decorator.
 17. Ice cream store.
 18. Jewelry store.
 19. Meat and fish market.
 20. Music and radio store.
 21. Notion or variety shop.
 22. Parking lot.
 23. Pharmacy.
 24. Photographer.
 25. Professional office or studio.
 26. Radio and television sales, service and repair shop.
 27. Real estate office.
 28. Restaurant.
 29. Shoe store.
 30. Soda fountain.
 31. Tailor or dressmaking shop.
 32. Tavern.
 33. Taxidermists.
 34. Tobacco shops.
 35. Travel bureaus and ticket offices.
 36. Undertaking establishments and funeral parlors.
- b. One residential dwelling unit for the owner, proprietor or caretaker located in the same building as the business establishment. The number of residential dwelling units per building shall not exceed the number of business establishments.
 - c. Other uses similar in character to the above retail and service businesses, subject to the recommendation of the plan commission and approval by the common council.
 - d. Single-family homes.

e. Only accessory structures and uses customarily incidental to the above permitted uses are permitted.

(3) *Required conditions.*

a. All business establishments shall be retail or service establishments dealing directly with consumers.

b. All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building, except for occasional outside storage.

(4) *Conditional uses.* Uses indicated in article V of this chapter are conditional uses.

(5) *Signs.* Sign regulations are as indicated in article VIII of this chapter.

(6) *Lot area requirements.* In the B-1-A district, there shall be provided a minimum lot area of 10,000 square feet for each business establishment (see definition) located on a lot. In addition, for each residential dwelling unit located on a lot, an additional lot area of 10,000 square feet shall be provided. Lots served by a private septic system shall comply with the standards of [section 52-19\(c\)](#).

(7) *Minimum lot width.* Minimum lot width shall be 100 feet. See subsection (v)(15) of this section.

(8) *Minimum interior side yard.* Minimum interior side yard shall be ten feet, except where abutting a residential district, the side yard adjacent to the residential district shall be 25 feet.

(9) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.

(10) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.

(11) *Minimum rear yard.* Minimum rear yard shall be 30 feet.

(12) *Maximum floor area ratio.* Maximum floor area ratio (FAR) shall be 0.50.

(13) *Maximum building height.*

a. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.

b. *Accessory building.* Ten feet maximum, 15 feet maximum peak height.

(14) *Minimum residential dwelling unit floor area.* 800 square feet. See [section 52-18](#).

(15) *Special provisions.* The minimum lot width may be waived by the plan commission on lots with less than the minimum required width, which were platted prior to the effective date of the ordinance from which this chapter is derived.

(w) *B-2 Local Business District.*

(1) *Intent.* The B-2 district is intended to establish and preserve areas for convenience shopping and service needs that are located in close proximity to residential areas while minimizing the undesirable impact of such uses on the neighborhoods which they serve. This district requires amenities, such as increased open space and off-street parking and loading facilities, to make the commercial uses more compatible with the character of adjacent residential districts. Residential uses are not permitted.

(2) *Permitted uses.* The following are permitted uses:

a. All uses permitted in the B-1 district, except for residential dwelling units.

b. Other uses similar to the above uses, subject to the recommendation of the plan commission and approval by the common council.

c. Only accessory structures and uses customarily incidental to the above permitted uses are permitted.

(3) *Required conditions.*

a.

All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold on premises where produced.

- b. All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building, except for occasional outside storage.
- (4) *Conditional uses.* Uses indicated in article V of this chapter and motels are conditional uses.
- (5) *Signs.* Sign regulations are as indicated in article VIII of this chapter.
- (6) *Minimum lot area.* Minimum lot area shall be 15,000 square feet, which shall include sufficient area for the principal structure, its accessory structures, all required off-street parking and loading areas and the required yards.
- (7) *Minimum lot width.* Minimum lot width shall be 120 feet. See subsection (w)(14) of this section.
- (8) *Minimum interior side yard.* Minimum interior side yard shall be ten feet, except where abutting a residential district, the side yard adjacent to the residential district shall be 25 feet. However, there shall be no separation required between integrated buildings comprising a group of businesses.
- (9) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.
- (10) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
- (11) *Minimum rear yard.* Minimum rear yard shall be 30 feet.
- (12) *Maximum floor area ratio.* Maximum floor area ratio (FAR) shall be 0.50.
- (13) *Maximum building height.*
 - a. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet maximum peak height.
- (14) *Special provisions.* The minimum lot width may be waived by the plan commission on lots with less than the minimum required width, which were platted prior to the effective date of the ordinance from which this chapter is derived.
- (x) *B-3 Local and Highway Business District.*
 - (1) *Intent.* The B-3 district is intended to establish and preserve areas for local business use, which are located along major highways and near limited access highway interchanges. No residential uses are permitted.
 - (2) *Permitted uses.* All uses permitted in the B-2 district are permitted in the B-3 district and, in addition, the following uses shall be permitted:
 - a. Amusement establishments including bowling alleys, gymnasiums, swimming pools, skating rinks, indoor tennis, and handball facilities and indoor theaters.
 - b. Animal hospitals without outdoor runs or pens.
 - c. Auction rooms without outdoor sales and storage.
 - d. Blueprinting and photostating establishments.
 - e. Cocktail lounges.
 - f. Garden supplies and equipment.
 - g. Greenhouses and nurseries.
 - h. Hotels.

- i. Laboratories, medical and dental.
 - j. Motels.
 - k. Offices, professional, public and business.
 - l. Pet shops without outdoor kennels.
 - m. Printing establishments, limited to 2,000 square feet of floor area per establishment.
 - n. Research establishments and laboratories (nonmanufacturing).
 - o. Schools, commercial, trade, technical, private or public.
 - p. Taxidermists.
 - q. Television and radio broadcasting studios.
 - r. Drive-through windows for restaurants.
- (3) *Other permitted uses.* Other permitted uses are uses similar to the above and subject to the recommendation of the plan commission and approval by the common council.
- (4) *Conditional uses.* Uses indicated in article V of this chapter are conditional uses.
- (5) *Signs.* Sign regulations are as indicated in article VIII of this chapter.
- (6) *Minimum lot area.* Minimum lot area shall be 20,000 square feet, which shall include sufficient area for the principal structure, its accessory structures, all required off-street parking and loading areas and the required yards.
- (7) *Minimum lot width.* Minimum lot width shall be 120 feet.
- (8) *Minimum interior side yard.* Minimum interior side yard shall be ten feet, except where abutting a residential district, the side yard adjacent to the residential district shall be 25 feet. However, there shall be no separation required between buildings comprising a group of businesses.
- (9) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.
- (10) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
- (11) *Minimum rear yard.* Minimum rear yard shall be 30 feet.
- (12) *Maximum floor area ratio.* Maximum floor area ratio (FAR) shall be 0.50.
- (13) *Maximum building height.*
- a. Principal building. 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roof.
 - b. Accessory building. Ten feet maximum, 15 feet maximum peak height.
- (14) *Special provisions.* No building customarily used for night operation shall have any opening other than stationary windows or required fire exits within 200 feet of any residential district and any space used for loading or unloading commercial vehicles in connection with such an operation shall not be within 100 feet of any residential district.
- (y) *B-4 General Business District.*
- (1) *Intent.* The B-4 district is intended to accommodate a wide variety of business uses. The district can accommodate separate buildings on individual sites and integrated groups of business establishments served by a common parking area. Residential uses are not permitted.
 - (2)

Permitted uses. All uses permitted in the B-2 and B-3 districts are permitted in the B-4 district and, in addition, the following uses shall be permitted:

- a. Bakeries, commercial.
 - b. Building materials and products sales and storage yards.
 - c. Cold storage locker plants.
 - d. Exterminating shops.
 - e. Feed and seed stores.
 - f. Garages for storage, repair and servicing of cars and trucks, including body repair, painting, engine rebuilding and upholstery work, but excluding motorcycles and snowmobiles.
 - g. Laundries and dry cleaning operations, commercial.
 - h. Printing and newspaper publishing.
 - i. Warehousing, wholesaling and distribution operations.
- (3) *Other permitted uses.* Other permitted uses are uses similar to the above and subject to the recommendation of the plan commission and approval by the common council.
- (4) *Permitted accessory uses.* Permitted accessory uses are as follows:
- a. Garages for storage of vehicles used in conjunction with the operation of a business.
 - b. Off-street parking and loading areas and parking structures.
- (5) *Conditional uses.*
- a. The conditional uses indicated in article V of this chapter may be permitted in the B-4 district. In addition, permitted manufacturing uses listed in the M-1 Industrial District may be considered "light manufacturing" uses and these uses may be permitted as a conditional use in the B-4 district, except for cartage and express facilities and food and meat processing plants.
 - b. Light manufacturing, as defined elsewhere in this chapter, may be permitted as a conditional use, provided that the use is compatible with adjacent existing or planned land uses and the following conditions are established and complied with to regulate the conditional use:
 1. Complete site and operational plans as described in sections 52-61 and 52-137 shall be submitted to the plan commission for their review in conjunction with the conditional use request. These plans shall fully describe the proposed light manufacturing operation. The plans shall include data and information on the degree of noise, vibration, smoke, dust, odor, fumes and other operating characteristics including, but not limited to, number of employees, parking arrangement, outdoor storage plans and a written plan of operation.
 2. The light manufacturing use shall not create a degree of noise, vibration, smoke, dust, odor, fumes or other operating characteristics, which would be detrimental to the surrounding neighborhood area. This determination shall be based upon a technical review of the operational plans by the building inspector, who shall report the findings to the plan commission in writing.
 3. All light manufacturing uses shall be conducted within completely enclosed buildings.
 4. All outdoor storage of equipment or materials used in conjunction with the principal use shall be completely enclosed behind a wall or fence.
 - 5.

Any outdoor parking of trucks or other vehicles used in conjunction with a light manufacturing use shall be limited to vehicles of not over 1.5 tons' capacity when located within 75 feet of a residential district boundary.

- (6) *Signs.* See article VIII of this chapter.
 - (7) *Minimum lot area.* Minimum lot area shall be 20,000 square feet, which shall include sufficient area for the principal structure, its accessory structures, all required off-street parking and loading areas and the required yards.
 - (8) *Minimum lot width.* Minimum lot width shall be 120 feet.
 - (9) *Minimum interior side yard.* Minimum interior side yard shall be ten feet, except where abutting a residential district, the side yard adjacent to the residential district shall be 25 feet.
 - (10) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.
 - (11) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
 - (12) *Minimum rear yard.* Minimum rear yard shall be 30 feet.
 - (13) *Maximum floor area ratio.* Maximum floor area ratio (FAR) shall be 0.50.
 - (14) *Maximum building height.*
 - a. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet maximum peak height.
 - (15) *Special provisions.* No building customarily used for night operation shall have any opening other than stationary windows or required fire exits within 200 feet of any residential district and any space used for loading or unloading commercial vehicles in connection with such an operation shall not be within 100 feet of any residential district.
- (z) *B-5 Office and Research Commercial District.*
- (1) *Intent.* The B-5 district is intended to establish an exclusive high quality commercial area for offices and similar compatible commercial operations that have similar operating characteristics.
 - (2) *Permitted uses.* Only the following are permitted:
 - a. Automobile parking lots.
 - b. Banks and financial institutions.
 - c. Business office equipment sales and service establishments.
 - d. Essential services.
 - e. General headquarters offices.
 - f. Medical and dental centers, clinics, hospitals, medical laboratories, including a variety of senior living housing types such as memory care, independent living, and assisted living, if the use is accessory and complementary to a medical use on the same property.
 - g. Printing, blueprinting, and duplication limited to 2,000 square feet per establishment.
 - h. Professional, public, and business offices.
 - i. Research establishments and laboratories.
 - j. Sales offices or servicing headquarters with provision for storage of vehicles for salesmen or servicemen.
 - k.

Other uses similar to the above uses, subject to the recommendation of the plan commission and approval by the common council.

- (3) *Conditional uses.* See article V of this chapter.
 - (4) *Permitted accessory uses.* Permitted accessory uses are as follows:
 - a. Essential services.
 - b. Off-street parking and loading areas.
 - c. Accessory structures and uses customarily incidental to the above permitted uses.
 - (5) *Minimum lot area.* Minimum lot area shall be 40,000 square feet, unless otherwise required by section 52-19(c) if the lot is served by a private septic system.
 - (6) *Minimum lot width.* Minimum lot width shall be 120 feet.
 - (7) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.
 - (8) *Minimum side yard.* Minimum side yard shall be 20 feet.
 - (9) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
 - (10) *Minimum rear yard.* Minimum rear yard shall be 30 feet.
 - (11) *Maximum building height.*
 - a. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - (12) *Maximum floor area ratio.* Maximum floor area ratio (FAR) shall be 0.50.
- (aa) *B-6 Commercial Holding Zone.*
- (1) *Definitions.* The following terms have the meanings indicated:

Entire property holding means all contiguous holdings in common ownership. Properties divided by a public street right-of-way are considered contiguous.

General development plan (PD-GDP) means the first phase of approval in the planned development process which shows the entire property holding. The PD-GDP must show the general location of buildings or building envelopes, common spaces, parking and drive areas, conceptual stormwater drainage plan and principal landscape features. If the development is proposed to occur in phases, the sequence of development should be indicated. It is recognized that PD-GDPs are often submitted prior to the identification of the ultimate land user or the specific land use. The intent of the GDP is to be conceptual. A public hearing is required for a GDP.

Specific implementation plan (PD-SIP) means the second phase of approval is a detailed plan, also referred to as a PD-SIP, which must show detailed information for that portion or phase of the project proposed for approval. Frequently PD-SIPs are submitted for only those portions of the total project shown in the PD-GDP which are planned for immediate development. Subsequent phases of development are shown in separate detailed plans prepared at the time of development. If as a result of more detailed planning or engineering at the PD-SIP stage changes need to be made in the PD-GDP, applicants can submit PD-GDP amendments. The submittal and review requirements of PD-GDP amendments are the same as those for the initial PD-GDP.

(2)

Intent. Any development other than the identified permitted uses of this district must occur as a planned development - conditional use under the terms and conditions of this chapter or successor provisions. The intent of this zoning is to create a district which will enable flexibility in terms of the specific types of land uses, but will assure that any development occurring in this area will be planned and designed within the context of a business district or integrated planned development.

(3) *Permitted uses.* All uses permitted in the B-2 and B-3 districts are permitted in the B-6 district and in addition to uses indicated in section 52-109, provided they conform to the geometric standard as set forth in subsections (x)(6) through (14) of this section and as described in subsection (aa)(5)b of this section, and the following:

- a. Amusement establishments including bowling alleys, gymnasiums, swimming pools, skating rinks, indoor tennis, and handball facilities and indoor theaters.
- b. Animal hospitals without outdoor runs or pens.
- c. Art studio.
- d. Auction rooms without outdoor sales and storage.
- e. Bakery, not over six employees.
- f. Bank or savings and loan office.
- g. Barbershop.
- h. Beauty parlor.
- i. Blueprinting and photostating establishments.
- j. Book or stationery store.
- k. Clinic.
- l. Cocktail lounges.
- m. Confectionery store.
- n. Delicatessen.
- o. Drive-through windows for restaurants.
- p. Drugstore.
- q. Essential services.
- r. Florist shop.
- s. Garden supplies and equipment.
- t. Gift shop.
- u. Greenhouses and nurseries.
- v. Grocery.
- w. Hardware store.
- x. Hotels.
- y. Interior decorator.
- z. Ice cream store.
- aa. Jewelry store.
- ab. Laboratories, medical and dental.

- ac. Meat and fish market.
 - ad. Motels.
 - ae. Music and radio store.
 - af. Notion or variety shop.
 - ag. Offices, professional, public and business.
 - ah. Parking lot.
 - ai. Pet shops without outdoor kennels.
 - aj. Pharmacy.
 - ak. Photographer.
 - al. Printing establishments, limited to 2,000 square feet of floor area per establishment.
 - am. Professional office or studio.
 - an. Radio and television sales, service and repair shop.
 - ao. Real estate office.
 - ap. Research establishments and laboratories (nonmanufacturing).
 - aq. Restaurant.
 - ar. Schools, commercial, trade, technical, private or public.
 - as. Shoe store.
 - at. Soda fountain.
 - au. Tailor or dressmaking shop.
 - av. Tavern.
 - aw. Taxidermists.
 - ax. Television and radio broadcasting studios.
 - ay. Tobacco shops.
 - az. Travel bureaus and ticket offices.
 - ba. Undertaking establishments and funeral parlors.
 - bb. Indoor firing ranges subject to the following limitations and restrictions:
 1. Indoor firing ranges within an enclosed building or structure. Outdoor or exterior firing ranges are prohibited.
 2. No conditional use authorizing any use or activity on the property on which an indoor firing range is located shall be permitted.
 3. Any building in which firearms are discharged shall be entirely enclosed, configured, constructed and maintained in a manner that prevents firearm projectiles from escaping the confines of the building from any entrance door, window, loading dock, or any other or similar access point to the building.

Other permitted uses may be allowed if determined by the plan commission to be substantially similar to the above and subject to the approval by the common council.
- (4) *Other uses.* All other uses must be approved as planned developments - conditional uses as described in article IX of this chapter provided they conform to the geometric standard as set forth herein.

- a. *Minimum lot area.* Minimum lot area shall be 20,000 square feet, which shall include sufficient area for the principal structure, its accessory structures, all required off-street parking and loading areas and the required yards. Lots served by a private septic system shall comply with the standards of section 52-19(c).
 - b. *Minimum lot width.* Minimum lot width shall be 120 feet.
 - c. *Minimum interior side yard.* Minimum interior side yard shall be ten feet, except where abutting a residential district, the side yard adjacent to the residential district shall be 25 feet. However, there shall be no separation required between buildings comprising a group of businesses.
 - d. *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.
 - e. *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
 - f. *Minimum rear yard.* Minimum rear yard shall be 30 feet.
 - g. *Maximum floor area ratio.* Maximum floor area ratio (FAR) shall be 0.50.
 - h. *Maximum building height.*
 - 1. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roof.
 - 2. *Accessory building.* Ten feet maximum, 15 feet maximum peak height.
 - i. *Maximum impervious surface ratio.* The total surface area of all principal and accessory buildings, hard-surfaced parking areas, driveways, private streets, sidewalks and other impervious surfaces shall not exceed 65 percent of total land area.
- (5) *Required conditions of planned developments.*
- a. *Floor area ratio (FAR).* The maximum floor area ratio (FAR) shall be 0.50.
 - b. *Maximum impervious surface ratio.* The total surface area of all principal and accessory buildings, hard surfaced parking areas, driveways, private streets, sidewalks and other impervious surfaces shall not exceed 65 percent of total land area.
 - c. *Minimum landscaped green space ratio.*
 - 1. At least 20 percent of the land area, exclusive of land required for stormwater management and parkland dedication and exclusive of wetlands and slopes over 25 percent shall be landscaped open space. To the maximum extent possible, such open space shall include existing wooded areas and individual mature trees on the site at the time of development.
 - 2. The plan commission may allow all or a portion of the stormwater management area to be counted toward the 20 percent landscaped green area requirement under the following conditions:
 - (i) The stormwater management area is a permanent water feature designed with sufficient flow of water and aeration to maintain aesthetic quality.
 - (ii) There is sufficient landscaping to assure that the stormwater management area will be an aesthetic asset to the development and the community as a whole.
 - 3. The plan commission may allow all or a portion of the area with steep slopes over 25 percent grade to be counted toward the 20 percent landscaped green area requirements under the following conditions:
 - (i) The proposed development will include restoration of degraded slope areas.

- (ii) The use of the steeply sloped land will be integrated into the landscape plan and overall architectural concept of the project.
- 4. The above exceptions may only be granted at the PD-SIP stage of the review and approval process based on selected site and architectural plan submittals.
- 5. In the event that a planned development is divided into more than one lot and parcel, each parcel shall have at least ten percent of its area in landscaped green space as defined by this subsection (aa) (5)c.
- d. *Prohibition on construction on steep slopes.* Steeply sloped terrain with a natural grade of 25 percent or more may not be regraded or built upon.
- e. *Public street right-of-way.*
 - 1. All planned developments must have public street rights-of-way which are consistent with city design standards as set forth in chapter 44, article VI. Any right-of-way requirements recommended by the Wisconsin Department of Transportation for frontage roads or key intersections must be shown on planned development plans. Waukesha County must approve right-of-way widths for all county trunk system roads which will be under county jurisdiction.
 - 2. In those situations where more than 80 feet right-of-way is required for a public street, the developer may be allowed to credit that portion of the public street right-of-way over 80 feet toward meeting the open space and landscaped green space provisions of this subsection (aa).
- f. *Land use compatibility.*
 - 1. Planned developments permit a variety of land uses and allow applicants flexibility in land use planning. However, all land uses within a planned development in the B-6 zoning district must be compatible with other land uses within the proposed development and compatible with the land uses on adjoining properties.
 - 2. The evaluation of compatibility between residential and commercial uses should specifically include:
 - (i) Lighting impact.
 - (ii) Screening of parking areas, outside storage and loading areas.
 - (iii) Preserving privacy.
 - (iv) Noise impact.
 - (v) Hours of operation.
- g. *Setbacks and yard requirements.*
 - 1. Planned developments shall meet the following setback and yard standards with respect to yards adjoining neighboring properties which are not part of the planned development and yards adjoining public street rights-of-way:
 - (i) Minimum front yard: 30 feet.
 - (ii) Minimum corner side yard: 30 feet.
 - (iii) Minimum interior side yard: ten feet, unless abutting residential, in which case it shall be 25 feet.
 - (iv) Minimum rear yard: 30 feet.
 - 2. Setbacks for yards that are internal to the development and do not adjoin public streets or land outside of the planned development may deviate from the setback and yard requirements.

h. *Stormwater management.* Planned developments shall have an integrated stormwater management plan that considers potential runoff from all of the land within the proposed planned development. Stormwater retention and/or detention basins should be constructed in areas which reflect natural drainage patterns. Stormwater drainage facilities shall meet the minimum requirements set forth in section 44-224.

(ab) *M-1 Limited Industrial District.*

- (1) *Intent.* The M-1 district is intended to accommodate wholesale and warehouse activities and industrial operations whose external physical effects are restricted to the area of the districts and in no manner affect in a detrimental way any of the surrounding districts. The M-1 district is structured to permit along with any specified uses the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semi-finished products from previously prepared material. It is the intent of this subsection (ab) that the processing of raw material for shipment in bulk form to be used in an industrial operation at another location not be permitted.
- (2) *Permitted uses.* The following are permitted uses:
 - a. Building materials sales and storage yards.
 - b. Cartage and express facilities.
 - c. Cleaning, pressing and dyeing.
 - d. Cold storage locker plants.
 - e. Commercial bakeries.
 - f. Commercial greenhouses.
 - g. Commercial laundries.
 - h. Contractors' offices, shops and yards.
 - i. Cosmetic manufacturing, processing and packaging.
 - j. Electrical appliances manufacturing.
 - k. Electronic devices manufacturing.
 - l. Essential services.
 - m. Farm machinery sales and repair.
 - n. Food processing, except cabbage.
 - o. Food lockers and meat processing plants.
 - p. Garages for servicing and repair of cars, trucks and other equipment and machinery.
 - q. Instrument manufacturing.
 - r. Jewelry manufacturing.
 - s. Laboratories.
 - t. Leather fabrication, not including tanning.
 - u. Machine shops.
 - v. Manufacture and bottling of nonalcoholic beverages.
 - w. Manufacture, fabrication, packaging and assembly of products from furs, glass, leather, metals, paper, plaster, plastics, textiles and wood.

- x. Municipal service buildings.
 - y. Packaging and packing of confections.
 - z. Pharmaceuticals processing.
 - aa. Painting.
 - ab. Storage and sale of machinery and equipment.
 - ac. Warehousing operations.
 - ad. Wholesaling operations.
- (3) *Other permitted uses.* All uses permitted in the B-1, B-2, B-3, and B-4 districts are permitted in the M-1 district and, in addition, any uses substantially similar to those listed in subsection (ab)(2) of this section subject to the recommendation of the plan commission and approval by the common council.
- (4) *Permitted accessory uses.* Permitted accessory uses are as follows:
- a. Garages for storage of vehicles used in conjunction with the operation of a business.
 - b. Off-street parking and loading areas.
 - c. Office, storage, power supply and other uses normally auxiliary to the principal industrial operations.
- (5) *Conditional uses.* Conditional uses are as indicated in article V of this chapter.
- (6) *Signs.* Sign regulations are as indicated in article VIII of this chapter.
- (7) *Minimum lot area.* Minimum lot area shall be 43,560 square feet, unless otherwise required by [section 52-19\(c\)](#) if the lot is served by a private septic system.
- (8) *Minimum lot width.* Minimum lot width shall be 150 feet.
- (9) *Minimum front yard setback.* Minimum front yard setback shall be 50 feet, except where opposite a residential or agricultural district, then 100 feet minimum.
- (10) *Minimum side yard.* Minimum side yard shall be ten feet, except where abutting a residential or commercial district, the side yard shall be a minimum of 25 feet. Minimum interior side yard setback adjoining a railroad right-of-way shall be ten feet. Loading platforms may be located in a side yard where abutting a rail line.
- (11) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
- (12) *Minimum rear yard.* Minimum rear yard shall be 30 feet. Minimum rear yard on lots adjoining a railroad right-of-way shall be ten feet. Where adjoining a residential district, there shall be no parking allowed in the 30 feet adjacent to the residential district and the 30 feet adjacent to the residential district shall be landscaped and seeded with perennial grass.
- (13) *Maximum floor area ratio.* Maximum floor area ratio (FAR) shall be 0.50.
- (14) *Maximum building or structure height.*
- a. *Principal building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
- (ac) *SW-1 Shoreland-Wetland Zoning District.*
- (1) *Purpose.* The purpose of this subsection (ac) is to preserve, protect and enhance the ponds, streams, islands and wetlands in the city. This subsection (ac) is adopted pursuant to the authorization in Wis. Stats. §§ 62.23, 62.231, 87.30 and 144.26, and Wis. Admin. Code § NR 117.01. The boundaries of shoreland-wetland districts

have been established as outlined in section 52-107. This district has been established to:

- a. Maintain the stormwater and floodwater storage capacity of wetlands.
 - b. Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into waters of the city or state.
 - c. Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat.
 - d. Prohibit certain uses detrimental to the shoreland wetland area.
 - e. Preserve shore cover and natural beauty by restricting shoreland-wetland excavation, filling and other earth-moving activities.
 - f. Minimize expenditures of public moneys for costly flood control projects.
 - g. Reduce rescue and relief efforts generally undertaken at the expense of the taxpaying public.
 - h. Prevent business interruptions which usually result in the loss of local incomes.
 - i. Discourage the victimization of unwary land and home buyers.
- (2) *Compliance; other permits.* Any development in shoreland-wetlands shall be in full compliance with the terms of this subsection (ac). It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state and local agencies, including those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 USC 1334.
- (3) *Municipality regulated.* Unless specifically exempted by law, the city and county are required to comply with this subsection (ac) and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13), or Wis. Admin. Code § NR 117.02(1) apply. The construction reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stats. § 30.12(4)(a) applies.
- (4) *Greater restrictions.*
- a. The more restrictive of either the C-1 Conservancy District, SW-1 Shoreland-Wetland District or floodplain district regulations in chapter 16, article II, shall apply when a property is located in more than one zoning district. See Wis. Stats. §§ 61.351(4)(b) and 62.231(4)(b).
 - b. This subsection (ac) is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this subsection (ac) imposes greater restrictions, the provisions of this subsection (ac) shall prevail.
- (5) *Interpretation.* In their interpretation and application, the provisions of this subsection (ac) shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this subsection (ac) is required by a standard in Wis. Admin. Code ch. NR 116 or NR 117, and where the subsection provision is unclear, the provision shall be interpreted in light of the Wis. Admin. Code ch. NR 116 or NR 117 standards in effect on the date of the adoption of the ordinance from which this subsection (ac) is derived or in effect on the date of the most recent text amendment to this subsection (ac).
- (6) *Permitted uses.* Under Wis. Admin. Code § NR 117.05(2), the city may permit, authorize as a conditional use, or prohibit the following uses of shoreland-wetlands. The following uses are permitted subject to the provisions of Wis. Stats. chs. 30 and 31, and the provisions of other local, state, and federal laws, if applicable:

- a. Activities and uses that do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
 1. Hiking, fishing, trapping, hunting, swimming, snowmobiling, and boating.
 2. 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.
 3. The practice of silviculture, including the planting, thinning, and harvesting of timber.
 4. The pasturing of livestock.
 5. The cultivation of agricultural crops.
 6. The construction and maintenance of duck blinds.
- b. Uses that do not require the issuance of a zoning permit and that may involve wetland alterations only to the extent specifically provided below:
 1. The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected.
 2. The maintenance and repair of existing drainage systems where permissible under Wis. Stats. § 30.20, to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Wis. Stats. ch. 30, and that dredged spoil is placed on existing spoil banks, where possible.
 3. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.
 4. The construction and maintenance of piers, docks and walkways, observation decks and trail bridges not requiring pilings, excavating or filling for such construction.
 5. The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district, provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland wetland listed in subsection (ac)(8) of this section.
 6. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.
- c. Uses that are allowed upon the issuance of a conditional use permit and that may include wetland alterations only to the extent specifically provided below:
 1. The construction and maintenance of roads that are necessary for continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under this subsection (ac)(6), provided that:
 - (i) The road cannot, as a practical matter, be located outside the wetland.
 - (ii) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in subsection (ac)(8) of this section.
 - (iii) The road is designed and constructed with the minimum cross sectional area practical to serve the intended use.
 - (iv) Road construction activities are carried out in the immediate area of the roadbed only.

- (v) Any wetland alteration must be necessary for the construction or maintenance of the road.
 - (vi) The construction and maintenance of piers, docks and walkways, observation decks, and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance.
2. The construction and maintenance of nonresidential buildings, provided that:
 - (i) The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows, or other wetland or aquatic animals.
 - (ii) The building cannot, as a practical matter, be located outside the wetland.
 - (iii) The building does not exceed 500 square feet in floor area.
 - (iv) Only limited filling and excavating necessary to provide structural support for the building is allowed.
 3. The establishment and development of public and private parks and recreation areas; outdoor education areas; historic, natural and scientific areas; game refuges and closed areas; fish and wildlife habitat improvement projects; game bird and animal farms; wildlife preserves; and public boat launching ramps, provided that:
 - (i) Any private development allowed under this subsection (ac)(6)c.3 shall be used exclusively for the permitted purpose.
 - (ii) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed.
 - (iii) The construction and maintenance of roads necessary for the uses permitted under this subsection (ac)(6)c.3 are allowed only where such construction and maintenance meets the criteria in subsection (ac)(6)c.1 of this section.
 - (iv) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
 4. The construction and maintenance of electric and telephone transmission lines and water, gas and sewer lines and related facilities and the construction and maintenance of railroad lines provided that:
 - (i) The transmission and distribution lines and related facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
 - (ii) Only limited filling or excavating necessary for such construction or maintenance is allowed.
 - (iii) Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in subsection (ac)(8) of this section.
 5. Repair or expansion of nonconforming structures within the boundaries of shoreland-wetland zoning is not limited because of the SW-1 zoning, but is regulated by article VII of this chapter. Nonconforming boathouse repair shall conform with Wis. Stats. § 30.121.
- (7) *Prohibited uses in shoreland-wetlands.*
- a. Any use not listed in subsection (ac)(6) of this section is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this subsection (ac) in accordance with subsections (ac)(6) and (8) of this section.

- b. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high water mark of any navigable waters are prohibited.

(8) *Rezoning shoreland-wetland.*

- a. Rezoning of a shoreland-wetland shall require amendment of the final Wisconsin wetland inventory map adopted in subsection (ac)(9) of this section pursuant to procedures established in subsection (ac)(10) of this section. In order to ensure that any amendment will be consistent with the shoreland protection objectives of Wis. Stats. § 144.26, the city shall not rezone a wetland in a shoreland-wetland zoning district or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
 - 1. Stormwater 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 or endangered species.
- b. Upon notification of a proposed amendment as required by subsection (ac)(10) of this section, if the district office of the department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in subsection (ac)(8) of this section, the department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.
- c. If the department notifies the city planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subsection (ac)(8) of this section, that proposed amendment, if approved by the city, shall not become effective until more than 30 days have elapsed since written notice of the council approval was mailed to the department, as required by subsection (ac)(10) of this section. If, within the 30-day period, the department notifies the council that the department intends to adopt a superseding shoreland-wetland zoning ordinance for the city under Wis. Stats. § 62.231(6), the proposed amendment shall not become effective until that ordinance adoption procedure is completed or otherwise terminated. The record of the council decision on the proposed amendment shall advise the petitioner of the provisions of this subsection.

(9) *Zoning maps.* The maps designated below are hereby adopted and made part of this subsection (ac). They are on file in the office of the city clerk.

- a. United States Geological Survey Quadrangle Maps, most recent revision.
- b. Wisconsin Wetland Inventory maps for Township 7 North, Range 17 East, stamped "FINAL" on July 7, 1988, and for Township 7 North, Range 18 East, stamped "REVISED" on February 6, 1989.
- c.

Floodplain zoning maps titled "Floodway Flood Boundary and Floodway Map, City of Delafield, Wisconsin, Waukesha County," and dated August 15, 1983, including the flood insurance study and corresponding profiles from the Federal Emergency Management Agency, dated February 15, 1983.

d. Comprehensive zoning base maps titled "City of Delafield Official Zoning Map" and dated July 9, 1978, with changes and amendments.

- (10) *Amending shoreland-wetland zoning regulations; procedures.* The common council may supplement or change the district boundaries and the regulations contained in this subsection (ac) according to section 52-294, Wis. Stats. § 62.23(7)(d)2., and Wis. Admin. Code chs. NR 116 and 117, and the following:
- a. The shoreland-wetland district amendment provisions of subsection (ac)(8) of this section apply.
 - b. A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the department within five days of the submission of the proposed amendment to the city planning agency.
 - c. All proposed text and map amendments or conditional use requests shall be referred to the city planning agency and a public hearing shall be held as required by Wis. Stats. § 62.23(7)(d)2., following publication of a Class 2 notice as defined in Wis. Stats. ch. 985. The appropriate district office of the department shall be provided with written notice of the public hearing at least ten days prior to such hearing.
 - d. A copy of the decision on each amendment shall be provided to the department district office within ten days of the decision.
- (11) *Annexed areas.* The zoning of annexed lands shall comply with the provisions of Wis. Stats. § 59.97(7) and § 59.971(7). Annexed lands are designated on the city's official zoning map. The Waukesha County shoreland and floodplain zoning provisions are incorporated by reference for the purpose of administering this subsection (ac) and are on file in the office of the city administrator and city clerk.
- a. *Annexed floodplains.* The Waukesha County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the city for all areas annexed by the city until the city adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116.
 - b. *Annexed shorelands.* The Waukesha County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the city for all shoreland areas annexed by the city after May 7, 1982.
- (12) *Conditional use permits.* The provisions of section 52-136 shall apply to this subsection (ac).
- (13) *Enforcement and penalties.* The penalty provisions of section 52-296 shall apply to this subsection (ac). Any development or use established after the effective date of the ordinance from which this subsection (ac) is derived in violation of this subsection (ac) by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The administrator shall refer violations to the plan commission and the city attorney who shall prosecute such violations. Every violation of this subsection (ac) is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the city, state, or any citizen thereof pursuant to Wis. Stats. § 87.30(2).

(ad) *P-1 Public and Semipublic Use District.*

- (1) *Intent.* The public and semipublic use district is intended to accommodate structures, principally of a public or nonprofit institutional nature and rendering as their principal activity recognized public services, such as churches, hospitals, rest homes, public and private academic schools and nursery schools, libraries,

museums, post offices, police and fire stations, public and private utilities and other public services, but not including such private commercial enterprises as clinics, business or trade schools or any enterprise other than a franchised utility primarily devoted to the sale of commodities or services.

- (2) *Permitted uses.* The following uses are, following the effective date of the ordinance from which this subsection (ad) is derived, permitted uses:
 - a. Cemeteries.
 - b. Churches and seminaries.
 - c. Libraries and museums.
 - d. Public administrative office and public service buildings, including fire and police stations, community centers, public emergency facilities.
 - e. Public and private schools, colleges and universities.
 - f. Public utility offices and facilities.
 - g. YMCA, YWCA, Junior Achievement, Boys Clubs of America, Boy Scouts or Girl Scouts.
- (3) *Other permitted uses.* Other permitted uses are uses similar to those listed in subsection (ad)(2) of this section, subject, however, to a recommendation of the plan commission and a decision by the common council that the use is similar to those listed in subsection (ad)(2) of this section.
- (4) *Continuation of permitted uses.* Any use listed in subsection (ad)(2) of this section, or any use determined to have been similar to those listed in subsection (ad)(2) of this section, that exist on the effective date of the ordinance from which this subsection (ad) is derived shall continue to be considered a permitted use within the P-1 Public and Semipublic Use District.
- (5) *Conditional uses.*
 - a. See article V of this chapter.
 - b. Conditional uses must be publicly oriented, religious, utility, institutional, hospitals, sanitarium, nursing home, funeral parlor, crematoria, columbarium, or other governmental uses, which do not conflict with neighboring uses and are found to be necessary in light of alternative locations available for such use.
 - c. Any use other than those identified in subsection (ad)(2) of this section or determined to be a permitted use in accordance with subsection (ad)(3) of this section shall be a conditional use subject to section 52-136.
- (6) *Conditional uses.* See article V of this chapter.
- (7) *Signs.* Sign regulations are as indicated in article VIII of this chapter.
- (8) *Minimum lot area.* Minimum lot area shall be 40,000 square feet, unless otherwise required by section 52-19(c) if the lot is served by a private septic system.
- (9) *Minimum lot width.* Minimum lot width shall be 120 feet.
- (10) *Minimum front yard setback.* Minimum front yard setback shall be 30 feet.
- (11) *Minimum side yard.* Minimum side yard shall be 20 feet.
- (12) *Minimum corner side yard.* Minimum corner side yard shall be 30 feet.
- (13) *Minimum rear yard.* Minimum rear yard shall be 30 feet.
- (14) *Maximum building height.*
 - a.

Principal building. 25 feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip or pitch roofs.

b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip or pitch roof.

(15) *Maximum floor area ratio.* Maximum floor area ratio (FAR) shall be 0.50.

(ae) *CBD-1 Central Business District.*

- (1) *Intent.* The CBD-1 district is intended to provide for the continuation, preservation and expansion of the city's central business district. The existing commercial activities are predominantly specialized retail, personal services, professional office, and entertainment. The intent of the CBD-1 district is to allow and encourage the development and redevelopment of the downtown area as a specialized district that maintains the historic character of the area; traditional lot layout and street grid; and traditional architectural design that is unique to Downtown Delafield.
- (2) *Permitted uses.* The following uses are permitted, provided that they shall be retail establishments selling and storing retail merchandise and operating completely within an enclosed building, except for off-street parking:
 - a. Antique shops.
 - b. Appliance store.
 - c. Art shop.
 - d. Bakeries.
 - e. Barbershops.
 - f. Beauty shops.
 - g. Bed and breakfast establishments (up to eight units).
 - h. Bicycle stores - sales, rental and repair.
 - i. Book or stationery stores.
 - j. Business offices.
 - k. Churches.
 - l. Clinics.
 - m. Clothing stores.
 - n. Clubs, social and fraternal.
 - o. Computer and computer equipment sales and service.
 - p. Confectioneries.
 - q. Craft shops.
 - r. Delicatessens.
 - s. Drugstores.
 - t. Dry goods.
 - u. Essential services.
 - v. Financial institutions.
 - w. Florists.

- x. Food and grocery stores.
- y. Fraternities.
- z. Fruit and vegetable stores.
- aa. Homes.
- ab. Furniture stores.
- ac. General stores.
- ad. Gift stores.
- ae. Hardware stores.
- af. Hobby shops.
- ag. Ice cream shops.
- ah. Interior decorator shops.
- ai. Jewelry stores.
- aj. Lodges.
- ak. Lodging establishments (up to eight units).
 - al. Libraries.
- am. Meat and fish markets.
- an. Municipal building.
- ao. Music and radio stores.
- ap. News and magazine stores.
- aq. Optical stores.
- ar. Packaged beverage stores.
- as. Photographers.
- at. Photographic supplies and service.
- au. Printing shops.
- av. Private clubs.
- aw. Professional offices.
- ax. Public utility offices.
- ay. Restaurants.
- az. Self-service, pickup laundry and dry cleaning establishments.
- ba. Shoe stores, sales and repair.
- bb. Soda fountains.
- bc. Sporting goods.
- bd. Studios (music, art, voice, dance).
- be. Supermarkets.
- bf. Tailor shops.
- bg. Taverns.
- bh. Television sales and repair shops.

- bi. Tobacco stores.
 - bj. Variety stores.
 - bk. Vegetable stores.
 - bl. Video sales and rentals.
- (3) *Permitted accessory uses.* Permitted accessory uses are as follows:
- a. Other accessory uses that are customary in connection with the foregoing permitted uses and are incidental thereto.
 - b. Garages for storage or vehicles used in conjunction with the operation of a business.
 - c. Off-street parking and loading areas.
 - d. Residential dwellings located in the same building as a permitted commercial use and located on floors other than the main street level floor.
- (4) *Conditional uses.* One- and two-family residential dwellings; multifamily residential dwellings; public and semipublic buildings and uses; automobile service stations; private schools; indoor theaters and entertainment centers; and lodging establishments (eight or more units).
- (5) *Minimum lot area.* Minimum lot area shall be 4,500 square feet.
- (6) *Minimum lot width.* Minimum lot width shall be 45 feet.
- (7) *Minimum front yard setback.* There is no front yard setback.
- (8) *Minimum side yard.* There is no minimum side yard.
- (9) *Minimum corner side yard.* There is no minimum corner side yard.
- (10) *Minimum rear yard.* There is no minimum rear yard.
- (11) *Minimum setback from ordinary high water mark.* Minimum setback from ordinary high water mark shall be 50 feet.
- (12) *Maximum building height.*
- a. The maximum height for a principal building shall be 55 feet.
 - b. The maximum height for an accessory building shall be 25 feet.
 - c. No building may exceed three floors above proposed finished grade.
- Exception: A fourth floor may be permitted if (ae)(3)c.1. and (ae)(3)c.2. are provided:
- 1. Parking spaces, in addition to required residential parking spaces, are provided at, or below existing grade, at a ratio of four spaces per 1000 square feet of gross floor area exhibited by the largest single building level.
 - 2. Minimum building setback from all collector and arterial streets, Genesee, Milwaukee, Main and Wells Streets shall be no less than 20 feet.
- (13) *Minimum building floor area.* See [section 52-18](#).
- a. None for buildings used solely for commercial purposes.
 - b. Two thousand square feet for new buildings used for both residential and commercial purposes.
- (14) *Off-street parking requirements.* There are no off-street parking requirements.
- (15) *Special provision.* In a building used for both commercial and residential purposes, the main street floor must be exclusively commercial. A residential dwelling unit shall not contain less than 750 square feet.

(af) *CBD-2 Central Business District.*

- (1) *Intent.* The CBD-2 district provides a transition zone adjacent to the CBD-1 Central Business District. While the predominant uses in the CBD-2 district are residential, the area is in the process of changing to a mixture of commercial and residential uses. The intent of the CBD-2 district is to permit conversion of existing residential buildings to commercial uses and to permit the construction of new commercial buildings, providing the commercial development does not detract from or devalue residential properties in the district.
- (2) *Permitted uses.* Permitted uses are as follows:
 - a. All uses permitted in the CBD-1 district.
 - b. One- and two-family residences.
- (3) *Permitted accessory uses.* Permitted accessory uses are as follows:
 - a. Other accessory uses which are customary in connection with the foregoing permitted uses and are incidental thereto.
 - b. Garages for storage or vehicles used in conjunction with the operation of a business.
 - c. Off-street parking and loading areas.
- (4) *Conditional uses.* Conditional uses are as follows:
 - a. Multifamily residential dwellings, public, and semipublic buildings and uses, and lodging establishments (eight or more units).
 - b. See article V of this chapter.
- (5) *Minimum lot area.* Minimum lot area shall be 4,500 square feet.
- (6) *Minimum lot width.* Minimum lot width shall be 45 feet.
- (7) *Minimum front yard setback.* Minimum front yard setback shall be ten feet except where a parcel adjoins the side lot line of another parcel fronting on the same street with a lesser setback, in which case the minimum front yard setback shall be the same as the setback of the adjoining parcel with the least setback.
- (8) *Minimum side yard.* Minimum side yard shall be ten feet except where a side yard abuts a parcel under the same property ownership, the side yard requirement may be waived by the plan commission. The plan commission may also grant a waiver where the adjoining property owner enters into a written recordable agreement adjusting the minimum side yard setback on the adjoining parcel by an amount equivalent to the amount of waived setback.
- (9) *Minimum corner side yard.* Minimum corner side yard shall be ten feet.
- (10) *Minimum rear yard.* Minimum rear yard shall be ten feet.
- (11) *Maximum building height.*
 - a. *Principal building.* Twenty-five feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
- (12) *Minimum building floor area.* See [section 52-18](#).
 - a. None for buildings used solely for commercial purposes.
 - b. Two thousand square feet for new buildings used for both residential and commercial purposes.

c. Buildings used solely for residential purposes:

1. *First floor.* Nine hundred square feet.
2. *Total.*
 - (i) Single-family dwelling unit: 1,000 square feet.
 - (ii) Two-family or more dwelling units: 750 square feet per dwelling unit.

(13) *Off-street parking requirements.*

- a. See sections 52-174 through 52-178. In the CBD-2 district, the plan commission may allow a landowner to meet the parking requirement by providing the required parking stalls either on site, on another privately owned site owned by the same property owner, provided such stalls are within 800 feet of the site.
- b. The plan commission may allow a landowner to meet the parking requirement by paying a downtown parking fee set and established by the city. Such fees shall be determined by the city based on the cost of providing public parking stalls and may be changed periodically as the cost to the city for providing parking stalls changes.

(14) *Floor area ratio (FAR).* The maximum floor area ratio (FAR) is 0.50. In the CBD-2 district, a landowner may apply privately owned off-site land utilized for meeting the parking requirements of section 52-111(q) as part of the land area for the purpose of computing the FAR.(ag) *CBD-3 Special Campus District.*

- (1) *Intent.* The CBD-3 district is intended to allow integrated mixed-use development under single ownership within a campus setting adjacent to the CBD-1 district. Any development in the CBD-3 district other than the identified permitted use must occur as a planned development conditional use under the terms and conditions of article IX of this chapter. The intent of this zoning is to create a district that will enable flexibility in terms of the specific types of land uses, but will assure that any development will occur within the context of the central business district or an integrated development plan and will be consistent with the overall pattern of development in the city.
- (2) *Permitted uses.* All uses permitted in the CBD-1 district are permitted in the CBD-3 district in addition to the uses indicated in section 52-109, provided they conform to the geometric standard as set forth in subsection (s)(5) through (s)(14) of this section.
 - a. Antique shops.
 - b. Appliance store.
 - c. Art shop.
 - d. Bakeries.
 - e. Barbershops.
 - f. Beauty shops.
 - g. Bed and breakfast establishments (up to eight units).
 - h. Bicycle stores—Sales, rental and repair.
 - i. Book or stationery stores.
 - j. Business offices.
 - k. Churches.

- l. Clinics.
- m. Clothing stores.
- n. Clubs, social and fraternal.
- o. Computer and computer equipment sales and service.
- p. Confectioneries.
- q. Craft shops.
- r. Delicatessens.
- s. Drugstores.
- t. Dry goods.
- u. Essential services.
- v. Financial institutions.
- w. Florists.
- x. Food and grocery stores.
- y. Fraternities.
- z. Fruit and vegetable stores.
- aa. Funeral homes.
- ab. Furniture stores.
- ac. General stores.
- ad. Gift stores.
- ae. Hardware stores.
- af. Hobby shops.
- ag. Hotel.
- ah. Ice cream shops.
 - ai. Interior decorator shops.
 - aj. Jewelry stores.
- ak. Lodges.
 - al. Lodging establishments (up to eight units).
- am. Libraries.
- an. Meat and fish markets.
- ao. Municipal building.
- ap. Music and radio stores.
- aq. News and magazine stores.
- ar. Optical stores.
- as. Packaged beverage stores.
- at. Photographers.
- au. Photographic supplies and service.
- av. Printing shops.

- aw. Private clubs.
- ax. Professional offices.
- ay. Public utility offices.
- az. Restaurants.
- ba. Self-service, pickup laundry and dry cleaning establishments.
- bb. Shoe stores, sales and repair.
- bc. Soda fountains.
- bd. Sporting goods.
- be. Studios (music, art, voice, dance).
- bf. Supermarkets.
- bg. Tailor shops.
- bh. Taverns.
- bi. Television sales and repair shops.
- bj. Tobacco stores.
- bk. Variety stores.
- bl. Vegetable stores.
- bm. Video sales and rentals.

Other permitted uses may be allowed if determined by the plan commission to be substantially similar to the above and subject to the approval by the common council. All other uses must be approved as planned development conditional uses as described in sections 52-263 through 52-266.

- (3) *Permitted accessory uses.* Residential dwellings located in the same building as a permitted commercial use and located on floors other than the main street level floor are permitted accessory uses.
- (4) *Conditional uses.* All other uses must be approved as planned developments conditional uses as described in article IX of this chapter provided they conform to the geometric standard as set forth herein.
- (5) *Minimum land area.* Minimum land area shall be two acres (87,120 square feet).
- (6) *Required conditions of planned developments.*
 - a. *Maximum floor area ratio (FAR).* Maximum floor area ratio (FAR) shall be 0.50.
 - b. *Maximum impervious surface ratio.* The total surface area of all principal and accessory buildings, hard surfaced parking areas, driveways, private streets, sidewalks, and other impervious surfaces shall not exceed 80 percent of the total land area.
 - c. *Minimum landscaped open space.* At least 20 percent of the land area shall be landscaped open space. To the maximum extent possible, such open space shall include existing wooded areas and individual mature trees on the site at the time of development.
 - d. *Land use compatibility.*
 - 1. Planned developments permit a variety of land uses and allow applicants flexibility in land use planning. However, all land uses within a planned development in the CBD-3 district must be internally compatible.
 - 2.

The evaluation of land use compatibility shall specifically include: hours of operation, traffic, parking, lighting, noise impact, architectural character and appearance.

e. *Setbacks and yard requirements.*

1. Planned developments in the CBD-3 district must meet the following setback and yard standards with respect to public rights-of-way and adjoining neighboring properties:
 - (i) Minimum front yard: 30 feet.
 - (ii) Minimum corner side yard: 30 feet.
 - (iii) Minimum side yard: ten feet.
 - (iv) Minimum rear yard: ten feet.
2. Setbacks for yards that are internal to the development and do not adjoin public streets or land outside of the planned development may deviate from the setback and yard requirements.
3. An exception to the front and corner side yard setbacks may be granted by the city where the planned development utilizes an existing structure with a lesser setback where an adjoining building on the same block face has a lesser setback and the use of lesser setback on the planned development would be more consistent with the prevailing architectural character and appearance of the block.

(ah) *CBD-4 Central Business District.*

- (1) *Intent.* The CBD-4 district is intended to establish and preserve areas for low intensity office, neighborhood service, and residential uses located along the perimeter of the downtown area. This area is intended to be a transition area between residential areas and the downtown core. This district will serve as a specialized district that maintains traditional architectural design that is compatible with the buildings located in the downtown area and existing residential buildings. The district is intended to permit single and two-family dwelling units and/or low intensity commercial uses.
- (2) *Permitted uses.* Single-family and two-family dwellings.
- (3) *Permitted accessory uses.* Other accessory uses that are customary in connection with the foregoing permitted uses and are incidental thereto.
- (4) *Conditional uses.* All other uses require a planned development-conditional use. The plan commission has the authority to use their discretion when determining which specific uses are allowed based on compatibility with the surrounding neighborhood, which may be predominantly residential, and in order to meet the intent of the zoning district. Conditional uses are limited to low intensity professional office and service uses, such as insurance and accounting offices, beauty salons, and photography studios. Retail establishments will only be allowed if accessory to another office or service use, such as the sale of beauty products related to a salon or picture frames related to a photography studio. Only the commercial uses listed in CBD-1 and CBD-2 will be considered. If a conditional use is granted for a commercial use, the following conditions apply:
 - a. All business, except for off-street parking or loading, shall be conducted within a completely enclosed building, unless specifically exempted by the plan commission or approved as a special event.
 - b. The type of business and number of employees is limited to available access and parking to the site. These provisions will be determined at time of conditional use issuance.
- (5) *Minimum lot area.* Minimum lot area shall be 15,000 square feet.

- (6) *Minimum lot width.* Minimum lot width shall be 45 feet.
- (7) *Minimum front yard setback.* Minimum front yard setback shall be ten feet.
- (8) *Minimum side yard.* Minimum side yard setback shall be ten feet.
- (9) *Minimum corner side yard.* Minimum corner side yard setback shall be 30 feet.
- (10) *Minimum rear yard.* Minimum rear yard setback shall be ten feet.
- (11) *Minimum setback from ordinary high water mark.* Minimum setback from the ordinary high water mark shall be 50 feet.
- (12) *Maximum building height.*
 - a. *Residence or commercial.* Twenty-five feet maximum, 35 feet if averaging; 45 feet maximum peak height for gable, gambrel, hip and pitch roofs.
 - b. *Accessory building.* Ten feet maximum, 15 feet if averaging; 25 feet maximum peak height for gable, gambrel, hip and pitch roofs.
- (13) *Maximum floor area ratio (FAR).* Maximum floor area ratio (FAR) shall be 0.50.
- (14) *Minimum building floor area.* See [section 52-18](#).
 - a. *Total, two families.* Nine hundred square feet per family.
 - b. *Total, one family.* One thousand square feet.
 - c. *First floor.* Eight hundred fifty square feet per family unit.
 - d. If accessory to a commercial use, an efficiency unit shall be a minimum of 450 square feet, one-bedroom unit shall be a minimum of 800 square feet, and a two-bedroom or more unit shall be a minimum of 1,000 square feet.
- (15) *Signage.* Sign regulations are as indicated in article VIII of this chapter, except that no sign shall exceed 12 square feet.
- (16) *Off-street parking requirements.*
 - a. See [sections 52-174](#) through [52-178](#). In the CBD-4 district, the plan commission may allow a landowner to meet the parking requirement by providing the required parking stalls are either on site or on another privately owned site owned by the same property owner, provided such stalls are within 800 feet of the site.
 - b. The plan commission may allow a landowner to meet the parking requirement by paying a downtown parking fee set and established by the city. Such fees shall be determined by the city based on the cost of providing public parking stalls and may be changed periodically as the cost to the city for providing parking stalls changes.

(Code 1997, § 17.39; Rep. and Recr. #411; Am. #113.07; Am. #179; Am. #259; Cr. #442; Rep. #455; Am. #577; Am. #621; Am. #622; Rep. & Recr. #631; Am. #670; Am. [#719](#); Rep. [#719](#))

([Ord. No. 754](#), § 1, 11-4-2019; [Ord. No. 755](#), § 1, 11-4-2019; [Ord. No. 765](#), §§ 1—26, 1-20-2020; [Ord. No. 779](#), §§ 3—5, 4-19-2021; [Ord. No. 777](#), §§ 3—9, 3-1-2021; [Ord. No. 788](#), 12-20-2021; [Ord. No. 789](#), § 1, 12-20-2021; [Ord. No. 799](#), §§ 1—7, 6-20-2022; [Ord. No. 823](#), §§ 9—21, 11-6-2023; [Ord. No. 832](#), § 1, 7-15-2024)

Sec. 52-112. - Summary of lot area, width, setback and yard requirements.

Table 1: Summary of Lot Area, Width, Setback, Yard, Floor Area Ratio, and Open Space Requirements

Zoning District	Lot Area	Lot Width	Minimum Lake Frontage	Minimum Front Yard Setback	Minimum Interior Side Yard	Minimum Corner Side Yard	Minimum Rear Yard	Maximum Floor Area Ratio	Minimum Open Space (sq. ft.)
A-1	3 acres	200'		50'	30'	30'	50'	None	90,000
A-1E	35 acres	200'		50'	30'	30'	50'	None	90,000
RE-3	3 acres	200'		50'	30'	30'	30'	None	90,000
RE-2	2 acres	200'		50'	30'	30'	30'	None	60,000
RE-1	1 acre	140'		50'	20'	30'	20'	None	30,000
RL-1	40,000 sq. ft.	100'	100' exist. 150' new	50'	15'	30'	60*	0.25	30,000
RL-1A	20,000 sq. ft.	80'	80' exist. 150' new	50'	15'	30'	55*	0.25	15,000
RL-2	10,000 sq. ft.	50'	50' exist. 150' new	25'	8'	25'	50*	0.40	7,000
R-1	30,000 sq. ft.	120'		50'	20'	30'	20'	0.20	25,000
R-1D	10,000 sq. ft.	100'		30'	15'	25'	20'	0.50	5,000
R-2	30,000 sq. ft.	120'		50'	20'	30'	20'	0.20	22,000
R-3	20,000 sq. ft.	100'		50'	16'	30'	16'	0.25	15,000

R-4	7,900 sq. ft.	66'		25'	10'	25'	10'	0.65	4,000 per family
R-5a (PUD)	See text	See text		30'	30'	30'	30'	0.25	12,000 per d.u.
R-6	See text	100'		30'	15'	30'	50'	None	500 per d.u.
R-7-EH	See text	100'		30'	15'	30'	50'	None	500 per d.u.
CBD-1	4,500 sq. ft.	45'		None	None	None	None	None	None
CBD-2	4,500 sq. ft.	45'		10'	10'	10'	10'	0.50	None
CBD-3 (PUD)	See text	See text		30'	10'	30'	10'	0.50	See text
CBD-4	15,000 sq. ft.	80'		10'	10'	30'	10'	0.50	None
B-1	5,000 sq. ft.	100'		30'	10'	30'	10'	0.50	None
B-1-A	10,000 sq. ft.	100'		30'	10'	30'	30'	0.50	None
B-2	15,000 sq. ft.	120'		30'	10'/25'***	30'	30'	0.50	None
B-3	20,000 sq. ft.	120'		30'	10'/25'***	30'	30'	0.50	None
B-4	20,000 sq. ft.	120'		30'	10'/25'***	30'	30'	0.50	None

B-5	40,000 sq. ft.	120'		30'	20'	30'	30'	0.50	None
B-6 (PUD)	See text	See text		30'	30'	30'	30'	0.50	See text
M-1	43,560 sq. ft.	150'		50'/100'**	10'/25'**	30'	30'	0.50	None
P-1	40,000 sq. ft.	120'		30'	20'	30'	30'	0.50	None

*Indicates setback from lakeshore lot line.
 **Indicates when abutting or adjacent to a residential district.

(Code 1997, ch. 17, table 1; Rep. and Recr. #411)

(Ord. No. 777, § 12, 3-1-2021; Ord. No. 799, § 8, 6-20-2022)

Secs. 52-113—52-135. - Reserved.

ARTICLE V. - CONDITIONAL USES

Sec. 52-136. - Conditional use approval and permit required.

No use of buildings or premises classified as a conditional use in this chapter shall be undertaken, extended, changed or continued, except upon recommendation by the plan commission and approval by the common council. The plan commission may authorize the administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. If a planned development conditional use has been granted for the development of a parcel(s) in order to ensure the implementation of a comprehensive and cohesive unified development plan, individual uses within the development can be modified without the need for a revised conditional use permit, provided the individual uses are permitted-by-right in the underlying zoning district and provided the uses are not in conflict with the conditions of the conditional use agreement. All other provisions of this article still apply.

(Code 1997, § 17.40; Rep. and Recr. #411)

(Ord. No. 777, § 11, 3-1-2021)

Sec. 52-137. - Conditional use permit application procedure.

- (a) *Preliminary staff consultation.* A petitioner shall have a preliminary consultation with the administrator and such other city staff and consultants that the administrator deems needed and appropriate to conduct a preliminary review of the application.
- (b) *Preliminary plan commission consultation.* A petitioner may meet with the plan commission for a preliminary consultation prior to submitting a conditional use application. The purpose of this preliminary consultation is to review and discuss the proposed request.
- (c) *Application.* A request for conditional use shall be made on special forms available in the city clerk's office and submitted in writing to the administrator at least 28 days before the regularly scheduled plan commission meeting. The administrator shall promptly refer such petition to the plan commission for determination. The application shall be accompanied by the appropriate fee as noted in [section 52-296\(a\)](#).
- (d) *Supplemental data and site plan.* The conditional use applications shall include and be accompanied by the following information:
 - (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
 - (2) 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; hours of operation; and the zoning district within which the subject site lies.
 - (3) A site plan showing all of the relevant information required in article II of this chapter under the site plan requirements.
 - (4) Additional information as may be required by the city plan commission or administrator.
- (e) *Hearing.* After receipt of the application form and all additional information, the city clerk shall advertise a public hearing on the request as soon as practical; provided, however, that no such hearing shall be scheduled, advertised or held until the administrator certifies that the application is complete and all data and information is on file with the plan commission and available for public inspection.

(Code 1997, § 17.41; Rep. and Recr. #411)

Sec. 52-138. - Conditional use review, determination, approval, and amendment.

- (a) *Review.* The 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.
- (b) *Determination.* After study and review of the necessary data, the plan commission shall hold a public hearing. The plan commission shall render its decision in writing no later than 90 days from the date of the public hearing. Any further consideration of the petition beyond the 90-day period shall be preceded by another public hearing on the petition.
- (c) *Factors to be considered.*
 - (1) The plan commission shall base its determination on the effect of such grant on the health, safety and welfare of the community and of the immediate neighborhood in which such use would be located, including such considerations as compatibility with existing uses, problems of fire and police protection, traffic

movement and control, water, sanitation and utilities, impact (aesthetically or otherwise) on surrounding property values, noise, dust, smoke, odor and such other factors appropriate to the granting of a conditional use.

- (2) The plan commission's decision shall include an accurate description of the use permitted, the property on which permitted and any and all conditions made applicable thereof or if disapproved, shall indicate the reasons for disapproval. All papers in the matter shall become permanent commission records.
- (d) *Approval of the common council.* Every conditional use decision rendered by the plan commission, whether granting the conditional use or denying it, shall be placed upon an agenda of a common council meeting within 45 days of the plan commission determination. The common council shall approve, reject or refer back to the plan commission with appropriate instructions. This procedure is not an appeal, and the common council's approval shall be on the record. However, the common council may allow time for parties to present oral or written arguments. The decision of the common council shall be final, and the applicant will be deemed to have exhausted his administrative remedy upon such decision.
- (e) *Conditional use review, determination, approval and amendment.*
- (1) All proposed changes, revisions or additions to the terms or conditions of any existing conditional use shall be submitted to the plan commission in accordance with the procedure set forth in section 52-137. Upon receipt of such an application seeking a change, revision, or addition to any term or condition of a conditional use permit, the plan commission shall schedule a public hearing, and shall provide written notice of the public hearing to the owners of any lands lying within 300 feet of the lands described in the conditional use permit. Following the conclusion of the public hearing, the plan commission shall make such recommendations as the plan commission deems appropriate, and shall forward those recommendations to the common council. Upon receipt of the recommendation, the common council may approve in part or deny the requested change, revision or addition to the terms and conditions of the conditional use permit.

(Code 1997, § 17.42; Rep. and Recr. #411; Rep. & Recr. #560; Rep. & Recr. #638)

Sec. 52-139. - Conditions and requirements.

- (a) *Standard requirements.* Except as may be specifically permitted, a conditional use shall comply with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses.
- (b) *Conditions.* Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, 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 these are necessary to fulfill the purpose and intent of this chapter.
- (c) *Modification of regulations.* Requirements applicable to uses permitted by right or as accessory uses in any district by the regulations of this chapter may be modified or waived by the plan commission in their application to a conditional use if in the commission's opinion they are not appropriate or necessary to the proper regulation of the conditional use and where such modification or waiver would not in the commission's opinion have an adverse effect upon the surrounding properties.
- (d) *Accessory uses and structures.* Uses and structures accessory to a principal conditional use shall be subject to appropriate regulation in the same manner as set forth for the principal conditional use.

(Code 1997, § 17.43; Rep. and Recr. #411)

Sec. 52-140. - Conditional use permit termination.

- (a) Where a permitted conditional use is abandoned or does not continue in conformity with the conditions of the original approval; where a change in the character of the surrounding area or of the use itself causes it to be no longer compatible with surrounding areas; or for similar cause based upon considerations of public health, safety or welfare, the conditional grant may be terminated by action of the common council following referral to the plan commission for recommendation and public hearing thereon.
- (b) The council or plan commission with council approval may establish a termination date for any approval under this section. Such date shall be effective 24 months after the date of such approval, unless otherwise established by the council or plan commission and shall be set forth in the minutes of the council or plan commission. A certified excerpt thereof shall be recorded with the register of deeds where the council or plan commission considers it appropriate. No further notice or hearing shall be required for such revocation to occur. It is the intent of the council that where proposed projects are not substantially underway by such date, the approval shall terminate; however, where substantial progress has been made by such date, the council may extend it. Substantial progress shall be evidenced by the petitioner securing valid building permits for the project. Where appropriate, substantial progress can be defined in a development agreement outlining a percentage of completed construction or project phasing which shall be considered substantial progress for purposes of this section.

(Code 1997, § 17.44; Rep. and Recr. #411; Am. #740)

Sec. 52-141. - Conditional use mapping and recording.

- (a) When a conditional use is approved, the building, occupancy and zoning permits shall be appropriately noted and such grant so described. Indication of such grant shall also be made on the official zoning map by appropriate code number or symbol.
- (b) After approval of a conditional use for a lot or parcel of land, any part of which is located in a designated floodplain area or is zoned RL-1, RL-1A or RL-2, the Wisconsin Department of Natural Resources shall be notified. Copies of the decision shall be sent to the department of natural resources' southeast district office within ten days after the conditional use has been granted or denied.

(Code 1997, § 17.45; Rep. and Recr. #411)

Sec. 52-142. - Conditional uses permitted.

The following uses may be permitted as conditional uses in the districts specified:

- (1) Legal nonconforming uses. In any district. See article VII of this chapter.
- (2) Commercial kennels. In the agricultural district, provided that except for animal hospitals, no such use shall be permitted on a lot of less than five acres. A buffer area shall be provided between dog pens and all adjoining lands to minimize the impact of the kennel operation on adjoining lands.
- (3) Cemeteries and mausoleums for the burial of human remains only. In any district, subject to approval of the common council following recommendation of the plan commission.
- (4)

Noncommercial clubs and outdoor recreational facilities, such as recreational camps, golf courses, bathing beaches and resorts. In any district, subject to the following:

- a. No such use shall be permitted on a lot or parcel of land less than three acres in area, except that this prohibition shall not apply to lands located in a B-2 Local Business District or less restrictive district, which lands and use thereof shall be governed by area requirements applicable to such districts, nor shall this prohibition apply to yacht clubs, war veterans' clubs or curling clubs, regardless of the district in which such club may be located.
 - b. No building other than one used only for residence purposes shall be closer than 75 feet to the lot line of an adjoining lot in a residential district.
 - c. Off-street parking shall be provided as required by the plan commission adequate to meet the particular needs of the proposed use.
 - d. No such permitted use shall include the operation of a facility, such as a bar or restaurant, except as may be specifically authorized in the grant of a permit.
 - e. The term "outdoor recreational facilities" as used in this section does not include a recreational facility that falls within the definition of a "sport shooting range", as that term is defined in Wis. Stats. § 895.527 nor does the term include any recreational facility involving the discharge of firearms or other projectiles subject to the restrictions and prohibitions contained in section 34-20 of the City Code.
- (5) Riding academies or commercial stables. In all districts, including agricultural, subject to the following:
- a. No such use shall be permitted on a lot less than 7½ acres in area.
 - b. No building other than one used only for residence purposes shall be closer than 75 feet to the lot line of an adjoining lot in a residential district, except as set forth below.
 - c. Off-street parking shall be provided as required by the plan commission adequate to meet the particular needs of the proposed use.
 - d. No such permitted use shall include the operation of a facility, such as a bar or restaurant, except as may be specifically authorized in the grant or permit.
- (6) Planned unit development. In any district. See article IX of this chapter.
- (7) Public, semipublic and governmental buildings and uses. In any district, subject to the following:
- a. Public utility poles, towers, water storage tanks, lines and subsurface mains, except that no public hearing shall be required before approval of any such conditional use is granted. Static transformer stations, booster stations and other utility stations, when operating requirements necessitate locating in a residential district in order to serve the neighborhood, may be conditionally authorized provided such installations include no yard or garage for service or storage and provided, further, that the premises upon which such utility station is erected and maintained shall be appropriately landscaped and screened so as to be in harmony with the general appearance of the neighborhood.
 - b. Such use shall conform to the setback, height and double the offset requirements of the district in which it is located.
 - c. The height limitation may be extended to a maximum of 50 feet, provided the minimum required setbacks and offsets be increased two feet for every additional foot of height in excess of the permitted maximum of that district, except that such additional height for public utility towers or poles may be permitted without increase of setback or offset requirements.

- (8) Telecommunication antennas and towers. In any district. See section 52-145. Section 52-145 shall apply to telecommunication antennas and towers. Section 52-142(7) provides for public, semi-public and governmental buildings and uses which include public and private utilities and other public services as defined in section 52-11. The provisions of section 52-142(7)a through c shall apply unless in conflict with the provisions of section 52-145.
- (9) Boat sales, service and repairs. In B-1 and less restrictive districts, subject to the following conditions:
- a. Boats, boat motors and marine related equipment must be serviced within a totally enclosed building in B-1 districts.
 - b. Outdoor storage:
 1. Outside storage areas shall be enclosed by fencing erected and maintained by owner of site and shall be of a type to prevent vandalism of the area.
 2. Outside storage areas shall be used only for storage of boats and marine-related equipment.
 3. Outside storage areas shall have hard surface to minimize hazard of grass fires, unless a specific exemption from this requirement is granted by the plan commission and common council.
 - (i) The non-hard-surfaced area shall be totally screened and enclosed and not visible or accessible by the general public.
 - (ii) All non-hard-surfaced areas used for storage shall be surfaced with crushed limestone or other comparable materials and kept free of weeds or other vegetation.
 4. Owner of site shall be responsible for weed control.
 - c. No other type of motors shall be serviced within the building in B-1 districts, unless specific permission for same is granted by plan commission and common council.
 - d. Recommendations of the fire inspector for property shall be promptly complied with by owner of site.
 - e. Marinas are excluded from this portion of this chapter.
 - f. The plan commission shall have the power to impose such other restrictions as it deems necessary in each individual case.
- (10) Reserved.
- (11) Solar energy collection devices and solar panels. In all districts.
- (12) Automobile service stations and auto washes. In any business or industrial district, provided no gasoline pump or other accessory equipment shall be closer than 30 feet to the street right-of-way line.
- (13) Outdoor sales lots and affiliated operations. Outdoor sales lots and affiliated operations, such as auto, truck, campers, camping trailers, farm equipment and construction equipment sales operations, where outdoor display and storage is an integral and primary part of the site operation, in the B-4 and M-1 districts.
- (14) Drive-in restaurants. Restaurants which serve patrons in motor vehicles parked on the premises in the B-2, B-3 and B-4 districts.
- (15) Planned developments. In any residential or commercial district, the application procedure and regulations for planned developments as a conditional use are contained in article IX of this chapter.
- (16) Dumps, landfills, incinerators. Municipal earth and sanitary landfill operations in the B-3, B-4 and M-1 districts.
- (17) Pool halls and dance halls. In the B-3 and B-4 districts.

- (18) Roof signs. In business and industrial districts.
- (19) Sales and service of mopeds. In the B-4 or M-1 districts, subject to the following:
 - a. Approval of a site plan showing the location of buildings, signs, parking, lighting, fuel supply, refuse area and outdoor storage facilities.
 - b. Approval of a plan of operation, which indicates hours of operation, method and location for moped demonstrations.
 - c. All sales and service operations shall be done indoors.
 - d. The plan commission may impose other restrictions as it deems necessary in each individual case.
- (20) Drive-through windows for restaurants. In CBD-1, B-1, B-1-A and B-2 districts.
- (21) Shoreland-wetland requirements. In addition to conditions required in section 52-111(ac), the following specifications shall be considered without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the plan commission may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of the shoreland-wetland provisions of this chapter.
- (22) Artisan and craft workshops and studios. In the CBD-1, B-1 and B-1-A districts artisan and craft workshops and studios are intended to include facilities for the hand production of arts, crafts, home furnishings and other similar products which are sold on the premises. Production facilities shall be totally contained within a building and the building shall be similar in character, scale and outward appearance to adjoining and nearby retail commercial uses.
- (23) Adult oriented establishments. In the M-1 Limited Industrial Districts only. Such establishments must conform to the provisions of section 10-3, relating to adult-oriented establishments.
- (24) Private garages over 1,200 square feet in size. Private garages over 1,200 square feet in size in the any residential district, subject to approval of the common council following recommendation of the plan commission.
- (25) Accessory buildings over 220 square feet in size. Accessory buildings other than garages, including, utility sheds, stables and barns, over 220 square feet in size in the RE1, RE2, or RE1 Rural Estate Districts, subject to approval of the common council following recommendation of the plan commission.
- (26) Home business. A home business, with no more than one employee residing outside the residence, in any residential district, subject to approval of the common council following recommendation of the plan commission.
- (27) Bed and breakfast establishment and tourist rooms. In the all districts bed and breakfasts and tourist rooms licensed under Wis. Admin. Code ch. HSS 197 subject to the following conditions:
 - a. A site plan and a plan of operation shall be approved by the plan commission. The site plan shall include a parking plan.
 - b. Traffic conditions in the neighborhood shall not be adversely impacted by access to the property, traffic generated by the use, or any other aspects of the proposal.
 - c.

At least one off-street parking stall shall be provided for each bedroom plus at least one stall shall be located on the site for the operator.

- d. All requirements set forth in Wis. Stats. § 50.51(b) and Wis. Admin. Code ch. HSS 197 shall be fully complied with. Necessary state permits and licenses shall have been secured.
 - e. The owner of any bed and breakfast shall reside in the establishment.
 - f. Dwelling being considered for conversion to bed and breakfasts shall exhibit unique architectural and historic characteristics.
 - g. Individual rentals shall not exceed five consecutive days in length.
 - h. No retail sales shall occur in a bed and breakfast establishment.
 - i. If the proposed bed and breakfast or tourist room site is located in a residential district, one exterior sign, not exceeding four square feet in area may be erected on the premises.
- (28) Subject to compliance with the provisions of Wis. Stats. § 62.23(7)(i)3., community living arrangements having a capacity for eight or fewer persons are entitled to locate in any residential zone subject to the restrictions and limitations contained in Wis. Stats. § 62.23(7)(i). All other community and other group living arrangements, including those community-based residential facilities as defined in § Wis. Stats. § 50.01(1g), may be permitted by a conditional use permit in the B-1, B-1-A, B-2, B-3, B-4, B-5, B-6, and P-1 districts, subject to the following conditions.
- a. All dimensional, floor area ratio, open space, and impervious surface standards of the underlying zoning district shall be complied with.
 - b. The city has the ability to regulate parking as deemed appropriate for the site.
 - c. In addition to compliance with all general standards specified in the conditional use section of the chapter, all standards of article II site plan and appearance requirements shall be met.
- (29) Event facility. An event facility is a privately-owned location in an agricultural zoning district, which includes the use of an existing building or construction of a new building, typically rented to third parties for temporary events (i.e., weddings, meetings/conferences, fundraisers, family reunions etc.). The term "event facility" does not apply to private clubs, amusement establishments, and restaurants, which are already identified in the Zoning Code as a separate use. Event venues in districts other than agricultural are subject to the uses and provisions of that particular zoning district and are not subject to these conditional use provisions. Event facilities are subject to the following conditions:
- a. The property must have frontage on a county or state highway of no less than the minimum lot width of the applicable agricultural zoning district.
 - b. No such use shall be permitted on a lot less than ten acres in size.
 - c. No building, structure, and/or use, excluding parking, shall be located closer than 100 feet to a lot line of an adjoining property located in a residential zoning district.
 - d. Any type of outdoor music and indoor amplified music shall be regulated by the city at such time an application is made. Restrictions may be placed on the hours, location, volume, and amplification based on potential impacts to the surrounding area so as not to create a nuisance.
 - e. Only one event may take place at one time.
 - f.

Food shall be prepared and served by a professional licensed catering service or a restaurant license shall be acquired from the Waukesha County Department of Parks and Land Use - Environmental Health Division.

- g. All necessary liquor licenses shall be obtained from the City of Delafield.
- h. A landscaping plan shall be submitted with the application for review and approval, which shall include plantings and/or fencing that will provide a buffer along all lot lines. The buffer adjoining residential districts shall screen views, lights, and noise from the operation.
- i. A lighting plan shall be submitted for review and approval. Lighting fixtures shall be shielded in such a manner as to prevent light from shining directly onto abutting rights-of-way and adjacent properties.
- j. Access drives, parking areas, and other traffic circulation areas must be paved in accordance with the city code. Overflow grass parking areas may be permissible, if approved by common council.
- k. The property shall have access to and be served by water and sanitary sewer provided by the municipality.
- l. It is the responsibility of the applicant to comply with all state and local regulations regarding public health.
- m. It is the responsibility of the applicant to comply with all federal, state, and local building codes that apply to public use of the facility.
- n. Outdoor fires may only be permitted within a contained area made specifically for outdoor fires and must be illustrated on the approved site plan. Outdoor fires must also comply with local municipality regulations and local fire department.
- o. Parking on a public road right-of-way is prohibited.
- p. Event hours and maximum number of guests are regulated through the review and approval of the business plan of operation for the proposed use.
- q. Complementary uses must be approved as part of the conditional use and must be compatible with the event facility. Complementary uses may include, but are not limited to, uses and buildings that accommodate farming, residential which complies with the zoning district standards, or limited service associated with the event facility, such as a beauty salon or photographer. Service operations shall not be open to the general public, but rather be limited to serving potential customers of the event facility for preparation of an event taking place on or off-site.

(Code 1997, § 17.46; Rep. and Recr. #411; Cr. #479; Am. #646; Am. #719)

(Ord. No. 744, § 1, 5-7-2018; Ord. No. 786, § 2, 12-6-2021; Ord. No. 809, § 1, 12-19-2022; Ord. No. 823, § 8, 11-6-2023)

Sec. 52-143. - Quarrying and mineral extraction as a conditional use.

Quarrying and mineral extraction is permitted as a conditional use in any district. The following shall regulate this use:

- (1) *Permit*. No quarrying operation shall be undertaken until a quarrying permit has been secured from the common council. Such permit shall be for an initial period deemed appropriate to the specific situation, but not to exceed one year.
- (2) *Application*. Application for a quarrying permit shall be made on forms supplied by the administrator and shall be accompanied by:
 - a. A fee as noted in section 52-296(a) to defray the cost of notification and public hearing.

- b. A description of all phases of the contemplated operation with a description of the machinery and equipment which will be in operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made a part of the description.
- c. A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation.
- d. A topographic map of the area at a minimum contour interval of five feet extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides.
- e. A restoration plan as required below.
- f. The names and addresses of the owners of all properties within one-half mile of the perimeter of the proposed quarrying operation.

(3) *Procedure for action on applications.*

- a. *Referral to plan commission.* The application and all data and information pertaining thereto shall be referred to the plan commission for public hearing, report and recommendation back to the common council within 30 days after the public hearing.
- b. *Public hearing.* Within 30 days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing, notices shall be given by mail or otherwise to all landowners within one-half mile of the perimeter of the proposed quarrying operation at least ten days prior to the date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient.
- c. *Action by common council.* The common council shall within ten days after receipt of the recommendation of the plan commission take action to approve or disapprove the application for the proposed quarrying operation. The council shall give particular consideration to the following factors in making its decision:
 - 1. The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency.
 - 2. The effect of the proposed operation on drainage and water supply.
 - 3. The possibility of soil erosion as a result of the proposed operation.
 - 4. The degree and effect of dust, noise, smoke and air pollution as a result of the proposed operation.
 - 5. The practical possibility of restoration of the site.
 - 6. The effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area.
 - 7. The most suitable land use for the area with particular consideration to future residential value.
- d. *Additional conditions.* Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the city.
- e. *Renewals.* The procedure designated in this subsection shall apply to applications for renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not

granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the city.

(4) *Requirements.*

- a. *General requirements.* No part of the quarrying operation shall be permitted closer than 1,000 feet nor shall any accessory road, parking area or office building be permitted closer than 500 feet to a district zoned "rural home" at the time of the grant of permit.
- b. *Setback requirements.* No part of the quarrying operation other than access roads shall be located closer than 200 feet nor shall any accessory parking area, stockpile or office building be located closer than 100 feet to the base setback line along any street or highway.
- c. *Other location requirements.* No part of the quarrying operation shall be permitted closer than 200 feet nor shall any accessory access road, parking area or office building be permitted closer than 50 feet to any property line, except where such line abuts a quarrying or industrial district or abuts an existing quarrying operation, but in no case shall such operation be closer than 20 feet to any property line, except by agreement between abutting quarrying operations or be in conflict with the provisions of this section relating to preservation of topography.
- d. *Operational requirements.*
 1. Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where, in the determination of the common council, such fencing or barrier is necessary for the protection of the public and shall be of a type approved by the common council.
 2. All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such manner as to minimize dust, smoke, air pollution, noise and vibration. Access and haulage roads on the site shall be maintained in a dust-free condition by surfacing or treatment as directed by the city engineer.
 3. Crushing, washing, refining or other processing other than the initial removal of material may be permitted as an accessory use only as specifically authorized under the terms of the permit or as otherwise provided in an industrial district.
 4. In stone quarries, production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery not specifically authorized under the terms of the permit or otherwise specifically permitted in an industrial district.
 5. Manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, production of ready mixed concrete, asphalt or any similar production or manufacturing processes related to the quarrying operation shall not be permitted, except as otherwise provided in an industrial district.
 6. Washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or where the quantity of water required will, in the opinion of the city engineer, seriously affect the supply for other uses in the area.
 7. Trees, shrubs and other appropriate landscaping shall be provided as promptly as practicable where deemed necessary by the plan commission to screen the operation so far as practical from public view, to enhance the general appearance from the public right-of-way and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding countryside.

8. Quarrying operations shall not begin before the hour of 7:00 a.m., shall not continue after the hour of 6:00 p.m., and no operation shall take place on Sundays or legal holidays. During periods of national or local emergency, time and hours of operation may be altered at the discretion of the common council by issuance of a special regulatory order.

e. *Restorative requirements.*

1. In order to insure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall prior to the issuance of a permit submit to the plan commission a plan for such restoration, including the following:
 - (i) An agreement with the city whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the city.
 - (ii) A physical restoration plan showing the proposed contours after restoration, plantings, other special features of restoration and the method by which such restoration is to be accomplished.
 - (iii) A bond written by a licensed surety company, certified check or other financial guarantee satisfactory to the city in an amount sufficient in the restoration agreement.
 - (iv) Such agreement and financial guarantee shall be in a form approved by the city attorney.
 2. In the event of the applicant's failure to fulfill such agreement, such bond, check or other financial guarantee shall be deemed forfeited and the proceeds applied to the performance of the restoration.
 3. Restoration shall proceed as soon as practicable and at the order and direction of the city engineer. However, the owner or operator may at his option submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two years.
 4. At any stage during the restoration, the plan may be modified by mutual agreement between the common council after referral to the plan commission and the owner or operator.
 5. Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor be objectionable because of odor, combustibility or unsightliness. In any case, the finished grade of the restored area, except for rock faces, outcroppings, natural water bodies or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.
 6. Within one year after the cessation of the operation, all temporary structures (excepting fences), equipment, stockpiles, rubble heaps or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.
 7. In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of 1½ horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.
- (5) *Exceptions.* The provisions of this section shall not apply to an operation which is normally incident to a permitted agricultural, residential, commercial or industrial use of the premises other than quarrying; provided, however, the approval of the plan commission shall be required and such operation shall be limited to a maximum period of three months.
- (6) *Application to existing operations.*

- a. *Permit.* Within 60 days after the adoption of the ordinance from which this chapter is derived, all existing quarrying operations shall register with the city clerk, submitting pertinent data relative to the present operating, including the boundaries of the actual operation and of the ownership. A quarrying permit shall be granted to such existing operation subject to compliance with the operational requirements in subsection (4)d of this section, where they can be reasonably applied under existing circumstances.
- b. *Plan for restoration.* There shall be required within one year after adoption of the ordinance from which this chapter is derived the submission of a plan for restoration of the site of any existing quarrying operation as provided in this section, except to the extent that such restoration may, by reason of current conditions, constitute an unreasonable hardship.
- c. *Renewal permit.* Annually, after the date of the ordinance from which this chapter is derived, any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this chapter, except in a quarrying or general industrial district.

(Code 1997, § 17.47; Rep. and Recr. #411)

Sec. 52-144. - Use of island properties.

Any use of an island property which requires the installation of wastewater collection or treatment facilities or potable water facilities or which will result in placement of houses or buildings used for human occupancy, employment or recreation on the island may be permitted as a conditional use in the A-1 Agricultural District or any residential, business, commercial or industrial district. The following provisions shall regulate such use:

- (1) *Permit required.* Before any occupation of or any construction begins on an island which will result in the installation or use of any wastewater collection or treatment facilities or potable water facilities, an island use permit shall be obtained from the common council.
- (2) *Application procedure.* The procedures of [section 52-137](#) shall apply, except as modified below. In addition to the supplemental data and site plan required by [section 52-137](#), the application shall be accompanied by:
 - a. A plan for regular and emergency access.
 - b. Proposed declarations and waivers as appropriate for the use.
 - c. Copies of the applicable state and county permits for the installation or maintenance of potable water and wastewater collection and treatment facilities.
 - d. Additional information as may be required by the city plan commission, city engineer, building inspector or administrator.
- (3) *Review procedure.*
 - a. *Public hearing.* Within 45 days after an application has been filed, a public hearing shall be held before the plan commission at which all interested parties who are present shall be heard. In addition to the notice requirements of [section 52-295](#) notices shall be mailed to all owners of waterfront lots within 1,500 feet of the perimeter of such island. In the event that onshore lots are included in the island use plans, notice shall also be mailed to owners of lots within 300 feet of such onshore lots. Substantial compliance with the notice requirements of this section shall be deemed sufficient.
 - b.

Plan commission. The application and all data and information pertaining thereto shall be referred to the plan commission for public hearing, report and recommendation to the common council. The recommendation shall be made within 35 days after the public hearing.

- c. *Common council.* The common council shall within 30 days after receipt of the recommendation from the plan commission approve as recommended, approve with modifications or disapprove the application for island use permit.

(4) *Requirements.*

- a. *General.* The structure or use proposed for the island is one which would be permitted in the underlying zoning classification if the parcel were not an island.
- b. *Setback requirements.* No part of any structure, except a boathouse, shall be located closer than 75 feet from the normal high water mark of the lake or stream. No part of any boathouse shall be located closer than five feet from the normal high water mark of the lake or stream. If more than one lot exists on the island, the side yard setbacks of the underlying zoning district shall be observed.
- c. *Elevation requirements.* No building or structure shall be constructed on any portion of an island in Lake Nagawicka, which has an elevation of less than 891 feet mean sea level. Any structure other than a boathouse shall have its first floor at or above 893 feet.
- d. *Utilities.*
 1. Wastewater collection facilities shall be designed and installed and private on-site wastewater treatment facilities shall be placed on the island and operated so as not to cause pollution of groundwaters or surface waters and shall be in compliance with applicable state, county and city codes.
 2. A potable water supply shall be installed on the island and shall be located so as not to be subject to flooding and shall be in compliance with applicable state, county and city codes.
 3. Other utilities shall be installed so as not to be subject to flooding and in a manner acceptable to the city.
- e. *Access.* If practicable, island development shall be served by a public or private road of adequate width and bearing capacity so as to allow the provision of emergency services to the island. If such access is not possible, the plan commission may allow such development, provided that adequate assurances have been tendered that the lack of such access is recognized and appropriate declarations, waivers and releases are filed indemnifying and holding the city harmless for any claims based upon the city's inability to provide services due to lack of access. All such declarations, waivers and releases shall be recorded in the office of the county register of deeds.

(5) *Factors to be considered.* In addition to the requirements listed in subsection (4) of this section, the following factors shall be considered by the plan commission and common council in considering an application for an island use permit:

- a. The ability of the city to provide emergency services to the island property.
- b. The effect such development or use will have upon the quality of groundwaters and surface waters.
- c. If more than one lot is on the island, the proposed use's compatibility with other uses on or permitted on the island.
- d. The ability of the applicant to provide off-street parking for any use established on an island.

e. Such other factors as are appropriate to the granting of an island use permit.

(6) *Conditions that may be applied.*

a. The following conditions may be applied to an island use permit:

1. Any on-site wastewater treatment facility shall be inspected and certified for adequacy of operation. The frequency of such inspections shall be as deemed necessary by the city.
2. Fire protection, detection and suppression systems shall be installed so as to minimize the potential for loss due to fire.
3. Adequate parking facilities shall be provided on the island or for an island not served by a public or private road, on an onshore private lot which has water access or is adjacent to or near a public access facility.
4. Appropriate security measures shall be planned, such as installation of a security alarm system, employment of a watch person or similar measures.
5. An approved plan for the disposal of any garbage or rubbish generated by the island use shall be filed with the city.
6. An outside lighting plan shall be approved by the plan commission in order to prevent light reflection from the island and/or lake to nearby properties.
7. An approved plan for the baffling of generator noise.

b. The plan commission or common council may establish other conditions deemed appropriate for the intended use.

(Code 1997, § 17.48; Rep. and Recr. #411)

Sec. 52-145. - Regulation of cell phone transmission towers.

(a) *Purpose.* 2013 Wisconsin Act 20 modified the regulatory powers of local governments in regard to cell phone towers. The law specifies the manner in which a political subdivision can use zoning to regulate cell phone towers. See Wis. Stats. § 66.0404, which codifies relevant parts of 2013 Act 20, provides the manner in which a city can use zoning to regulate cell phone towers and provides for specific regulations that a political subdivision may not apply. This section sets forth the city's regulatory authority in accordance with Wis. Stats. § 66.0404.

(b) *Applicability.* The city's regulatory power extends to three types of projects, all for the installation of types of cell phone transmission facilities.

- (1) Projects requiring construction of a new tower
- (2) Projects requiring substantial modification of an existing tower and facilities, but not construction of a new tower. Projects of this type are referred to as "Class 1 collocation."
- (3) Projects requiring neither construction of a new tower, nor substantial modification of an existing tower and facilities. Projects of this type are "Class 2 collocation."

(c) *Definitions.* The definitions contained in Wis. Stats. § 66.0404(1) are hereby adopted and incorporated by reference.

(d) *Siting and construction of any new mobile service support structure and facilities or the substantial modification of an existing support structure and mobile service facilities (Class 1 collocation).*

- (1)

Conditional use permit required. A conditional use permit is required for the siting and construction of a new mobile service support structure and facility and/or the substantial modification of an existing support structure and mobile service facilities (Class 1 collocation) and is subject only to the conditions set forth in this section.

(2) *Applications for permits.*

- a. Applications for a permit shall be provided by the office of the city planner.
- b. Applications shall be completed and filed with the office of the city planner and shall include the following information:
 1. Name and business address and contact information for the applicant.
 2. Location of the proposed or affected support structure.
 3. The location of the proposed mobile service facility.
 4. If the application substantially modifies an existing support structure, a construction plan which describes the proposed modification to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment associated with the proposed modifications.
 5. If the application is to construct a new mobile service support structure, a construction plan which describes a proposed mobile service support structure and equipment network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and related equipment to be placed on or around the new mobile service support structure.
 6. If the application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from the individual who has responsibility over the placement of the mobile service support structure, attesting that collocation within the applicants search ring would not result in the same mobile service functionality, coverage and capacity; is technically unfeasible or is economically burdensome to the mobile service provider.

(3) *Determination of completion.* If an applicant submits an application for a permit to engage in an activity described in this section, which contains all the information required under subsection (d)(2)b of this section, the office of city planner shall consider the application complete. If the office of the city planner does not believe the application complete, the office of the city planner shall notify the applicant in writing within ten days of receiving the application, that the application is not complete, the written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(4) *Referral to plan commission.*

- a. If the application is complete as determined by the office of the city planner, the matter shall be referred to the plan commission for its review.
- b. Within 90 days of its receipt of a complete application, the plan commission shall complete all of the following or the applicant may consider the application approved, except that the applicant and the plan commission may agree in writing to an extension of the 90-day period:
 1. Review the application to determine whether it complies with all applicable aspects of the city's building code and, subject to the limitations in this section, zoning ordinances.
 2. Make a final decision whether to approve or deny the application.

3. Notify the applicant, in writing, of its final decision.
 4. If the decision is to deny application, include with the written notification substantial evidence which supports the decision.
 - c. The plan commission may deny an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under subsection (d)(2)b.6 of this section.
 - d. If an applicant provides the plan commission with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the plan commission provides the applicant with substantial evidence that the engineering certification is flawed.
 - e. The fee for the permit shall be established under the procedure set forth in this Code and shall comply with Wis. Stats. § 66.0404(4)(d)2.
- (e) *Collocation on existing support structures (Class 2 collocation).*
- (1) A permit is required for a Class 2 collocation. A Class 2 collocation is a permitted use but still requires the issuance of a permit.
 - (2) Applications for a permit shall be provided by the office of the city planner. Applications shall be made and filed with the office of the city planner and shall include the following information:
 - a. Name and business address and contact information for the applicant.
 - b. Location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 - (3) A Class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
 - (4) If an applicant submits an application to the planning department for a permit to engage in a Class 2 collocation and the application contains all of the information required by subsection (e)(2) of this section, the office of the city planner shall consider the application complete. If the required information is not in the application, the office of the city planner shall notify the applicant in writing, within five days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 - (5) Within 45 days of its receipt of a complete application, the zoning administrator shall complete all of the following or the applicant may consider the application approved, except that the applicant and the zoning administrator may agree in writing to an extension of the 45-day period:
 - a. Make a final decision whether to approve or deny the application.
 - b. Notify the applicant, in writing, of its final decision.
 - c. If the application is approved, issue the applicant the relevant permit.
 - d. If the decision is to deny application, include with the written notification substantial evidence which supports the decision.
 - (6) The fee for the permit shall be established by the common council, from time to time, and shall comply with Wis. Stats. § 66.0404(4)(d)1.

- (f) *Surety*. A performance bond shall be required in the amount of \$20,000.00 prior to the issuance of a permit under this section to insure that the requirements of this section are maintained by the permittee.

(Code 1997, § 17.49; Rep. and Recr. #411; Rep. & Recr. #719)

Secs. 52-146—52-173. - Reserved.

ARTICLE VI. - INTERSECTION VISION CLEARANCE, LOADING AREAS, PARKING AND ACCESS

Sec. 52-174. - Vision clearance at intersections.

- (a) *Corner lot*. On a corner lot in any district, no obstructions, such as structures, parking or vegetation, shall be erected, placed, planted or allowed to grow to impede vision between a height of two feet and ten feet above centerline grades of any two existing or proposed intersecting minor streets or alley right-of-way lines and a line joining points on such lines located a minimum of 15 feet from their intersection.
- (b) *Arterial and collector streets*. In the case of arterial and collector streets intersecting with other arterial or collector streets or railways, the distance establishing the vision clearance space shall be increased to 60 feet from the intersection of the right-of-way lines. This provision shall apply to existing and proposed streets.
- (c) *Exceptions*. The plan commission may grant exceptions to the vision clearance requirements in the CBD-1 district where the characteristics of the intersection are such that traffic safety hazards would not be created and the placement of signs or structures within the vision triangle would contribute to the objectives of the CBD-1 district. Such an exception shall be subject to review and approval by the department of public works.

(Code 1997, § 17.50; Rep. and Recr. #411)

Sec. 52-175. - Loading requirements.

In all businesses and industrial districts, except CBD-1, adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and need not back onto any public way. All loading spaces shall be at least ten feet wide and 45 feet long with 14 feet of height clearance.

(Code 1997, § 17.51; Rep. and Recr. #411)

Sec. 52-176. - Parking requirements.

In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended or increased sufficient off-street parking stalls for all vehicles in accordance with the following:

- (1) *Adequate access*. Adequate access to a public street shall be provided for each parking space; driveways shall be at least ten feet wide for one- and two-family dwellings and a minimum of 24 feet for all other uses.
- (2) *Size*. Size of each parking space to be provided for a housing project serving elderly persons developed under the provisions of the R-7-EH district shall be not less than 200 square feet, exclusive of the space required for ingress and egress. The size of each parking space for other than a project for elderly persons shall be not less than 160 square feet, exclusive of the space required for ingress and egress.
- (3)

Parking lot location. Parking lot location to be on the same lot as the principal use or with plan commission approval, not over 400 feet from the principal use. No driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line or a street line opposite a residential district.

- (4) *Surfacing.* All off-street parking areas shall be graded and surfaced so as to be dust free and properly drained. Any required parking area for more than five vehicles shall have the aisles and spaces clearly marked. Any off-street parking areas for multiple-family, industrial and business uses shall be hard surfaced, paved with asphalt, concrete, or other comparable hard surfaced material, unless an exception to this requirement is granted by the plan commission.
- (5) *Screening.* Any off-street parking area other than that provided for a residence which abuts or faces a residence district shall provide a planting screen, landscaped fence or wall at least four feet in height along the side abutting or fronting on a residence district.
- (6) *Offset.* No off-street parking area shall include space within ten feet of an abutting residential lot line, except as such parking area may be accessory to a residence.
- (7) *Lighting.* Lights provided in any parking area shall be hooded and directed so as to minimize glare and illumination of adjacent residential property or public road. All parking areas are required to be lighted in compliance with the following criteria:

Maximum average maintained footcandles	1.5
Average to minimum footcandle ratio	3:1
Maximum to minimum footcandle ratio	16:1

Maximum allowable light trespass measured at the boundary of the property shall not exceed 1.0 cumulative footcandle where abutting a non-residentially-zoned property. Maximum allowable light trespass measured at the boundary of the property shall not exceed 0.5 footcandle where abutting a residentially-zoned property or public right-of-way. The plan commission may exercise discretion in regard to light trespass into public rights-of-way if it is determined to be beneficial to safe lighting conditions of the adjacent sidewalks.

- (8) *Curbs or barriers.* Curbs or barriers in all required parking areas shall be installed so as to prevent the parked vehicles from extending over any lot lines.
- (9) *Floor area defined.* For purposes of determining the off-street parking requirements for commercial establishments, "floor area" shall include the gross floor area as defined in [section 52-11](#) and as applied elsewhere in this chapter.
- (10) *Number of parking stalls.*

Use	Minimum Parking Required
Automobile repair garages and service stations	1 space for each 500 sq. ft. of gross floor area (exclusive of service bays and pumping stations)
Athletic fields	12 spaces for each improved soccer field, baseball or softball diamond or football field

Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 space for each 250 sq. ft. of gross floor area
Public and private secondary and elementary schools	1 space for each employee, plus 1 space for each 10 students of 16 years of age or more
Dwellings:	
1- and 2-family	2 spaces per dwelling unit
Multiple-family	2 spaces per dwelling unit
Elderly multiple-family	1.5 spaces per dwelling unit
Fitness clubs, recreation centers, bowling alleys, gymnasiums	1 space for each 250 sq. ft. of gross floor area
Financial institutions, service businesses, and government offices	1 space for each 250 sq. ft. of gross floor area
Funeral homes	1 space for each 250 sq. ft. of gross floor area
Hospitals, treatment centers, nursing homes, and other long-term health care centers	2 spaces per bed
Lodges and private clubs	1 space for each 250 sq. ft. of gross floor area
Manufacturing and processing plants, laboratories, and warehouses	1 space for each 500 sq. ft. of gross floor area
Medical and dental clinics	1 space for each 250 sq. ft. of gross floor area
Motels, hotels, tourist rooms and bed and breakfasts	1.5 spaces per guest room
Offices	1 space for each 250 sq. ft. feet of gross floor area
Retail stores	1 space for each 200 sq. ft. of floor area used for retail purposes
Restaurants, bars, places of entertainment	1 space for each 150 sq. ft. of gross floor area
Warehouses without employees	1 space for each 1,000 sq. ft. of gross floor area

- (11) *Uses not listed.* In the case of structures or uses not mentioned, the provision for a use which is similar shall apply and will be determined by the plan commission.
- (12) *Combinations.* Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.
- (13) *Exception for elderly housing.* Where in the opinion of the plan commission, an elderly housing development may need less than 1.5 parking spaces per dwelling unit due to the nature of the facility or the fact that many of the residents will not own or drive automobiles, the plan commission may grant an exception to the required 1.5 spaces per dwelling unit.

(Code 1997, § 17.52; Rep. and Recr. #411; Cr. #455; Am. #474; Am. #491)

Sec. 52-177. - Driveways.

All driveways installed, altered, changed, replaced or extended after the effective date of the ordinance from which this chapter is derived shall meet the following requirements:

- (1) *Islands.* Islands between driveway openings shall be provided with a minimum of 12 feet between all driveways and six feet at all lot lines.
- (2)

Openings. Openings for vehicular ingress and egress shall not exceed 24 feet in width at the right-of-way line and 30 feet in width at the roadway, except that in business and industrial districts, the openings may be increased to 30 feet and 36 feet, respectively.

- (3) *Vehicular entrances and exits.* Vehicular entrances and exits to drive-in banks and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or other place of public assembly.

(Code 1997, § 17.53; Rep. and Recr. #411)

Sec. 52-178. - Highway access.

- (a) No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following, except by plan commission approval:
- (1) Arterial streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.
 - (2) Streets intersecting an arterial street within 50 feet of the intersection of the right-of-way lines.
- (b) Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- (c) Temporary access to the above rights-of-way may be granted by the plan commission after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed 12 months.

(Code 1997, § 17.54; Rep. and Recr. #411)

Sec. 52-179. - Parking of trucks and equipment.

No vehicular equipment of a commercial or industrial nature, shall be parked or stored for more than two consecutive hours and four accumulative hours during any 24-hour period on any lot in any zoning district except business districts or as follows:

- (1) Agricultural equipment (such as farm tractors, plows, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of his farm, etc.) used in a farm operation.
- (2) One panel van, or pickup truck used in the conduct of a conforming business activity being carried on in a residential or agricultural district. No limitation shall be placed on vans or pickup trucks if they are used for private nonbusiness or noncommercial recreational purposes.
- (3) A conditional use permit pursuant to section 52-136 may be granted to permit the parking of commercial or industrial types of vehicles in any zoning district. In business districts where such vehicles are necessary to an otherwise permitted business or commercial use, a conditional use permit will not be required and there are no limitations as to the number of such vehicles that may be parked on the property except as may be hereinafter established under the provisions of the applicable zoning district.

(Code 1997, § 17.545; Rep. and Recr. #411)

Secs. 52-180—52-196. - Reserved.

ARTICLE VII. - NONCONFORMING USES, STRUCTURES, LOTS AND PERMITS ISSUED PRIOR TO THIS CHAPTER

Sec. 52-197. - Existing nonconforming uses.

- (a) *Nonconforming uses.* The continued lawful use of a building, premises, structure, or fixture existing at the time of the adoption or amendment of the ordinance from which this chapter is derived shall not be prohibited although the use does not conform with the provisions of this chapter. The nonconforming use may not be extended. The total structural repairs or alterations in such a nonconforming building, premises, structure, or fixture shall not during its life exceed 50 percent of the equalized assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use. If the nonconforming use is discontinued for a period of 12 months, any future use of the building, premises, structure, or fixture shall conform to this chapter.
- (b) *Restoration of certain nonconforming structures.* Notwithstanding subsection (a) of this section, a nonconforming structure or building which is damaged or destroyed may be restored to the size, location and use that existed immediately prior to the damage or destruction, without limitations relating to the cost of repair, reconstruction or improvement if all of the following apply:
- (1) The nonconforming structure was damaged or destroyed on or after March 2, 2006.
 - (2) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

The size of the structure may be larger than the size of the structure immediately prior to the structure being damaged or destroyed if necessary for the structure to comply with applicable state or federal requirements. The determination as to whether applicable state or federal regulations require that the structure be increased in size shall be determined by the building inspector.

(Code 1997, § 17.55; Rep. and Recr. #411; Rep. & Recr. #719; Ord. No. 830, § 1, 5-6-2024)

Sec. 52-198. - Reserved.

Editor's note— Ord. No. 830, § 2, adopted May 6, 2024, repealed § 52-198, which pertained to abolishment and derived from Code 1997, § 17.56; Rep. and Recr. #411; Del. #437.

Sec. 52-199. - Existing nonconforming lots.

Nonconforming lots on record in the county register of deeds office before the effective date or amendment of the ordinance from which this chapter is derived may be used in conformance with the use and developmental regulations of the district in which they are located. The owner of a nonconforming lot may apply to the plan commission for issuance of a special exception to the developmental regulations as specified below, in addition to the terms of a special exception as defined in [section 52-11](#). All other exceptions to the developmental regulations of this code require a variance in accordance with [section 52-291](#) zoning board of appeals.

- (1) *Floor area ratio.*
 - a. The floor area ratio requirements of the applicable zoning district must be complied with unless the lot is nonconforming to lot size.
 - b. In the RL-2 district, the floor area of all buildings on a lot shall not exceed 4,000 square feet, or a floor area ratio of .45, whichever is more restrictive.

- c. In the RL-1 and R-1 Districts, the floor area of all buildings on a lot shall not exceed the following:
 - 1. Lots less than 10,000 square feet in area shall comply with subsection (a)(2) above.
 - 2. Lots between 10,000 square feet and 12,500 square feet in area shall not have a floor area that exceeds 5,000 square feet, or a floor area ratio that exceeds 0.40, whichever is more restrictive.
 - 3. Lots greater than 12,500 square feet in area shall not have a floor area that exceeds 5,000 square feet.
- d. In all other districts, the maximum allowable floor area ratio shall be determined by the plan commission, but in no case shall the floor area exceed the area allowed on a conforming lot that contains the minimum lot size of the applicable zoning district.

(2) *Open space.*

- a. The open space requirements of the applicable zoning district must be complied with unless the lot is nonconforming to lot size.
- b. The footprint of all buildings and structures shall not exceed the footprint that would be allowed in accordance with the open space provisions on a conforming lot that contains the minimum lot size of the applicable zoning district.

For example, a conforming 10,000 square foot lot in the RL-2 district must have 7,000 square feet of open space. Therefore, the footprint of all buildings and structures cannot exceed 3,000 square feet. This provision would limit the footprint of a nonconforming lot in the RL-2 district to 3,000 square feet.

(3) *Setbacks/yard requirements.*

- a. The side yard setback requirements of the applicable zoning district must be complied with unless the lot is nonconforming to lot width, or if an addition is proposed, the addition does not create a greater encroachment to a lot line.
- b. In no case shall the side yard setback be reduced to less than five feet for new construction.
- c. Front, corner, shore, and wetland setbacks shall only be modified if there is no other conforming location on the property to build a reasonably sized structure. Consideration shall be given to increasing the floor area vertically before extending into the setback areas. Exceptions to this standard shall only be granted if the plan commission determines that the proposed improvements will improve safety conditions, such as relocating a detached garage that is currently located in the road right-of-way of the road that limits sight distance and the ability to properly and efficiently maintain the road right-of-way.

(4) *General requirements.*

- a. All applications for a special exception shall be accompanied by supporting documentation that demonstrates that the granting of a special exception is justified in accordance with this section and the purpose and intent of the zoning code.
- b. Before considering the granting of a special exception, the plan commission shall conduct a public hearing which shall be noticed as a class 2 notice in accordance with [section 52-295](#) of the zoning code.
- c. The plan commission, and, if appealed, common council have the authority to impose restrictions or conditions on any special exception approvals, such as greater limitations on height, floor area, open space, setbacks, impervious surface, building design, and landscaping that may exceed the restrictions

otherwise provided in this article in order to protect adjacent properties, the surrounding neighborhood, natural resources, safety, or the public interest and welfare. The plan commission and common council shall explain the purpose and intent of any restrictions imposed.

- d. Adverse drainage and excessive grading are prohibited.
- e. If a variance or special exception has previously been granted for a property, any additional improvements that do not comply with the applicable zoning district standards require a variance in accordance with section 52-291 zoning board of appeals.
- f. If improvements are torn down that were previously granted by a special exception, the special exception is considered null and void and the ordinance at time of redevelopment applies unless the structure was damaged and the cause of the damage was outside of the control of the property owner such as wind, vandalism, fire, flood, ice, snow, mold, or infestation. In such cases, a structure may be reconstructed within its previously approved three-dimensional building envelope without a special exception.
- g. The applicant, or any person aggrieved by a decision of the plan commission, shall have the right to appeal the decision of the plan commission to the common council. Such appeals shall be made in writing and filed within 30 days of the plan commission's decision and shall specify the particular grounds supporting the appeal. Upon such appeal, all records and findings concerning the application shall be submitted to the common council by the city planner. The common council may adopt the decision of the plan commission or overrule or modify the decision of the plan commission.
- h. All special exceptions, as well as any conditions imposed by the plan commission, shall be recorded with the Waukesha County Register of Deeds prior to the issuance of a building permit.

(Code 1997, § 17.58; Rep. and Recr. #411; Am. #719)

(Ord. No. 777, § 2, 3-1-2021; Ord. No. 830, § 3, 5-6-2024)

Sec. 52-200. - 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. Once the zoning board of appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, it shall become subject to all the conditions required by the zoning board of appeals.

(Code 1997, § 17.59; Rep. and Recr. #411)

Sec. 52-201. - Nonconforming structures.

Pursuant to Wis. Stat. § 62.23(7), a nonconforming structure may be repaired, maintained, renovated, or remodeled if the structure existed lawfully on or before the effective date of this ordinance and upon compliance with all provisions of Chapter 16, Article II Floodplain Zoning. Lateral and vertical additions to a nonconforming structure are permitted if the addition complies with all dimensional standards of the zoning district. If a structure is nonconforming to the current floor area or open space requirements, the addition shall not increase the floor area or decrease the open space. If the nonconforming structure is located on a nonconforming lot, then section 52-199 shall apply to any lateral or vertical addition to the nonconforming structure instead of this section.

(Code 1997, § 17.60; Rep. and Recr. #411)

(Ord. No. 830, § 4, 5-6-2024)

Sec. 52-202. - Prior permit.

Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of any building or part thereof for which a building permit has been issued before the effective date of the ordinance from which this chapter is derived and the construction of which shall have been substantially undertaken on site within six months from the date of such permit. Any use of such building or premises which does not conform to the use regulations of the district in which located shall be considered a legal nonconforming use, subject to regulation as such.

(Code 1997, § 17.61; Rep. and Recr. #411)

Secs. 52-203—52-227. - Reserved.

ARTICLE VIII. - SIGNS AND EXTERIOR LIGHTING

Sec. 52-228. - Intent.

The intent of this article is to establish guidelines that will:

- (1) Promote public safety, welfare, convenience, and enjoyment of travel and the free flow of traffic within the city by reducing distractions and obstructions from signs that adversely affect traffic safety;
- (2) Allow for an understanding of the rights, requirements, and application process necessary for the application and maintenance of the signage in the city;
- (3) Discourage excessive visual competition per the existing sign code;
- (4) Preserve or enhance the natural beauty and unique physical characteristics of the city by promoting compatibility with the surroundings while allowing the expression of the identity; and
- (5) Protect property values within the city.

(Code 1997, § 17.64; Rep. and Recr. #411; Cr. #586)

Sec. 52-229. - Permit required.

- (a) No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a building permit, except those signs excepted in section 52-230 and those signs provided for in section 52-231(7) and (8) and without being in conformity with the provisions of this chapter. The sign shall also meet all the structural requirements of chapter 8, article II.
- (b) Upon vacation of the premises or use for which a permit is issued, the permittee shall cause the removal of the sign or sign message, as applicable, within 60 days of the date of vacation.
- (c) If a sign meets all requirements of the city's sign code and the overlying sign program under the conditional use permit for the building on which it is proposed to be constructed if applicable, a permit may be issued by staff after approval by the plan commission. Appeals of the plan commission decisions must go before the common council.
- (d)

All signs not falling under subsection (c) of this section must also receive site plan and appearance review as provided in article II of this chapter. No provisions of this section shall preclude the plan commission from attaching additional restrictions or requirements with respect to size, height, lighting, materials, design, or location of signs as allowed in article II of this chapter.

- (e) All directional signs not existing at the time of adoption of the ordinance from which this article is derived shall be required to undergo plan commission review prior to issuance of a sign permit.

(Code 1997, § 17.65; Rep. and Recr. #411; Rep. & Recr. #603; Am. #719)

Sec. 52-230. - Signs permitted in residential, agricultural and conservancy districts.

All signs are prohibited in all residential, agricultural and conservancy districts, except the following:

- (1) *Signs over show windows or doors.* Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two feet in height and ten feet in length.
- (2) *Real estate signs.* Real estate signs not to exceed eight square feet in area which advertise the sale, rental or lease of the premises upon which such signs are temporarily located.
- (3) *Name, occupation and warning signs.* Name, occupation and warning signs not to exceed three square feet located on the premises.
- (4) *Bulletin boards.* Bulletin boards for public, charitable or religious institutions not to exceed eight square feet in area located on the premises.
- (5) *Memorial signs.* Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- (6) *Official signs.* Official signs, such as traffic control, parking restrictions, information, notices and directional signs.
- (7) *Subdivision entrance.* Subdivision entrance or residential project identification signs not to exceed 20 square feet in area or eight feet in height may be permitted with plan commission approval. Signs permitted by this subsection may be exempt from the setback requirements of the district upon approval by the plan commission.
- (8) *Review needed.* When a business or commercial entity is permitted in a residential, agricultural, or conservancy district by conditional use, signage shall be reviewed pursuant to the provisions of section 52-232.
- (9) *Directional signs.*
 - a. *Businesses.* Directional signs giving direction to businesses that are not conducted on the premises in which the sign is located may be permitted upon the plan commission's approval, compliance with the specifications in section 52-231(1), and the total signage area does not exceed eight square feet. The plan commission may grant a waiver from the sign setback requirement where such waiver would not interfere with traffic safety or be inconsistent with the objectives and purposes of this chapter. Any waiver granted by the plan commission under this provision shall be recorded with Waukesha County Register of Deeds. The signage area may be increased to up to 32 square feet in area and not be required to contain a city letterhead logo if all of the following apply:
 1. The directional sign is located on property that directly abuts a state highway;

2. The directional sign only advertises a legal, non-conforming business that operates pursuant to a conditional use permit previously approved by the city;
 3. The property utilized for the legal, non-conforming business has frontage on Lake Nagawicka; and;
 4. The distance between the directional sign and the property utilized for the legal, non-conforming business does not exceed $\frac{3}{4}$ of a mile.
- b. *Off-premises.* Applications for off-premises directional signs shall include a copy of written permission from the owner of the premises on which the proposed sign is to be located.
- c. *Nonconforming business.*
1. Any business operation which was made nonconforming by the adoption of the ordinance from which this chapter is derived in 1964, whether or not such business has received a conditional use permit based on that nonconformance, may have off-premises directional signs after recommendation from the plan commission and approval by the common council. Such signs shall comply with section 52-231(1).
 2. The granting of a permit for such signs shall be at the sole discretion of the common council and approval shall not be available to the applicant as a matter of right.
- (10) *Signs allowed by conditional use.* Signage ancillary to an operation permitted by conditional use may be allowed if approved by the plan commission and common council.

(Code 1997, § 17.66; Rep. and Recr. #411; Rep. & Recr. #603; Cr. #646)

(Ord. No. 826, § 1, 2-19-2024)

Sec. 52-231. - Signs permitted in all business and industrial districts.

Signs are permitted in business and industrial districts in accordance with the following regulations. In order to provide for uniformity, signage in all business and industrial districts shall conform to the following:

- (1) *Criteria for signs except CBD-1 Central Business District.*
 - a. Poles and pole facade colors shall be harmonious to the architectural surroundings.
 - b. Directional signs shall contain city letterhead logo sailboats only, in a rounded cap area at the top center of the sign. Sign area, exclusive of the city logo area, shall not exceed 22 square feet.
 - c. Identification signs for development areas at intersection of STH 83 and main road leading into development shall have full skirt and cap treatment.
 - d. Identification signs shall use the same logo and cap as the pylon sign for each development area.
 - e. Menu board type sign monument sign shall be permitted at entrance to individual business developments within a larger area listing individual tenants in each individual business development.
 - f. No more than one pylon sign shall be permitted on a lot, except as approved by the plan commission conditional use - planned developments CU-PD.
 - g. Directional signs may be reflective or internally illuminated. No floodlights will be permitted.
 - h. Pylon signs may be internally illuminated.

(2)

Signs permitted in the CBD-1, CBD-2, CBD-3, CBD-4, B-1, and B-1-A districts. On-premises signs are permitted having a total signage area per premises not exceeding two square feet for each foot of street frontage for occupants of the ground floor with a maximum of 50 square feet for each sign and one square foot for each 100 square feet of floor space occupied for occupants of other floors with a maximum of 32 square feet per occupant. Where any ground floor space is shared by more than one occupant, the permitted area shall be divided among them in the same proportion as floor space is occupied by them. Where a premise has more than two occupants and has a name distinct from that of any occupant as in an office building, an additional one square foot for each foot of street frontage with a maximum of 32 feet is permitted for signs advertising only the name of the premises. Where an occupant has an entrance on an alley, an additional ten square feet is permitted for signs mounted on the alley side of the building. Signs shall be subject to the setback rules applicable to buildings in the zoning district where located, except that no setback shall be required in the CBD-1 district. The plan commission may grant a waiver from the sign setback requirement where such waiver would not interfere with traffic safety or would be inconsistent with the objectives and purposes of this chapter. Any waiver granted by the plan commission under this provision shall be recorded with Waukesha County Register of Deeds.

(3) *Signs permitted in the B-2, B-3, B-4, B-5, B-6 and M-1 Districts.* On-premises signs are permitted having a total signage area per premises not exceeding six square feet for each ten feet or fraction of frontage or 60 square feet for each acre or fraction of area of the premises, whichever is larger. As an additional alternate method of computing allowable signage per premises, the square footage of all signs may be one and one-half times the building frontage. Building frontage shall be determined by the base measure in lineal feet of a building facade. No sign shall have an area exceeding 150 square feet. Where a premise has more than one occupant, the permitted area shall be divided among them in the same proportion as floor space and outdoor sales space is occupied by them. Where a premise has more than two occupants and has a name distinct from that of any occupant as in a shopping center or office building, an additional two square feet of sign area for each ten feet or fraction of street frontage with a maximum of 200 square feet is permitted only for signs advertising only the name of the premises. Signs shall be subject to the setback rules applicable to buildings in the zoning district where located. The plan commission may grant a waiver from the sign setback requirement where such waiver would not interfere with traffic safety or would be inconsistent with the objectives and purposes of this chapter. Any waiver granted by the plan commission under this provision shall be recorded with Waukesha County Register of Deeds.

(4) *Expressway district.*

- a. *Created.* For purposes of this article, there is hereby created a district to be known as the expressway district. The expressway district is an area extending 1,000 feet from the centerline of I-94 and 2,100 feet westerly and 2,400 feet easterly of the centerline of STH 83.
- b. *Expressway district modifications.*
 1. *Number.* There may be one ground or freestanding sign per premises in addition to other authorized signs.
 2. *Sign area.* Ground or freestanding signs shall not exceed 200 square feet in area.
 3. *Where a premises has more than one occupant.* Where a premises has more than one occupant and has a name distinct from that of any single occupant, as in a shopping center or office building complex, one ground or freestanding sign shall be permitted per shopping center or office complex, which shall be limited to setting forth the name of the shopping center or office complex.
 - 4.

Height. Ground or freestanding signs may be increased in height by an amount equal to the differential in grade elevation between the centerline of the nearest lane of travel of I-94 measured at right angles from the centerline and the sign, but in no event shall any ground sign exceed 20 feet above the elevation of the centerline of the traveled lane.

5. *Other provisions.* All other provisions for on-premises signs shall conform to the provisions of, and be limited by, the requirements of subsection (2) or (3) of this section, whichever zoning district applies to the signage.
 6. *Special purpose advertising signs, reader boards or menu signs* may be permitted upon approval of the plan commission, notwithstanding the total signage area per premises limitations contained in subsection (2) of this section, provided there is only one such sign per premises not exceeding 40 square feet in area. The plan commission shall consider design, construction and location of such signs.
- (5) *Directional signs.*
- a. Directional signs giving direction to businesses not conducted on the premises on which the sign is located shall be permitted in business and industrial districts only when authorized by the plan commission to encourage sign design consistency. Directional signs may be exempt from the setback requirements of the district upon approval of the plan commission. Directional signs displayed in a common location shall be uniform in size, general design and overall appearance.
 - b. Applications for off-premises directional signs shall include a copy of written permission from the owner of the premises on which the proposed sign is to be located.
- (6) *Roof signs.* Roof signs shall be permitted as a conditional use in business and industrial districts. The provisions of article V of this chapter relating to conditional uses shall apply to all applications for roof signs so far as applicable. The height of a roof sign, together with the building height, may not exceed the maximum building height restriction for principle buildings in the district in which the sign is located.
- (7) *Real estate signs permitted in the CBD-1, CBD-2, CBD-3, CBD-4, B-1, B-1-A, and B-2 districts.* Real estate signs not to exceed 16 square feet in area, which advertise the sale, rental or lease of the premises upon which such signs are temporarily located.
- (8) *Real estate signs permitted in the B-3, B-4, B-5, B-6 and M-1 districts.* Real estate signs not to exceed 32 square feet in area, which advertise the sale, rental or lease of the premises upon which such signs are temporarily located.
- (9) *Multi-tenant sign programs.*
- a. All planned developments, commercial condominiums, and multi-tenant buildings owned, operated, or managed by a single business entity, including, but not limited to, office parks, industrial parks, office centers, retail centers and office and limited business structures, churches and schools which have a campus, must have a multi-tenant sign program if more than one sign will be erected in conjunction with such building, development or center, as defined in this chapter.
 - b. All multi-tenant sign programs must receive plan commission approval.
 - c. Each individual sign proposed in accordance with an approved multi-tenant sign program must be applied for and permitted separately in accordance with this chapter and in no event shall any recommendation or approval of a multi-tenant sign program be deemed an approval of or a permission to construct any particular sign under that program. All applications for permits for such individual signs must be approved per section 52-229.

- d. A multi-tenant sign program, as presented to the plan commission, shall include the following components:
1. An aesthetically developed theme on color, size, illumination, and style.
 2. A proposed location of all signs for the building, development or center; where possible, signs shall be centered over tenant spaces.
 3. The proposed size of individual signs which may be expressed in maximums and minimums for purposes of the proposed sign program, but which must be proposed in exact terms when application is made for such individual signs after approval of the program.
 4. Categories of signs proposed which may include some or all of the following:
 - (i) Identification signs.
 - (ii) Tenant signs.
 - (iii) Tenant/directory board.
 - (iv) Entrance markers.
 - (v) Traffic directional signs.
 - (vi) Such other signs as requested by the applicant.
 5. Type of signage proposed (i.e., letter style, lighting, etc.).
 6. Blueprints, drawings and written policies governing the color, size, style, location and other features of the proposed signs.
- e. The plan commission, in its discretion, will consider the type and location of the building site, the proposed tenant mix, the size of the development and such other factors as it deems appropriate in evaluating a multi-tenant sign program.
- (10) Electronic message systems shall be permitted in business zoned parcels directly abutting the rights-of-way of STH 83, USH16, and 1-94 or the associated frontage roads as delineated in the EMC Boundary District.
- a. Only one electronic messaging system shall be permitted per lot.
 - b. Electronic messaging shall be limited to a maximum of 50 percent of the allowable sign area not to exceed 75 total square feet.
 - c. Light intensity of electronic messaging systems shall be limited to less than 0.3 footcandles above ambient lighting levels at the property boundary.
 - d. Electronic messaging systems shall be limited to a rate of change not less than six seconds. No message shall be segmented.

(Code 1997, § 17.67; Rep. and Recr. #411; Rep. & Recr. #603)

(Ord. No. 732, § 2, 3-19-2018; Ord. No. 781, §§ 1—3, 7-19-2021; Ord. No. 799, §§ 8, 9, 6-20-2022)

Sec. 52-232. - Election campaign signage.

(a) *Signs exempt from permit.*

- (1) Consistent with the purpose and scope of this section, the common council recognizes that certain temporary, necessary or limited-purpose signs may be displayed without obtaining a permit, subject to applicable safety and aesthetic regulations herein. The common council finds that the following signs may be

displayed without a permit because they serve a governmental purpose; are permitted or mandated by city ordinance, state or federal law; allow freedom of speech and expression in a timely manner; allow freedom of speech and expression during election periods; or because the size, location or duration of the sign as regulated herein is not significant enough to require review and a permit prior to display of such sign.

- (2) No permit shall be required for the following signs when displayed according to the following provisions and any other requirements of this Code or applicable law. Exempt signs may not be illuminated unless expressly stated herein or elsewhere in this chapter.
- a. *Election campaign signs.* A sign containing a "political message" displayed during an "election campaign period," as those terms are defined in Wis. Stats. § 12.04, shall be exempt from the requirement of obtaining a permit required by this section. All such election signs shall be removed within seven days following the conclusion of the final election campaign.
- b. *Banners, American flags and pennants.* Banners, American flags and pennants shall not be permitted to be attached to the signs.
- (b) *Election campaign signs disclaimers required.* Every communication which is paid for by political funds must contain a disclaimer or attribution statement identifying the source of the funds paying for the communication. This includes every printed advertisement, billboard, handbill, sample ballot, television or radio advertisement or other communication paid for by political funds. Also, it includes items such as T-shirts, bumper stickers and yard signs. The disclaimer must use the words "Paid for by" (abbreviations shall not be used for this language) followed by the name of the committee or group making the payment or assuming responsibility for the communication and the name of the treasurer or other authorized agent of the committee. When the communication is being paid for through an in-kind contribution, it must bear the disclaimer of the recipient campaign committee. Abbreviations may not be used for the name of a candidate or campaign committee. No disclaimer is required on the following:
- (1) Personal correspondence not reproduced by machine for distribution.
 - (2) A single personal item which is not reproduced or manufactured by machine or other equipment.
 - (3) Nomination papers even if the papers contain biographical information.
 - (4) Pins, buttons, pens, balloons, nail files and similar small items on which a disclaimer cannot be conveniently printed.
 - (5) Envelopes which have campaign committee identification printed on them. Disclaimers must be included on each separate page of a political communication, including letterhead and enclosures.
- (c) *Placement of signs.* The city has sign ordinances regarding the placement of signs. Please refer to [section 52-174](#) for these regulations.

(Code 1997, § 17.673; Rep. and Recr. #411; Cr. #653)

Sec. 52-233. - Temporary signs.

- (a) Temporary signs may be authorized in any district for not more than 90 days at a time by written permit issued by staff, authorized upon a finding on the basis of information which shall show the size, shape, content, height, type of construction, location of such signs and period during which the sign will be displayed. The proposed

signs must be necessary for the direction of the public and not contrary to the spirit and purpose of this chapter. Signs may be allowed upon payment of a fee for each permit and renewal of each sign. Entities with a 501(c)(3) tax exemption or entities that are eligible to apply for a 501(c)(3) tax exemption are exempt from paying a fee.

- (b) The size of a temporary sign may not exceed the maximum sign size allowable in the zoning district. See sections 52-230 and 52-231.
- (c) Any sign which is not fastened, anchored and resting on a permanent foundation shall be considered a portable sign and shall not be permitted in any district, unless approved by written approval by staff and issued a portable sign permit pursuant to section 52-239.

(Code 1997, § 17.68; Rep. and Recr. #411; Rep. & Recr. #646)

Sec. 52-234. - Sign placement regulations.

- (a) *Wall signs.* Wall signs placed against the exterior walls of buildings shall not extend more than 12 inches outside of a building's wall surface.
- (b) *Projecting signs.* Projecting signs fastened to, suspended from or supported by a building shall not extend more than six feet into any required yard, more than three feet into any public right-of-way, be less than eight feet from all side lot lines and be less than eight feet above the sidewalk nor 15 feet above a driveway or an alley.
- (c) *Ground signs.* Ground signs shall not exceed 20 feet in height and shall meet all yard requirements for the district in which they are located.
- (d) *Permanent window signs.* Permanent window signs shall be placed only on the inside of commercial buildings and shall not exceed 25 percent of the glass area of the pane upon which the sign is displayed.
- (e) *Facing.* No sign except those permitted in section 52-230 shall be permitted to face a residential district within 100 feet of such district boundary.
- (f) *Conflict with traffic signs or access.* Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.
- (g) *Signs not related to the use of premises.* Any sign not directly related to the uses of the premises on which it is located shall conform to the setback and offset requirements which would apply to a building in that district.
- (h) *Hazards or nuisance prohibited.* No sign, billboard or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district. In no case shall the lighting intensity of any sign, whether resulting from internal or external illumination, exceed 40 footcandles when measured with a standard light meter held perpendicular to the sign face at a distance of ten inches.

(Code 1997, § 17.69; Rep. and Recr. #411; Rep. & Recr. #603)

Sec. 52-235. - Exterior lighting and illumination of signs.

- (a) All lighting for external illumination of buildings or grounds or for the illumination of signs shall be directed away from and shall be shielded from adjacent residential districts and shall also be so arranged as to not adversely affect driver visibility on adjacent thoroughfares (see sections 52-27 and 52-176(7)).

- (b) The use of flashing or revolving lights other than traffic control lights is specifically prohibited in all districts. This prohibition shall apply to all signs, including portable or temporary signs.
- (c) Signs which convey changing noncommercial information such as time or temperature, by words, letters or images represented by lights of uniform color on a uniform background where the words, letters or images are not in motion are permitted. Such signs may not include changing advertisements for products or services or other messages of a commercial nature. The rate of change for any message, excepting time and temperature, may not be less than 30 minutes.
- (d) Light intensity of electronic messaging systems shall be limited to less than 0.3 footcandles above ambient lighting levels at the property boundary.

(Code 1997, § 17.70; Rep. and Recr. #411; Am. #474; Am. #491; Am. #719)

(Ord. No. 732, § 3, 3-19-2018)

Sec. 52-236. - Bonds.

Every applicant for a building permit for a sign to be located completely or partially within a public right-of-way shall, before the permit is granted, execute a surety bond in a sum to be fixed by the administrator, but not to exceed \$25,000.00, and it shall be of a form and type approved by the city attorney, indemnifying the city against all loss, costs, damages or expenses incurred or sustained by or recovered against the city by reason of erection, construction or maintenance of such sign.

(Code 1997, § 17.71; Rep. and Recr. #411)

Sec. 52-237. - Signs within a public right-of-way.

Prior to the issuance of a building permit for any sign located completely or partially within a public right-of-way, a liability insurance policy is required. The city attorney shall determine the nature and amount of the liability policy to indemnify the city against all liabilities. The required bond and insurance policy shall be renewed annually for the life of the sign. Should the liability policy lapse, the sign shall be removed by the city with the city's expenses covered by the bond and/or assessed to the owner.

(Code 1997, § 17.72; Rep. and Recr. #411)

Sec. 52-238. - Nonconforming signs.

- (a) Signs lawfully existing at the time of the adoption or amendment of the ordinance from which this chapter is derived which do not conform with the provisions of this chapter shall be deemed nonconforming signs.
- (b) A nonconforming sign may be continued and maintained exactly as it existed at the time of adoption of the ordinance from which this chapter is derived.
- (c) A nonconforming sign shall not:
 - (1) Be changed to another nonconforming sign.
 - (2) Have any changes made in the words or symbols used or the message displayed on the sign unless the sign is an off-premises advertising sign, a bulletin board or substantially similar type of sign, specifically designed for periodic change of message.

- (3) Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign.
 - (4) Be reestablished after the activity, business or usage to which it relates has been discontinued for 30 days or longer.
 - (5) Be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 50 percent of the reproduction cost.
- (d) The zoning board of appeals may permit variances from subsection (c) of this section or variances permitting the erection or maintenance of a nonconforming sign only upon the grounds established by law for the granting of zoning variances or upon a finding that the grant of a variance will reduce the degree of nonconformance of an existing sign or will result in the removal of one or more lawfully nonconforming signs and replacement by a sign more in keeping with the spirit, purpose, and provisions of this chapter.
- (e) Nonconforming signs, as defined in this chapter, may remain in a nonconforming state effective from the date of the ordinance from which this chapter is derived until such time that a new business plan of operation or building permit is filed with the city. Thereafter, the sign shall be brought into conformity with this chapter by obtaining a sign permit or being removed.

(Code 1997, § 17.73; Rep. and Recr. #411; Rep. & Recr. #603)

Sec. 52-239. - Sandwich board or A-frame style signs.

Sandwich board or A-frame style signs are permitted for commercial businesses in the city without permit, review, or fee collection, so long as the board or sign complies with all of the following provisions:

- (1) The signs shall be located directly in front of the business frontage either next to the building face or at the street side of the sidewalk by newsstands, streetlights or other amenities. On multi-occupancy parcels, signs must be spaced at least 40 feet apart.
- (2) Only one sign shall be permitted per business.
- (3) The sign shall be removed from the right-of-way at the end of the business day and not left outdoors overnight.
- (4) The sign shall not exceed two feet wide by 3½ feet high.
- (5) Signs shall be constructed of durable materials (steel, iron, metal, wood, or corrugated plastic) and shall be maintained in good condition. The use of cardboard, paper, canvas or similar impermanent material is prohibited.
- (6) The use of metallic or fluorescent paint shall be prohibited, and all permanent lettering must be of professional quality. Creativity is encouraged, and all signs shall be maintained and kept in good repair.
- (7) The signs shall not be lighted.
- (8) The signs shall not interfere with streetlights, street trees, utility poles, benches, ramps, fire hydrants or other structures, and shall not impede traffic visibility or vision corners as regulated in section 52-174.
- (9) The content shall be limited to the name and trademark of the business establishment, a listing of products for sale and prices, or the advertisement of special products and prices.
- (10) The signs shall not advertise a business or products, goods and services located on another property.
- (11)

Signs located on the sidewalk shall not impede pedestrian traffic, shall not cause the minimum accessible path to be less than five feet in width, and shall not interfere with the turning movements of a wheelchair.

- (12) An approved business plan of operation is required prior to the installation of the sign. The sign rights of the business are nontransferable.
- (13) If the sign is to be located within the public right-of-way, the business owners must agree to indemnify the city from any and all liability arising out of the placement of the sign in a public right-of-way. The business owner also must provide the city with proof of a minimum general liability insurance of \$1,000,000.00 in a form satisfactory to the city attorney, and indicating the city as an additional insured.
- (14) Signs placed in violation of this section will result in the immediate removal of the sign by the city.
- (15) Signs within the public right-of-way may be moved or removed by the city for municipal purposes, including for the benefit of the public health, safety or welfare.

(Code 1997, § 17.734; Rep. and Recr. #411; Cr. #597)

Sec. 52-240. - Enforcement.

The city administrator or his/her appointee is authorized to remove any illegal sign as defined by this chapter or any sign that is displayed under an expired permit.

- (1) Before taking action to require removal of any illegal sign, the city administrator or his/her appointee shall give a written compliance notice to the holders of the permit for the sign or, if no permit has been issued, to the owner of the premises on which such sign is located and to the lessee of the premises to which such sign pertains. The notice shall state the reasons and grounds for removal, specifying the deficiencies or defects in such sign with reasonable definiteness, and the violations charged, if any. Such notice shall specify what repairs, if any, will make the sign conform to the requirements of this chapter and specify that the sign must be removed or made to conform to the provisions of this chapter within the compliance period provided below. Service of notice in the case of permanent signage shall be made on the parties specified above as follows:
 - a. By delivering personally copies of the notice to the parties;
 - b. By leaving a copy of the notice with any person in charge of the premises; or
 - c. In the event that no such person can be found on the premises, by affixing a copy of the notice in a conspicuous position at an entrance to the premises and by the certified mailing of copies of the notice to the post office addresses of the holders of the permit as specified in the application for the permit, if any, or to the last known post office addresses of the parties specified above.
- (2) Service of notice in the case of temporary signage shall be made via standard mail. The start date of the compliance period shall be identified in the violation letter from the city administrator or his/her appointee.
- (3) Compliance period.
 - a. The compliance period for permanent signs shall be 30 days.
 - b. The compliance period for temporary signs shall be ten days.
- (4)

Re-erection of any sign or any substantially similar sign on the same premises after a compliance notice has been issued shall be deemed a continuance of the original violation and the sign may be removed without a second notice sent to the owner of the premises on which such sign pertains, and/or the business entity displayed on the sign provided that they received the original violation letter.

- (5) If the holders of the permit of the owner and lessee of the premises upon which the sign is located have not demonstrated to the satisfaction of the city administrator or his/her appointee that the sign has been removed or brought into compliance with the provisions of the chapter by the end of the compliance period, the city administrator or his/her appointee shall issue municipal citations to the owner and/or tenant.
- (6) Removal. The city administrator or his/her appointee is authorized to cause the removal of any sign found to be illegal. The actual costs and expense of any such removal by the city administrator or his/her appointee shall be borne by the holders of the permit or, if no permit had been issued, by the owner of the premises on which the sign is located and the lessee of the premises to which such sign pertains. All such parties shall be jointly and severally liable for such cost and expense and subject to the penalties provided by the provisions of this chapter. Removed signs shall be held by the city department of public works for no less than 90 days.
- (7) Violators shall be subject to section 52-296. Each act of violation shall be subject to a forfeiture of no less than \$50.00 per day.

(Code 1997, § 17.735; Rep. and Recr. #411; Cr. #586)

Sec. 52-241. - Downtown directional signs.

The purpose of this section is to allow and regulate the use of downtown directional signs (DDS) within the municipal limits of the city.

- (1) *Definitions.* The following terms or phrases, when used herein, shall have the following meaning:

Downtown directional sign (DDS) means a sign or group of signs of uniform and standard size, color, typeface, material, and construction located within the right-of-way of a public street or located on publicly owned property giving direction to off-premises public facilities, lodging, or consumer attractions such as shops, amusement, restaurants, service businesses, etc., available on a yearly, leasable basis.

- (2) *Qualification for DDS.* To qualify for a DDS, the following requirements must be met:
 - a. Have an approved business plan of operation by the city plan commission, or be municipally owned.
 - b. Business or facility does not have direct access to Genesee Street.
 - c. Business or facility must be located within the central business district as determined in the land use plan. The central business district includes those businesses or facilities from Genesee Street East to Bleeker Street; from Genesee Street West to Cushing Park Road.
- (3) *Types of business or facilities eligible for DDS.*
 - a. Public facilities (municipal offices, parks, parking lots, etc.).
 - b. Lodging (hotels, motels, resorts, boarding houses, bed and breakfast establishments).
 - c. Consumer and service businesses (shops, museums, restaurants, financial services, legal services, etc.).
- (4) *Application and permit required.*
 - a.

An application is required for the installation of DDS. The application is referenced as "Exhibit A" to the ordinance from which this section is derived.

- b. Each DDS shall have a life of one year.
- c. Each qualifying business may only have one DDS.
- d. Each qualifying business shall submit an application for a DDS which is due by the close of business on March 1 annually, to the city clerk-treasurer's office.
- e. A lottery system will be used to determine which qualifying business shall receive a sign on an annual basis.
- f. Upon completion of lottery, the qualified business shall pay a \$100.00 fee.
- g. Failure to maintain a business license or failure to meet any of the qualifying conditions or discontinuance or close of business will prompt revocation of the permit for the DDS.

(5) *Location, construction and materials.*

- a. DDS shall be located within the right-of-way of a public street or located on publicly owned property.
- b. DDS will be installed along Genesee Street at the intersections of Wells Street, Main Street and Milwaukee Street.
- c. All DDS must be purchased by the city.
- d. DDS shall have a uniform font of san serif and no logos.
- e. DDS will be listed in alphabetical order.
- f. No more than seven leasable DDS will be permitted on one side of the sign.
- g. DDS may only be purchased and installed by the city.
- h. One leasable DDS will be reserved for city-owned property/operations.

(Code 1997, § 17.736; Rep. and Recr. #411; Cr. #611)

Sec. 52-242. - Definitions.

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

Directional sign means a sign which guides or directs pedestrian or vehicular traffic.

Eave means, for the purpose of sign regulation, the lower edge of an angled roof or the top edge of the wall in the case of flat-roofed buildings. Surfaces at an angle of 20 degrees or less from vertical are to be considered as wall rather than roof.

Ground sign means a sign which is attached to the ground independent of any building.

Harmonious means having component elements that are compatible with building aesthetics.

Identification signs means signs that identify large developments or groupings for any multi-tenant establishment.

Projecting sign means a sign other than a wall sign which is attached to or supported by a building or structure and projecting more than eight inches from the face of the building or structure. The surface of a projecting sign may be parallel to or at an angle to the outside wall surface of a building or structure, but does not project above the eave.

Roof sign means a sign mounted on a building, situated in total or in part above the eave of that part of the building to which it is mounted.

Sign means a name, identification, image, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, structure or piece of land, which directs attention to an object, project, place, activity, facility, service, event, attraction, person, institution, organization or business and which is visible from any street, right-of-way, sidewalk, alley, park or other public property. Customary displays of merchandise or objects and material without lettering placed behind a store window are not signs or parts of signs.

Sign area means the entire area within a circle, triangle or parallelogram enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area or as the area of the larger face if the two faces are of unequal area.

Sign, on-premises, means a sign which advertises only goods, services, facilities, events or attractions available on the premises where located, identifies the owner or occupant or directs traffic on the premises. All other signs are off-premises signs.

Temporary sign means a sign with a commercial message permitted for a limited period of time.

Wall sign means a sign which is in any manner affixed to any exterior wall of a building structure and which projects not more than 12 inches from the building or structure wall or a sign which is painted on any exterior wall, but does not project above the eave.

Window sign means a sign which is on the inside of a window, including those painted on the glass and neon or backlit signs oriented toward the building exterior.

(Code 1997, § 17.74; Rep. and Recr. #411; Cr. #586; Am. #586)

Secs. 52-243—52-262. - Reserved.

ARTICLE IX. - PLANNED DEVELOPMENT AS A CONDITIONAL USE

Sec. 52-263. - Intent.

- (a) *Standards and exceptions established.* Planned development projects are substantially different in character from other conditional uses and for this reason, specific and additional standards and exceptions are hereby established to regulate planned development projects.
- (b) *Compliance.* The planned development process provides a flexible regulatory framework designed to allow developers greater freedom, imagination and flexibility in the development of land while ensuring substantial compliance with the basic intent of the zoning code and comprehensive plan. At the same time the PD process ensures the city that key development parcels and large land holdings will be developed with a comprehensive and cohesive unified development plan.

- (c) *As conditional uses.* A planned development may be permitted as a conditional use in any district. No planned development is permitted in any lake district, unless the parcel to be developed has a minimum of 200 feet of lake frontage. A planned development project may also contain mixed dwelling types and mixed compatible uses. Unless modified by specific provisions of this section, the provisions and requirements of article V of this chapter shall apply.
- (d) *Stages.* All PDs are submitted and approved in two stages:
- (1) The first stage is a general development plan which shows the entire property holding. The general development plan shows the general locations of buildings or building envelopes, common open spaces, parking and drive areas and principal landscape features. If the development is proposed to occur in phases, sequence of development should be indicated. It is recognized that general development plans are often submitted prior to the identification of the ultimate land user or the specific land uses.
 - (2) The second stage is a detailed plan which shows detailed plans and information for that portion of a project which is intended for construction in the near future. Frequently detailed plans are submitted for only those portions of the total project area shown in the general development plan which are planned for immediate development. Subsequent phases of development are shown in separate detailed plans prepared at the time of development.
- (e) *Densities.* Development densities in conditional use - planned development shall not exceed the densities permitted by the underlying zoning district. Where a proposed planned development project encompasses more than one underlying zoning district, the densities of the various zoning districts may be averaged or densities may be calculated separately for each of the different zoning districts. Density averaging may not be employed where any zoning district is A-1 agricultural or A-1E exclusive agricultural.
- (f) *Residential clustering.* A planned development may permit condensed building sites in nearer proximity than permitted in the underlying zoning district regulations in order to maximize common open space, enhance preservation of natural features, or minimize infrastructure improvements. Residential clustering may be accomplished by reduced fee simple lot sizes or by condominium. Building setbacks, building to building separation, lot size and the quality of the resulting common area may be considered when evaluating a residential clustering plan. No planned development shall be permitted with residential lots less than one-half acre in size.
- (g) *Submittal requirements.*
- (1) *General development.*
 - a. A site map drawn to a scale of one inch equals 100 feet or greater, showing existing topography and vegetation.
 - b. A site plan drawn to a scale of one inch equals 100 feet or greater, showing proposed public streets, access points for private drives and driveways, proposed building envelopes and the location of common open space or preserved green areas.
 - c. Conceptual landscape plan showing the general location of new plant materials, landscaped features and screens and berms. Areas where mature vegetation is to be removed must be shown on the conceptual landscape plan.
 - d. Conceptual grading plan showing general site drainage, the location of on-site stormwater management facilities, and any modification of the existing topography.
 - e. Photographs of the site and the adjoining properties.

f. If available, building elevations or photographs of other comparable buildings constructed on other sites.

(2) *Detailed plan submittal requirements.*

- a. Detail site plan based on a certified survey, condominium plat or subdivision plat, showing precise locations and size of all elements shown on the general development plan.
- b. Building plan showing exterior elevations and floor plans of each building proposed for construction. The plans shall include descriptions of materials and colors. The plan commission may request material and color samples. Include finished ground and basement floor grades.
- c. Engineering plan showing existing and proposed topography with contours at intervals not exceeding two feet, proposed drainage patterns, site grading plan, sanitary sewer system, storm sewer system and water supply system, all subject to approval by the city engineer.
- d. Landscape planting plan showing the type, size, and location of plantings, retaining walls and other landscape features.
- e. Erosion control plan as required by this Code.
- f. Other special documents showing such other design components and related information as may be required by the plan commission or common council. These may include, but are not limited to, maintenance agreements, development agreements, plans of operation, property owners' association documentation, and deed restrictions.

(h) *Criteria for approval.* The intent of the PD procedures is to enable the developer to have greater flexibility in planning for land uses and site design than would be permitted under standard zoning provisions. However, there are some general criteria that the plan commission will follow in reviewing and approving PDs. Criteria for approval include:

- (1) A planned development may be allowed by the plan commission where natural features are determined to warrant preservation.
- (2) Existing mature vegetation and natural topography will be preserved to the greatest extent feasible.
- (3) The character and intensity of the proposed development must be compatible with existing and planned land uses on nearby and adjoining properties.
- (4) Reduction in lot area, lot width and building setbacks may be considered by the plan commission if the resulting configuration creates greater open space, produces appreciable areas that enhance preservation or expansion of natural features, or provides tangible community benefits associated with public use and enjoyment.
- (5) The proposed development must not result in diminishment of property values of adjoining or nearby properties.
- (6) Existing and planned street and highway improvements are adequate to handle the projected volumes of traffic generated by the proposed development.
- (7) There is adequate capacity in the public sanitary sewer and stormwater sewer system to handle projected demand.
- (8) The proposed circulation system and the design and layout of utilities has taken into account existing and potential streets and utility systems on adjoining parcels.

(Code 1997, § 17.75; Rep. and Recr. #411; Rep. & Recr. #623; Am. #646; Cr. #729; Am. #729)

Sec. 52-264. - Application procedure and required information.

- (a) *Preliminary staff consultation.* A petitioner shall have a preliminary consultation with the administrator and such other city staff and consultants that the city administrator deems needed and appropriate to conduct a preliminary review of the application.
- (b) *Preliminary plan commission consultation.* An applicant may meet with the plan commission for a preliminary consultation prior to formally submitting a conditional use application. The purpose of the preliminary consultation is to discuss the proposed request, review the local regulations and policies applicable to the project, and discuss the land use implications of the proposal.
- (c) *Application and general development plan.*
 - (1) The applicant shall submit a conditional use application in accordance with the application procedure described in section 52-137. In addition to the required information noted in section 52-137, a general development plan shall be submitted to the plan commission and common council for review 60 days prior to the rezoning hearing and/or detailed design work. The general development plan shall include data required under section 52-263(7) and (8).
 - (2) In addition, other documents or related information may be required by the plan commission and common council, which may include, but is not limited to, economic impact and market feasibility studies.
 - (3) The general development plan and related information shall be available for public inspection prior to any public hearing for conditional use zoning on the proposed project.

(Code 1997, § 17.76; Rep. and Recr. #411)

Sec. 52-265. - Resolution on conditions and restrictions.

- (a) As noted in section 52-263, planned developments may be regulated by specific and additional standards and exceptions different from conventional zoning regulations. To accomplish this, the plan commission may recommend and the common council may adopt by resolution specific conditions and restrictions for each planned development project. The specific conditions and restrictions may specify permitted uses, density standards, including lot area, yard setbacks, open space, dwelling unit size and distribution, and other appropriate regulations. When lands border a lake or other public body of water, pyramiding as defined and prohibited in this Code may be allowed under this article only if the minimum lake frontage and width of the parcel fronting on the lake at the ordinary high water mark is 100 feet for the first dwelling unit and 50 percent of the lake frontage requirement of the underlying zoning district for each additional dwelling unit; provided, however, that the number of dwelling units per parcel shall not exceed 25 percent additional units than would have been permissible under the restrictions of the underlying zoning district.
- (b) The resolution containing the conditions and restrictions may also include other nonstandard or non-uniform requirements, regulations and provisions as recommended by the plan commission and approved by the common council. Such nonstandard requirements, regulations and provisions shall be designed to ensure proper development and appropriate operation and maintenance of each specific planned development project.
- (c) Owners, their heirs, successors, and assigns shall agree by contract with the city to comply with all applicable laws and regulations, including the specific conditions and restrictions adopted to regulate a specific planned development project.

(Code 1997, § 17.77; Rep. and Recr. #411)

Sec. 52-266. - Detailed plans and information.

- (a) After conditional use zoning has been granted based upon the information shown in the general development plan, detailed plans and information covering that portion of the total project which is intended for construction shall be submitted for approval prior to the issuance of a building permit.
- (b) The detailed plans and information described in this section shall be filed with the city clerk at least 28 days in advance of a regularly scheduled plan commission meeting. After review and action by the plan commission, all detailed plans and information shall be submitted to the common council along with any written statement of the plan commission findings and recommendations within 45 days. The common council shall approve all detailed plans and information prior to the issuance of a building permit or any other permits.
- (c) The detailed plans and information shall cover that portion of the project which is intended for construction and shall include data required in section 52-263.

(Code 1997, § 17.78; Rep. and Recr. #411; Am. #517)

(Ord. No. 800, § 1, 7-18-2022)

Sec. 52-267. - Common open space.

All residential planned developments shall provide permanent common open space. The open space may be in public ownership or in private ownership with an open space easement to assure that the open space will be permanent. The common open space area shall be conveniently accessible to all residential dwelling units within a planned development and is further defined as follows:

(1) Common open space includes:

- a. Land area of the site not covered by buildings, parking structures or accessory structures, except recreational structures. Underground parking decks may be counted as open space.
- b. Land which is accessible and available to all occupants of dwelling units for whose use the space is intended.

(2) Common open space does not include:

- a. Land area covered by buildings.
- b. Proposed street rights-of-way, public or private.
- c. Open parking areas and driveways for dwellings.
- d. Public or private walkways.
- e. School sites.
- f. Commercial areas and the buildings, accessory buildings, parking and loading facilities for these commercial areas.
- g. Land determined unsuitable by the plan commission.

The aggregate open space of the planned development, including any proposed roads, shall be no less than would have resulted from the application of the existing open space requirements of the district. Up to 20 percent of the land currently zoned C-1 or wetlands may be used in this open space computation.

(Code 1997, § 17.79; Rep. and Recr. #411)

Sec. 52-268. - Maintenance of project.

- (a) Should the owner of a planned development fail to properly operate or maintain the project or premises to the extent that a nuisance is caused to occupants or neighbors or constitutes a nuisance to nearby properties, the city may refuse to approve subsequent stages of development until the situation and/or method of operation has been corrected.
- (b) Should the owner of a planned development fail to adequately perform maintenance functions, such as snow and ice removal, weed cutting or trash disposal, the city shall have the right to perform such functions or to contract for their accomplishment at the expense of the owner of the planned development.
- (c) The care and maintenance of common open space shall be insured either by establishment of appropriate management organization for the project or by an agreement with the city for establishment of a special district for the project area on the basis of which the city shall provide the necessary maintenance service and levy the costs thereof as a special assessment on the tax bills of the properties within the project area. In any case, the city shall have the right to carry out and levy an assessment for the cost of any maintenance which it feels necessary if it is not otherwise taken care of to the satisfaction of the city.

(Code 1997, § 17.80; Rep. and Recr. #411)

Sec. 52-269. - Changes or revisions.

- (a) All changes, revisions or additions to any aspect of an approved planned development project shall be submitted to the plan commission for their review.
- (b) A public hearing shall be held by the plan commission and a written recommendation to approve, approve with conditions, or deny shall be submitted to the common council prior to a final decision by the common council.

(Code 1997, § 17.81; Rep. and Recr. #411; Rep. & Recr. #646)

Sec. 52-270. - Relationship to subdivision control chapter.

- (a) Any planned development which initially involves a division of land or any successive division of land shall be subject to the regulations of chapter 44, pertaining to subdivisions.
- (b) However, the design standards and required improvements in chapter 44 may be modified or waived upon recommendation by the plan commission and approval by the common council where strict compliance may result in not achieving the design flexibility necessary to achieve the objectives of the planned development.

(Code 1997, § 17.82; Rep. and Recr. #411)

Sec. 52-271. - Failure to comply.

Failure to comply with the conditions and restrictions as herein established and specifically made applicable to a specific planned development shall be cause for termination of the approval for such project. At least 15 days' notice shall be given to the developer to appear before the plan commission and answer any such charges of noncompliance. If the plan commission finds the charges substantiated, they may recommend such termination of the project approval if the situation is not satisfactorily adjusted within a specified period.

(Code 1997, § 17.83; Rep. and Recr. #411)

Secs. 52-272—52-290. - Reserved.

ARTICLE X. - ADMINISTRATION AND PENALTIES

Sec. 52-291. - Zoning board of appeals.

(a) *Establishment.*

(1) *Authority.*

- a. Pursuant to Wis. Stats. § 62.23, there is hereby created in and for the city a zoning board of appeals to consist of five members appointed by the mayor, subject to confirmation by the council, for regular terms of three years. The members of the board shall serve without compensation and shall be removable for cause as provided by law. There shall also be appointed as provided above first and second alternate members of the board for staggered terms of three years, who shall act with full power only when a member of the board refuses to vote because of conflict of interest or when a member is absent. Any vacancy occurring on the board shall be filled for the unexpired term of the member involved by appointment and confirmation as aforesaid. The City Attorney, or its designee, shall be present at all board meetings in order to provide legal counsel.
 - b. The board shall adopt rules, meet, hear, and determine appeals as prescribed by law and shall have all of the powers conferred thereon by the provisions of any statute, law, rule, or ordinance now existing or hereafter created including, but not limited to, the power in appropriate cases and subject to appropriate conditions and safeguards, to make variances to the terms of this chapter in harmony with the general purposes and intent of this chapter and in accordance with general or specific rules therein contained.
 - c. The board shall have the following powers: to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto; to authorize upon appeal in specific cases a variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Administrative official does not include any committee, commission, board, council, or their individual members.
- (2) *General.* All members of the board shall reside within the city. The actual and necessary expense incurred by the board in performance of its duties shall be paid and allowed as in cases of other claims against the city.

(b) *Rules.*

- (1) *Rules and procedures.* The board shall adopt such rules governing its procedure as it may deem appropriate and consistent with this chapter, but such rules shall provide:
 - a. Minutes of the proceedings of the board shall be regularly kept, indicating members present, members voting, ayes and nays individually and a synopsis of testimony, appearances and interlocutory rulings made in the course of its proceedings.
 - b.

Before a public hearing is scheduled, complete data and information regarding the proposed structure, alteration, use or variance, including detailed plot plans demonstrating the relation of the proposal to surrounding lands within 100 feet of the premises, shall be filed in writing with the board and shall be available for public inspection prior to the application deadline.

- c. An application to the board shall include the same data and information presented to the original authority whose decision is being appealed.
 - d. All orders shall be in writing and filed with the office of the board. Orders reversing in any degree or respect the prior determination of an original administrative authority shall not of themselves constitute an authorization to proceed with any construction, use, or occupancy, but such orders shall be remanded to the appropriate original authority for action consistent with the board's order. No reversal shall arise from any such orders by implication.
- (2) *Certiorari.* Any person aggrieved by any decision of the board, or any taxpayer, or any officer, department, board, or bureau of the city may, within 30 days after the filing of the decision in the office of the board, commence an action seeking the remedy available by certiorari.
- (c) *Appeal of administrative decisions.*
- (1) *Appeal rights.* Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of any administrative official. Such appeal shall be initiated by filing written notice with the administrative official from whom the appeal is taken within 20 days of the administrative official's decision. Such notice of appeal shall specify the particular grounds thereof. The administrative official from whom the appeal is taken shall transmit to the board all the papers constituting the record upon which the action appealed from was taken.
 - (2) *Stay.* An appeal shall stay all rights, privileges, or proceedings pursuant to the action appealed from, unless the administrative official from whom the appeal is taken certifies to the board after the notice of appeal is properly filed, that by reason of facts stated in the certificate, a stay would in the administrative official's opinion cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or a court of record on application, on notice to the administrative officer from whom the appeal is taken, and on due cause shown.
 - (3) *Hearing.* An appeal shall be heard within a reasonable time from the filing of the appeal with the board. Notice of hearing shall be published by Class 2 notice in accordance with Wis. Stat. Ch. 985 within 30 days and not less than ten days before the date of hearing. In addition, written notice shall be given to all parties in interest in accordance with [section 52-295](#). If the appeal involves a lot or parcel of land, any part of which is in a designated floodplain area under [chapter 16](#), article II of the Code or is zoned RL-1, RL-1A or RL-2, the southeast district office of the Wisconsin Department of Natural Resources shall be given written notice ten days prior to the hearing. At the hearing, any party may appear in person or by agent or attorney.
 - (4) *Review criteria.* The board may reverse, affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative official from whom the appeal is taken, and may issue or direct the issuance of a permit. An administrative official's decision may be reversed only if the board finds that the administrative official erred.
 - (5)

Decision. The decision on any appeal shall be made within a reasonable time after completion of the hearing by filing a written decision with the office of the board. If the Wisconsin Department of Natural Resources was notified of the hearing, it shall be provided a copy of the board's decision within ten days of the board's decision. If no decision is filed in the records of the board within such time, the order appealed shall stand affirmed.

- (6) *Successive applications.* Once an appeal has been denied by the board, no rehearing on the same or substantially similar appeal may held, except upon a majority vote of the board finding that substantial new evidence is submitted that could not reasonably have been presented at the previous hearing.
- (d) *Area variances.*
- (1) *Application.* The board may grant an area variance to modify a dimensional, physical, or locational requirement under this chapter such as a setback, frontage, height, bulk, or density restriction for a structure in accordance with this section and as provided by law. Applications under this section shall be filed with the city administrator who shall transmit the application to the board prior to the board's hearing on the matter. Use variances are prohibited.
- (2) *Notice of hearing.* Notice of hearing shall published by class 2 notice in accordance with Wis. Stat. Ch. 985 within 30 days and not less than ten days before the date of hearing. In addition, written notice shall be given to all parties in interest in accordance with section 52-295. If the appeal involves a lot or parcel of land, any part of which is in a designated floodplain area under chapter 16, article II of the Code or is zoned RL-1, RL-1A or RL-2, the southeast district office of the Wisconsin Department of Natural Resources shall be given written notice ten days prior to the hearing. At the hearing, any party may appear in person or by agent or attorney.
- (3) *Review criteria.* No variance may be approved unless the board finds that the property owner has met the burden of demonstrating that the variance is not contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. The property owner bears the burden of proving an unnecessary hardship by demonstrating that strict compliance with this chapter would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with this chapter unnecessarily burdensome. In order to grant a variance, the conditions must be unique to the property owner, rather than considerations personal to the property owner or created by the property owner.
- (4) *Decision.* The board may grant the variance, grant the variance with conditions, or deny the variance. The board's decision shall be made within a reasonable time after completion of the hearing by filing a written decision with the office of the board. If the Wisconsin Department of Natural Resources was notified of the hearing, it shall be provided a copy of the board's decision within ten days of the board's decision.
- (5) *Successive applications.* Once a variance request has been denied by the board, no rehearing on the same or substantially similar variance application may be held, except upon a majority vote of board finding that substantial new evidence is submitted that could not reasonably have been presented at the previous hearing.
- (6) *Lapse of approval.* A variance will lapse and have no further effect one year after it is granted by the board, unless a building permit has been issued (if required), the use or structure has been lawfully established, or a different time period was established in the board's decision.

(Code 1997, § 17.84; Rep. and Recr. #411; Am. #719)

(Ord. No. 823, § 2, 11-6-2023; Ord. No. 827, § 2, 2-22-2024)

Sec. 52-292. - Administration of building permits and occupancy permits.

(a) *Building permit.*

- (1) *Required.* No building, structure, or part thereof shall be built, enlarged, altered or demolished within the city or moved into, within or out of the city, and no construction activity shall commence until a building permit has been issued by the building inspector pursuant to application as prescribed herein, certifying that the proposed building or structure complies with this chapter and chapter 8, article II.
- (2) *Procedure.* An application for a building permit shall be made in conformity with requirements of chapter 8, article II.
- (3) *Exception.* No building permit shall be required for public utility transmission or distribution facilities.
- (4) *Building previously unoccupied; bond required.* No building permit shall be issued to erect, structurally alter, or relocate any building that is unoccupied at the time an application is made unless the applicant tenders a cash bond as established in section 8-22. The cash bond shall be immediately forfeited to the city if such building is occupied prior to the issuance of an occupancy permit as provided in this section. This requirement applies only to buildings which exceed 750 square feet in size, whether intended for human occupancy or not.

(b) *Certificate of occupancy permit.*

- (1) *Required.* No building previously unoccupied shall be used or occupied until a certificate of occupancy permit has been issued certifying that any such building, use, or occupancy complies with this chapter. A like permit shall be obtained before any change is made in the use relevant to zoning classification or before any legal nonconforming use is resumed, changed, extended or granted conditional use status.
- (2) *Procedure.*
 - a. *Verification of use.* Application for a certificate of compliance shall be made to the city planner prior to occupancy of a new or modified use or prior to the commencement of any use not involving a building permit.
 - b. *Building permit issuance.* After the issuance of a building permit and within ten days after notification of the completion of the erection, alteration or relocation of the building or structure or of intent to commence a use, the building inspector shall inspect the premises and all buildings. If the building and the existing and proposed uses of the premises comply with this chapter, a certificate of occupancy permit shall be issued. No certificate of occupancy permit shall be issued until:
 - i. A water meter is installed and operational;
 - ii. A safe water test has occurred and the results of which have been provided to the city;
 - iii. Exterior work, plumbing, heating, electrical, and sanitary installations are complete;
 - iv. Interior surfaces are structurally complete.
 - v. Erosion control conditions or measures required by the city are properly installed. If, after inspection, erosion control measures have not been properly installed, the lot owner shall within seven days of written notice by the city, take all necessary action to correct and comply with the required erosion control measures. In the instances where damage or harm to adjacent public or private property could occur due to improper or lack of adequate erosion control, the correction period after written

notice shall be reduced to 24 hours. If the lot owner fails to take corrective action within said time frames, the city may take such corrective action, and deduct all costs and expenses from the cash bond that has been deposited per section 8-22. If adequate funds are not available, then the costs and expenses shall be entered on the tax roll as a special assessment against the property and collected in conjunction with any and all other taxes levied on said property.

- (3) *Water supply for occupied buildings.* Prior to the issuance of an occupancy permit for any buildings intended for human occupancy and constructed, satisfactory evidence of a safe and adequate supply of pure water must be furnished to the building inspector, unless connection is to be made to a city water system. The evidence submitted to the building inspector shall include, in addition to the water quality information, the location of the proposed well and the distance from the proposed well to any septic system, building or other well located or proposed to be located within 100 feet.
- (4) *Expiration.* If within six months of the date of application no certificate of occupancy permit has been issued, any building permit related thereto shall lapse and the building inspector shall verify that no use of occupancy has in fact commenced without proper authority. If the building inspector determines that an interruption of construction is temporary and unlikely to extend beyond 60 additional days, the building inspector may grant extensions of such permit for successive periods not to exceed three months each.
- (c) *Temporary occupancy permit.*
- (1) Pending the issuance of a certificate of occupancy permit, a temporary occupancy permit may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. A temporary occupancy permit shall not be issued, except under such restrictions and provisions as will adequately ensure the safety of the occupants, and in any event will not be issued until the complete plumbing and electrical wiring and outlets are installed and approved and the plastering, if any, and outside wall insulation are complete. A temporary occupancy permit shall be voided if the building fails to conform to this chapter to such a degree that renders it unsafe for the occupancy proposed. No premises shall be rented to tenants under a temporary occupancy permit. If a site plan is required, section 52-59 regarding temporary occupancy permits is applicable.
- (2) No temporary occupancy permit shall be issued unless a cash bond in the sum of \$5,000.00 for any existing or new building has been tendered to the city by the applicant. If an applicant has already tendered a \$5,000.00 cash bond under section 52-292(a), then, an additional \$5,000.00 cash bond shall be required if such applicant applies for a temporary occupancy permit. A cash bond required by this subsection shall be immediately forfeited to the city if any such new building, or addition or alteration to any existing building fails to conform with this chapter or chapter 8, article II, within six months of the time that a temporary occupancy permit is issued.
- (d) *Building permit fees.* Fees as from time to time set by the common council by resolution shall be paid to the city before any building permit is issued. Whenever any work is commenced prior to obtaining a permit from the building inspector, the person on whose property such work has been commenced shall be liable for twice the amount of any applicable fees.

(Code 1997, § 17.85; Rep. and Recr. #411; Rep. & Recr. #540; Am. #540)

(Ord. No. 823, § 3, 11-6-2023)

Sec. 52-293. - Administration of chapter and administrator and building inspector's duties.

- (a) *Plan commission.* The plan commission shall make and adopt a master plan as described in Wis. Stats. § 66.1001, and perform such duties as are required of the plan commission under Wis. Stats. § 62.23. The plan commission shall oversee the administration of this chapter, and when required or upon the request of the common council, shall make and present to the common council such recommendations as is required or requested relating to zoning matters and the administration of this chapter.
- (b) *Administrator.* The city administrator is hereby designated the administrative officer for the provisions of this chapter under the direction of the plan commission. The administrator may delegate certain administrative, inspection, and enforcement responsibilities to the building inspector or other city employees or independent contractors subject to approval by the plan commission.
- (c) *Building inspector.*
- (1) *Designation.* The building inspector is hereby designated as the inspection and enforcement officer for the provisions of this chapter under the direction of the city administrator.
 - (2) *Duties.* In the administration and enforcement of this chapter, the building inspector shall perform the following duties:
 - a. Issue, where appropriate, building and occupancy permits and make or cause to be made the necessary inspections.
 - b. Keep an accurate record of all building and occupancy permits issued and all documents upon which the same are based and review conditional uses annually.
 - c. Keep a current file of all nonconforming uses as prescribed in section 52-197 to be reviewed annually.
 - (3) *Authority.* In the enforcement of this chapter, the building inspector shall have power and authority provided by law and as follows:
 - a. At any reasonable time under reasonable circumstances and for any proper purpose of the office, enter upon any public or private premises and make inspection thereof.
 - b. Upon reasonable cause or question as to proper compliance, revoke any building or occupancy permit, and issue cease and desist orders requiring the cessation of any building, moving, alteration, or use which is in violation of the provisions of this chapter, such revocation to be in effect until reinstated by the building inspector or the board of appeals.
 - c. In the name of the city and with the authorization of the common council and advice of the city attorney, commence any legal proceedings necessary to enforce the provisions of this chapter, including the collection of forfeitures provided for herein.
 - (4) *Compensation of building inspector.* The building inspector shall receive compensation for its duties and necessary expenses incurred, such salary and expense allowances as may be fixed by the common council.

(Code 1997, § 17.86; Rep. and Recr. #411; Rep. & Recr. #719)

(Ord. No. 823, § 4, 11-6-2023)

Sec. 52-294. - Changes and amendments.

- (a) *Authority.* Whenever the public necessity, general welfare or good zoning practice require, the common council may by ordinance change the district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review and

recommendation of the plan commission.

- (b) *Initiation.* A change or amendment may be initiated by the common council, plan commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.
- (c) *Filing of petitions.*
- (1) Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the city clerk at least 28 days in advance of a regularly scheduled plan commission meeting.
 - (2) The petition shall describe the premises to be rezoned or the regulations to be amended, state the reasons justifying the petition, specify the proposed use, and have attached the following:
 - a. Plot plan. A plot plan drawn to a scale of one inch equals 100 feet, showing the area proposed to be rezoned, its location, dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.
 - b. Owners' names and addresses. The owners' names and addresses of all properties lying within 300 feet of the area proposed to be rezoned.
 - c. Additional information. Additional information required by the plan commission or common council.
 - d. Fee. A fee as established in section 52-296(a) or by resolution of the common council.
- (d) *Referral and review by the plan commission.* The city clerk shall transmit a copy of the petition to the common council and plan commission.
- (e) *Hearings.* The plan commission shall hold a public hearing upon each petition, giving public notice thereof as specified in section 52-295, listing the time, place, and the changes or amendments proposed.
- (f) *Recommendation.* Based upon its review and findings, the plan commission shall recommend to the common council that the petition be granted as requested, modified, or denied.
- (g) *Common council's action.* Upon receipt of the plan commission's recommendation, the common council may adopt the action recommended by the plan commission, adopt the action recommended by plan commission with amendments, or reject the action recommended by the plan commission. If the council rejects the plan commission's recommendation, the council shall refer the matter to the plan commission with directions to recommend action to effectuate the council's determination and report the same back to the council. After approval of a map or text amendment which affects a lot or parcel of land, any part of which is located in a designated floodplain area or is zoned RL-1, RL-1A, or RL-2, the Wisconsin Department of Natural Resources, southeast district office, shall be notified. Copies of the decision shall be sent to the Department of Natural Resources within ten days after the map or text amendment was granted or denied.
- (h) *Protest.* In the event of a protest against such district change or amendment to the regulations of this chapter that results in downsizing, signed and acknowledged by the owners of 20 percent or more, either of the areas of the land included in such proposed change, by the owners of 20 percent or more of the land immediately adjacent extending 100 feet therefrom or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective, except by the favorable vote of three-fourths of the full common council membership. A protest shall be filed with the city clerk at least 24 hours prior to the date of the meeting of the common council when the proposed change is to be considered.

(Code 1997, § 17.87; Rep. and Recr. #411; Am. #496; Am. #517; Rep. & Recr. #646)

(Ord. No. 800, § 2, 7-18-2022; Ord. No. 823, § 5, 11-6-2023)

Sec. 52-295. - Public hearing notice and publication.

Notice of any public hearing which the common council, plan commission, or zoning board of appeals is required to hold under his chapter shall specify the date, time, and place of hearing, and the matter to be presented at the hearing. Pursuant to Wis. Stats. ch. 985, the notice shall be published as a Class 2 notice, to wit:

- (1) The notice of public hearing shall be published in a newspaper of general circulation in the city at least once each week for two consecutive weeks, the last publication of which shall be at least one week before the public hearing.
- (2) Notice of the public hearing shall be mailed to all parties-in-interest at least ten days before the hearing. Parties-in-interest shall be defined as the petitioner, the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the petition and the owners of all lands lying within 300 feet of the lands included in the petition. Where notification is required for an individual property that is a component of a multi-parcel conditional use or planned development, notice requirements shall include all parcels within the parent development and shall extend beyond the bounds of the parent development. Exterior notice requirements be measured from the extreme limits of the governing conditional use boundary. The failure of such notice to reach any property owner shall not invalidate the action taken by one of the bodies above.
- (3) The southeast district office of the Wisconsin Department of Natural Resources shall be given at least ten days' prior written notice of any public hearings required by this chapter which involve a lot or parcel of land, any part of which is located in a designated floodplain area (see floodplain zoning regulations in [chapter 16](#), article II) or is zoned RL-1, RL-1A or RL-2.

(Code 1997, § 17.88; Rep. and Recr. #411; Rep. & Recr. #603)

([Ord. No. 823](#), § 6, 11-6-2023)

Sec. 52-296. - Fees and penalties.

- (a) *Fees.* All persons performing work for which this chapter requires issuance of a permit shall pay the following nonrefundable fee to the city to help defray the cost of administration, investigation, advertising and processing of permits and variances:

Building permit	As specified in Table No. 1, Wisconsin Uniform Building Code, as amended
Occupancy permit	As specified in Table No. 1, Wisconsin Uniform Building Code, as amended
Sign permit	As specified for structures in Table No. 1, Wisconsin Uniform Building Code, as amended
Conditional use permit	Established by resolution; see city clerk

Amendment to chapter (zoning text or map)	Established by resolution; see city clerk
Board of zoning appeals variances	Established by resolution; see city clerk
Certificate of approval (site plan and appearance reviews)	Established by resolution; see city clerk
Certified survey map approval	Established by resolution; see city clerk

- (b) *Violations.* No person shall construct or use any structure, land or water in violation of any provision of this chapter. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In the case of any violation, the common council, plan commission, building inspector, administrator, or any property owner who is specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this chapter.
- (c) *Penalties.* Any person who fails to comply with any provision of this chapter shall, upon conviction by the city thereof, be subject to the forfeitures and provisions of section 1-4 of the City of Delafield Code of Ordinances. Each day a violation exists or continues shall constitute a separate offense.
- (d) *Enforcement by injunction.* In addition to any other right or remedy provided by law or the City of Delafield Code of Ordinances, compliance with the provisions of this chapter may also be enforced by injunction order at the suit of the city or of one or more owners of real estate situated within an area affected by the regulations of this chapter. It shall not be necessary to prosecute for forfeiture or imprisonment before resorting to injunction proceedings.
- (e) *Declared nuisances.* Any building erected, structurally altered, or placed on a lot, or any use continued in violation of any provision of this chapter is hereby declared to be a public nuisance per se and the city may apply to any court of competent jurisdiction to restrain or abate such nuisance.

(Code 1997, § 17.89; Rep. and Recr. #411; Am. #740)

(Ord. No. 823, § 7, 11-6-2023)

Sec. 52-297. - Plan commission applications.

All persons wishing to appear before the plan commission must complete the official plan commission agenda application and file with the city clerk at least 28 days in advance of a regularly scheduled plan commission meeting in order to be placed on the agenda. If an application is filed 27 days or less prior to a scheduled plan commission meeting, the matter will be automatically deferred to the following month's meeting. No request to be placed on a plan commission agenda will be considered unless such application is timely filed.

(Code 1997, § 17.90; Rep. and Recr. #411)

(Ord. No. 800, § 3, 7-18-2022)