

ARTICLE IV. OFFICERS AND EMPLOYEES

Secs. 2-219 – 2-230. Reserved.

DIVISION 1. GENERALLY

Sec. 2-216. Residency policy.

Members of boards or commissions shall be residents of the City at the time of appointment. If any such member of a board or commission does not meet this requirement, their office or position shall be vacated and such vacancy shall be filled in the manner prescribed by law or ordinance. The residency deadline may be extended with the recommendation of the Mayor and approval of the Common Council. This section does not apply to the physician members of the Board of Health or non-City members of the Fox Cities Transit Commission.

(Code 1965, §1.10; Ord 130-95, §1, 12-20-95, Ord 237-02, §1, 11-6-02, Ord 124-04, §1, 9-21-04; Ord 55-10, §1, 3-23-10; Ord 44-12, §1, 6-6-12; Ord 67-21, §1, 9-15-21)

Sec. 2-217. Compensation.

(a) **Generally.** Salaries and compensation of officials and employees shall be determined by the Council.

(b) **Mayor.** The salary of the Mayor shall be as follows:

2024 – 2025	\$113,158
2025 – 2026	\$115,421
2026 – 2027	\$117,729
2027 – 2028	\$120,084

(Code 1965, §1.05; Ord 1-92, §1,1-22-92; Ord 47-97, §6-4-97, Ord 125-00, §1, 12-23-00, Ord 28-04, §1, 2-24-04; Ord 97-07, §1, 6-12-07; Ord 161-11, §1, 8-9-11; Ord 95-19, §1, 11-12-19; Ord 155-23, §1, 11-7-23)

Sec. 2-218. Directors generally.

(a) **Appointment.** All non-elected directors, except those subject to extraordinary statutory provisions, shall be appointed by the Mayor and subject to confirmation by the Common Council.

(b) **Selection.** Selection shall be made on the basis of merit, experience and administrative ability, efficiency and general qualifications and fitness for performing the duties of the position.

(c) **Term; removal from office.** Directors shall hold office for an indefinite period of time subject to removal for cause by majority vote of the Common Council unless a three-quarter (3/4) majority vote is required by statute.

(d) **Cause, defined.** The term “cause” as used in this section is defined as inefficiency, neglect of duty, official misconduct or malfeasance in office, or moral turpitude. (Ord 44-12, §1, 6-6-12)

DIVISION 2. DIRECTOR OF HUMAN RESOURCES

Sec. 2-231. Office created.

The office of the Director of Human Resources is hereby created pursuant to W.S.A. §62.09(1)(a). The manner of selection of the Director of Human Resources shall be as provided in Charter Ordinance §4-100 et seq. (Code 1965, §1.09(3), (4); Ord 3-93, §1, 1-6-93, Ord 237-02, §1, 11-6-02 ; Ord 44-12, §1, 6-6-12)

Sec. 2-232. Duties.

The Director of Human Resources shall be under the jurisdiction of the Human Resources Committee and shall perform such duties as the job classification specifies or as the Council directs. (Code 1965, §1.09(5); Ord 4-93, §1, 1-6-93, Ord 237-02, §1, 11-6-02; Ord 70-10; §1, 5-11-10, Ord 125-11, §1, 5-10-11; Ord 44-12, §1, 6-6-12)

Secs. 2-233 – 2-239. Reserved.

DIVISION 3. DIRECTOR OF FINANCE

Sec. 2-240. Office created.

The office of the Director of Finance is hereby created. (Code 1965, §2.01(2); Ord 4-93, §1-6-93 ; Ord 44-12, §1, 6-6-12)

Sec. 2-241. Duties.

The Director of Finance shall be those set forth in W.S.A. §62.09(10) for controllers: all duties involving financial matters as set forth in the ordinances of the city; and all duties set forth in W.S.A. §62.09(9) and the ordinances of the City for City Treasurer. These duties shall include budget preparation, accounting, internal auditing, payroll, assessments, maintenance of all financial and accounting records, utility billing, collection, and the provision of such reports as are necessary or requested by the Common Council. The Director of Finance shall also be the purchasing agent for the City. (Code 1965, §2.01(3); Ord. 6-93, §1, 1-6-93, Ord 237-02, §1, 11-6-02; Ord 44-12, §1, 6-6-12)

Sec. 2-242. Term; removal from office.

The Director of Finance shall hold office for an indefinite period of time, subject to removal for cause by a three-quarter (3/4) vote of all members of the Common Council. (Ord 115-93, §1, 7-21-96, §1, 9-4-96; Ord 44-12, §1, 6-6-12)

Secs. 2-243 – 2-249. Reserved.

FIRE PREVENTION AND PROTECTION

Chapter 6

Fire Prevention and Protection

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Editor’s Note: Chapter 6, Fire Prevention and Protection, was repealed and recreated by Ord 23-09, adopted by the Common Council on January 7, 2009 and becoming effective January 13, 2009.

Editor’s Note: Chapter 6, Fire Prevention and Protection, was repealed and recreated by Ord 25-18, adopted by the Common Council on February 21, 2018 and becoming effective February 27, 2018.

State law reference(s)--Fires and fire protection, W.S.A. §§101.09, 101.14 et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. Intent of chapter.

It is the intent of this chapter to prescribe regulations consistent with the nationally recognized standard practice for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, from conditions hazardous to life and property in the use or occupancy of buildings or premises, and the adequacy of exit systems. (Code 1965, §19.01; Ord 1-91, §1(19.01), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-2. Fire equipment.

(a) No person shall molest, tamper with, damage or otherwise disturb any apparatus, equipment or appurtenance belonging to or under the supervision and control of the Fire Department without authority from the Chief or his/her authorized representative.

(b) No person shall remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of this code, except for the purpose of extinguishing fires, training purposes, recharging or making necessary repairs or when permitted by the Fire Department. Whenever a fire appliance is removed as permitted herein, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. No person shall use or operate any hydrant or other valves installed on any water system intended for use by the Fire Chief for fire suppression purpose, and which is accessible to any public highway, alley or private way open to or generally used by the public, unless such person first secures permission from the Fire Department. This section does not apply to the use of a hydrant or other valves by a person employed by and authorized to make such use by the Water Department which supplies water to such hydrants or other valves.

(c) No person shall place or keep any post, fence, vehicle, growth, trash, storage or other material near any fire hydrant, Fire Department connection or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the Fire Department from gaining immediate access to the equipment or hydrant. A minimum three- (3-) foot clear space shall be maintained around the circumference of the fire hydrants except as otherwise required or approved by the Fire Chief.

(d) Where on-site fire hydrants are required on private property, the City shall annually inspect, flush and, if necessary, paint said hydrants for the fee per hydrant on file with the City Clerk's Office. The owner shall be notified of any repairs or maintenance necessary, and it shall be the owner's responsibility to see that any repair or maintenance is performed in accordance with the National Fire Protection Association Standard 25, the City Water Utility's standard operating procedures and the American Water Works Standards for fire hydrant maintenance. The property owner or agent must call between April 1 and October 1 of each year to schedule the annual flush and inspection.

(e) The property owner or agent shall keep and maintain records indicating when the hydrants are flushed, painted and maintained. These records shall be made available to the City upon request. (Code 1965, §19.14; Ord 1-91, §1(19-14), 1-9-91; Ord 59-91, §1, 6-20-91, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 34-11, §1, 2-8-11, Ord 25-18, §1, 2-27-18)

Sec. 6-3. Enforcement by Fire Chief.

The Fire Chief shall be responsible for fire protection. This chapter shall be enforced by the Fire Chief, designated by the City and the State as the "authority having jurisdiction", in all matters concerning this chapter and related fire prevention activities. The Fire Chief may appoint a Fire Marshal or other designee who will act on the Chief's behalf in matters concerning fire prevention. (Code 1965, §19.03(1); Ord 1-91, §1(19.03), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-4. Police assistance.

Whenever requested to do so by the Fire Chief or his/her designee, the Chief of Police shall assign such available police officers as in his/her discretion may be necessary to assist the Fire Department in enforcing the provisions of this chapter. (Code 1965, §19.03(5); Ord 1-91, § 1(19.03(5)), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-5. Right of entry.

(a) For purposes of this section, the authorized representative shall include all members of the Fire Prevention Program and all officers of the Fire Department.

(b) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Fire Chief or his/her authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe, the Fire Chief or his/her

authorized representative may enter such building or premises at all reasonable times to inspect the building or premises or to perform any duty imposed upon the Fire Chief by this chapter.

(c) If such building or premises is occupied, the Fire Chief or authorized representative shall first present proper credentials and demand entry. If such building or premises is unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Fire Chief or his/her authorized representative, shall have recourse to every remedy provided by law to secure entry.

(d) If the owner or occupant denies entry, the Fire Chief or his/her authorized representative shall obtain a proper inspection warrant or other remedy provided by law to secure entry. No owner or occupant or any other persons having charge, care or control of any building or premises, shall fail or neglect, after proper request is made as provided herein, to promptly permit entry therein by the Fire Chief or his/her authorized representative for the purpose of inspection and examination pursuant to this chapter.

(Code 1965, §19.03(5); Ord 1-91, §1(19.03(5)), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-6. Removal of fire hazards.

(a) Whenever an inspection by the Fire Chief reveals a fire hazard, the Fire Chief may provide a notice, in writing, upon the owner or occupant of the property giving the owner or occupant sufficient time in which to remove the hazard. If the fire hazard is not removed within the time prescribed, it shall be deemed a nuisance and the Fire Chief shall have the hazard removed by the City and the cost of removal reported to the Director of Finance and spread on the tax roll as a special charge against the property, as prescribed in §12-32 et seq.

(b) Within ninety (90) days after the removal of any flammable/combustible liquids tank, all barreled sludge or liquids must be removed from the property.

(Code 1965, §19.03(2); Ord 1-91, §1(19.03(2)), 1-9-91; Ord 4-93, §1, 1-6-93; Ord 6-95, §1, 2-1-95; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-7. Vacation of buildings.

(a) The Fire Chief is hereby empowered to close any building or structure, and order it vacated wherein violations of any regulations of this chapter are found and not abated within a reasonable time stipulated by him.

(b) Where the public is exposed to immediate danger, the Fire Chief is hereby empowered and directed to order the immediate closing and vacating of the

building or structure.

(Code 1965, §19.03(4); Ord 1-91, §1(19.03(4)), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Cross reference(s) – Unsafe buildings, §4-181 et seq.

Sec. 6-8. Investigation of fires.

The Fire Department shall promptly investigate the origin, cause, and circumstances of all fires occurring in the jurisdiction of the City. If it appears that the cause of the fire may be the result of a criminal act, the Fire Department shall inform the Police Department and seek their assistance in determining the origin and cause of the fire.

(Code 1965, §19.03(6); Ord 1-91, §1(19.03(6)), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-9. Inspections generally.

The Fire Chief or his/her designee shall provide for the inspection of every public building and place of employment in accordance with W.S.A. §101.14 and shall comply with the provisions thereof. The Fire Chief shall, on a time schedule to be determined by the Common Council, report information regarding these inspections. Violations identified during inspections shall be recorded and kept on file in accordance with W.S.A. §101.14. Owners or occupants who do not show for a scheduled inspection appointment may be charged a fee. Repeated inspections or re-inspections resulting from continued non-compliance may subject an occupancy or property to a re-inspection fee and/or remedies as outlined in §6-75 “Repeat violation rule”.

(Code 1965, §19.03(3); Ord 1-91, §1(19.03(3)), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-10. Fire inspection required before occupancy.

No person shall occupy or change the occupancy of a building or structure covered under Wisconsin Administrative Code, SPS Chapters 350-365 the Wisconsin Commercial Building Code, or the locally adopted International Fire Code used by or for public assembly, industrial, institutional, multifamily, office, or mercantile purposes until such building or structure has been inspected by the Fire Department.

(Ord 25-18, §1, 2-27-18)

Sec. 6-11. Burning trash, rubbish, garbage, yard waste, etc.

(a) No person shall build, maintain or allow to be operated or maintained on a premises controlled by him/her, any waste burner, refuse burner, trash burner or other similar appliance unless such device is permitted with the approval of the Inspections Supervisor and the Fire Chief, or his/her designee.

(b) No person shall operate an outside incinerator,

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burn garbage, or leaves within the City.
(Code 1965, §19.04; Ord 1-91, §1(19.04), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12, Ord 25-18, §1, 2-27-18)

Sec. 6-12. Open outdoor fires, outdoor fireplaces, cooking fires and barbecue grills, kettles and outdoor hibachis.

(a) No open outdoor fires, including fires confined within outdoor fireplaces and outdoor cooking fires, with the exception of fires fueled by natural gas, propane or charcoal in commercially manufactured appliances or a non-commercially manufactured appliance approved by the Fire Chief or his/her designee, shall be started by any person unless a permit is first obtained from the Fire Department. No permit shall be granted for open burning for multifamily occupancies without separate private yards for each tenant, nor without the property owner's permission, in a public right-of-way, alley or other public thoroughfare.

- (1) Daily permits are available for bonfires, brush burns, wildland management burns, outdoor fireplaces and cooking fires.
- (2) Annual permits are available for recreational fires in outdoor fireplace appliances. (January 1 through December 31).
- (3) Annual and single day permits are valid 6:00 a.m. to 10:00 p.m. Sunday through Thursday, 6:00 a.m. to 12:00 a.m. Friday, Saturday, and any day/evening preceding a federal holiday.
- (4) No permit will be issued for any fire within ten (10) feet of any building, structure, fence, combustible material or property line.
- (5) Only those fuels and appliances approved by the Fire Chief or his/her designee shall be used.
- (6) Burning is to be attended at all times by a person at least eighteen (18) years of age, with an approved means of extinguishing the fire available for use at the location of the fire.

(b) Barbecue grills, kettles, outdoor hibachis.

- (1) Charcoal burners and other open-flame devices shall not be operated on combustible balconies or within ten (10) feet of combustible construction in all dwellings. Exceptions:

- a. One- and Two-family dwellings.
- b. Permanently piped natural gas fired barbecue grills, where dwellings, balconies, and decks are protected by automatic sprinkler system.

- (2) Cylinders having water capacities greater than 2½ lb. (1 kg) [nominal 1 lb. (0.5 kg) LP-Gas capacity] shall not be located on balconies above the first floor that are attached to a multiple family dwelling of three (3) or more living units.

(c) No person shall install, use or maintain a woodfire furnace, stove or boiler that is not located within a building intended for habitation by humans within the City limits. This prohibition shall apply to furnaces, stoves or boilers installed after the effective date of this ordinance.

(d) The Fire Chief or his/her designee shall have the authority to prohibit any and all open burning when atmospheric conditions or local circumstances make such fire hazardous. No burning will be allowed if wind conditions will cause smoke, embers or other burning materials to be carried towards any building or other combustible material, nor anytime the wind is in excess of nine miles per hour (9 m.p.h.) as measured by the Outagamie County Emergency Communication Center. (Code 1965, §19.05(2); Ord 1-91, §1(19.05(2)), 1-9-91, Ord 136-01, §1, 8-20-01; Ord 135-05, §1, 11-22-05; Ord 23-09, §1, 1-13-09; Ord 55-16, §1, 8-9-16, Ord 25-18, §1, 2-27-18; Ord 139-23, §1, 1-1-24)

Sec. 6-13. Careless smoking prohibited.

(a) It is unlawful for any person, by reason of careless, willful or wanton conduct in smoking or in the use of lighters or matches in smoking to set fire to any bedding, carpet, curtains, draperies, furniture, household equipment or other goods or chattels or to any building.

(b) A plainly printed notice of the provisions of this section shall be posted in a conspicuous place in every sleeping room of every place renting rooms for the accommodations of the public. Such printed notices shall also be posted in any place of public assembly where smoking is permitted.

(Code 1965, §19.06(1), (2); Ord 1-91, §1(19.06(1), (2)), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-14. Reserved.

(Ord 1-91, §1(19.21), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18; 140-23, §1, 1-1-24 (repealed))

Sec. 6-15. Fire Department signs.

It shall be illegal for anyone to remove, mutilate or destroy any legally required sign posted by the Fire Department or required sign to be posted by the owner, manager or operator of any occupancy open to the public. (Ord 1-91, §1(19.22), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-16. Fire alarms.

(a) Every public building, dwelling or place of employment containing either a manual, sprinkler activated or fire detector activated alarm system shall comply with this section.

(b) New or upgraded fire alarm systems at large buildings or buildings with multiple occupancies shall provide outside strobe lights indicating the occupancy or area of fire alarm activation and if applicable, the location of the Fire Department connection. The location of these strobe lights is to be determined by the Fire Chief or designee.

(c) The Fire Department will be contacted immediately upon activation of an alarm by on-site personnel or a monitoring agency so not to cause a delay in alarm. Any monitoring agency shall be licensed or approved by either Factory Mutual (FM) or Underwriters Laboratories (U.L.). All systems shall be maintained in operable condition as specified in the International Fire Code. If the alarm or fire sprinkler system becomes inoperative for any reason, the Fire Department shall be notified and the provisions of the International Fire Code, Section 901.7 and subsequent revisions shall apply.

(d) False alarms and fees.

- (1) Words and phrases defined in §12-121 are used in the same sense in this section unless a different definition is specifically provided.
- (2) If the Fire Department responds to a false alarm, the party responsible for the false alarm shall pay the city a fee according to the schedule of fees kept on file with the City Clerk's Office.
- (3) If the Fire Department is cancelled by the emergency communications center while responding to an alarm, the party responsible for causing the alarm may still be assessed the false alarm fee.

(4) Any fees payable to the City which are delinquent may be assessed against the property involved as a special charge for current service, without notice, pursuant to Wisconsin Statutes Annotated §66.0627.

(5) The party responsible or the alarm user may appeal the assessment of a false alarm fee by submitting written documentation to the Fire Chief or designee within ten (10) business days after notification of the assessment of a fee. The Chief or designee must inform the alarm user of the decision in writing. If the alarm user further contests the Chief or designee's decision, within ten (10) days of receiving the Chief or designee's decision, the alarm user may seek review by the Safety and Licensing Committee by submitting a written notification to the City Clerk's Office.

(Ord 1-91, §1(19.25), 1-9-91; Ord 7-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99; Ord 117-06, §1, 1-1-07; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-17. Malls.

The mall manager or designee shall notify the Fire Department prior to any use of a mall common space for any intended use other than exiting. Examples of other uses would be trade shows, exhibitions, or public assemblies.

(Ord 1-91, §1(19.27), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-18. Violations.

It is unlawful for any person to violate any provision of this chapter or to fail to obey any rule, regulation or order of the Fire Chief or his/her designees.

(Ord 1-91, §1(19.28), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Secs. 6-19 – 6-30. Reserved.

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ARTICLE II. FIRE DEPARTMENT

Sec. 6-31. Generally.

The Fire Department shall be a paid department, consisting of such officers and members as the Common Council may establish from time to time. The Department shall be charged with providing response to fires, hazardous material spills, medical emergencies, rescue of people in distress and other dangerous conditions. The Department shall also provide for fire investigation, prevention, inspection, code compliance, and other services designed to maintain fire and life safety within the community.

(Code 1965, §4.08; Ord 23-09, §1, 1-13-09)

Sec. 6-32. Duties of Fire Chief.

It shall be the duty of the Fire Chief to:

- (1) Direct the operation of the Fire Department subject to the rules and regulations which may be adopted by the Common Council or the Police and Fire Commission;
- (2) Issue and enforce such orders as in his/her judgment may be best for the protection of property and the extinguishing of fires;
- (3) Enforce all ordinances, rules and regulations of the Common Council governing the Fire Department;
- (4) Report the condition of the Fire Department at the end of each year and make further reports when ordered to do so by the Common Council or the Police and Fire Commission;
- (5) Report promptly to the Police and Fire Commission any member of the Fire Department who may have disobeyed his/her order or violated any of the laws or rules governing the Department;
- (6) Keep a record and report to the Police and Fire Commission the absence of any member of the Fire Department from fires, together with any dereliction of duty or violation of any of the rules and regulations of the Department.

In the absence or disability of the Fire Chief, the Deputy Chief shall perform his/her duties.

(Code 1965, §4.09, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-33. Wearing of name tag and badge.

The members of the Fire Department of the City, when on duty, shall wear the badge or insignia and name tag of the office on the outside of the outermost garment, conspicuously displaying the badge and name tag so the entire surface thereof may be seen, except when caution may dictate that the badge and name tag should not be exposed.

(Code 1965, §4.04; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Secs. 6-34 – 6-42. Reserved.

ARTICLE III. PERMITS

Sec. 6-43. Required.

(a) It shall be unlawful for any person to use a building or premises or engage in any activities for which a permit is required by this code, without first having obtained such permit.

(b) Permits are required for the following:

- (1) **Floor finishing** (required for floor finishing or surfacing operations exceeding three hundred fifty (350) square feet using Class I or Class II liquids).
- (2) **Lumber yards** (where more than one hundred thousand (100,000) board feet of lumber is to be stored or used inside of the facility);
- (3) **Vehicle tire rebuilding plants** (for any tire recapping or rebuilding operation);
- (4) **Magnesium use** (for the melting, casting, heat treating machining or grinding of more than ten (10) pounds of magnesium per working day);
- (5) **Cryogenic liquids** (for the production, storage or sale of cryogenic liquids);
- (6) **Combustible fibers** (for the storage and handling of combustible fibers in quantities in excess of one hundred (100) cubic feet);
- (7) **Dust explosion hazard** (for the operation of any grain elevator or bleacher, flour, starch or feed mill, malt house, wood flour manufacturing plant, or plant pulverizing aluminum, coal, cocoa magnesium, spices, sugar or other material producing dust which, if mixed with air in the proper portions becomes explosive and may be ignited by flame or spark);
- (8) **Fumigation and thermal insecticidal fogging** (this process is not to start without a permit);
- (9) **Flammable and combustible bulk storage** (storage in excess of fifty-five (55) gallons on permanent basis above or below ground);
- (10) **Open burning** (where permits are required by the State or this code, §6-12);
- (11) **Tents, membrane structure, canopies** (to

operate or erect a tent or membrane structure or canopy in excess of two hundred (200) square feet unless it is used exclusively for camping or on the premises of a one- (1-) or two- (2-) family dwelling which is not covered under this Code);

(12) **Fireworks/pyrotechnic displays** (for the discharge of any fireworks as defined by W.S.A. §167.10. Such discharge shall conform to any state law or this code and any regulations);

(13) **Explosives**

- a. Any person conducting blasting operations in the City shall notify the Fire Department of the time and location of the blast. Notification shall be made on proper forms provided by the State. A permit shall be obtained after notification and prior to blasting;
- b. Any person storing explosive materials, as defined in Wisconsin Administrative Code, International Fire Code, Section 3302.1, in the city shall obtain a permit. Such explosives shall be stored in an approved manner;

(14) **Cellulose nitrate plastics:**

- a. All retailers, jobbers and wholesalers storing or handling more than twenty-five (25) pounds of cellulose nitrate plastics shall obtain a permit from the Fire Chief;
- b. A permit shall be obtained from the Fire Chief for the manufacture of articles of cellulose nitrate plastics, including the use of cellulose nitrate plastics in the manufacture or assembling of other articles;
- c. Cellulose nitrate motion picture film (a person may not store, handle, or keep on hand more than twenty-five (25) pounds without obtaining a permit. A person may not sell, lease or otherwise dispose of any cellulose nitrate film to any person not having a permit issued by the Fire Chief or his/her designee to handle, use or display the film);

(15) **Recyclables storage** (any outside storage area, or warehouse used for the bulk storage of paper for sale or recycling);

(16) **Storage tanks**

- a. Removal of underground storage tanks (UST) or above ground storage tanks (AST) in either commercial or residential properties as required by Wisconsin Administrative Code, SPS 310;
- b. Upgrades of underground storage tanks (UST) or above ground storage tanks (AST) flammable/combustible liquid storage systems;

(17) Installation, storage or use of liquid petroleum gases systems with a cumulative total of one hundred twenty-five (125) gallons or larger water capacity.

(Ord 17-90, 2-21-90; Ord 1-91, §1(19.26), 1-9-91; Ord 8-95, §1, 2-1-95; Ord 9-95, §§1, 2, 2-1-95, Ord 65-99, §1, 9-19-99, Ord 137-01, §1, 8-20-01; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12; Ord 25-18, §1, 2-27-18)

Sec. 6-44. Temporary special permits.

When a temporary hazardous situation is anticipated for conditions not otherwise regulated by this code, the Fire Chief is authorized, based on applicable data, to issue a temporary special permit for the duration of the hazard. (Ord 1-91, §1(19.26(2)), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-45. Application.

Applications for permits shall be made to the Fire Chief and shall include the applicant's answers in full to inquiries set forth on such forms. Applications for permits shall be accompanied by such data as required by the Fire Chief and fees as may be required by his/her jurisdiction. (Ord 1-91, §1(19.26(3)), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-46. Fees.

Fees shall be established for the permits, certificates, approvals and other functions performed under this code and shall be payable to the City. Such fees shall accompany each application for such permit, approval, certificate or other fee-related code provision. The fee amount for the required permits, certificates, approvals and other functions performed under this Code shall be maintained on a schedule filed with the City Clerk. (Ord 1-91, §1(19.26(6)), 1-9-91; Ord 108-92, §1, 10-7-92; Ord 10-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99, Ord 138-01, §1, 8-20-01; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-47. Issuance and posting.

(a) The Fire Chief or his/her designee shall review all applications submitted and determine compliance with applicable provisions of this code and issue or revoke permits based on his/her findings as required.

(b) A copy of the permit shall be posted or otherwise readily accessible at each place of operation or carried by the permit holder as specified by the Fire Department. (Ord 1-91, §1(19.26(4), (5)), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-48. Fee for failure to obtain permit.

The fee for failure to obtain a permit required under §6-43 of this Code is triple the permit fee described in that section when a permit is obtained. Payment of any fee shall not relieve any person of the penalties that may be imposed for violation of this chapter. (Ord 11-95, §1, 2-1-95; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-49. Non-resident fees for Fire Department services.

When the Fire Department is called upon to extinguish a vehicle fire or extricate a person, and where the subject vehicle is registered to an owner with a permanent address located outside of the Appleton city limits, the registered owner shall pay a service fee to the City, the amount of which shall be on file with the City Clerk. (Ord 17-06, §1, 2-21-06; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-50. Recovery of costs associated with technical rescue responses.

(a) **Technical rescue reimbursement for costs of emergency services response.** A technical rescue response includes, but is not limited to, structural collapse, confined space, trench rescue, water rescue, ice rescue, or rope rescue. Emergency service response includes, but is not limited to, fire service, emergency medical service and law enforcement. Any person or property owner who necessitates a technical rescue response may be responsible for reimbursement to the responding agencies for the actual and necessary expenses incurred in carrying out their duties under this article. Actual and necessary expenses may include, but not be limited to, replacement of equipment, maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, and charges associated with personnel and equipment necessary for the technical rescue response.

(b) *Appeal.* A person or property owner has the right to appeal the assessment of charges for an emergency service response. Any person or property owner appealing the assessment of charges shall file a written objection with the Fire Chief within thirty (30) days of receiving the bill. Upon receipt of the written objection, the matter shall be placed on the Agenda for the Safety and Licensing Committee at its next regularly scheduled meeting. The Safety and Licensing Committee shall make a recommendation to the Common Council, which shall grant or deny the request.

(Ord 142-11, §1, 6-7-11; Ord 25-18, §1, 2-27-18)

Secs. 6-51 – 6-55. Reserved.

ARTICLE IV. STANDARDS AND REQUIREMENTS

Sec. 6-56. Adoption of codes and standards.

(a) The state codes listed in this section are hereby adopted by reference and made a part of the City Fire Prevention Code. For the purposes of this section, these provisions are adopted to enable the Fire Department to note any violations of such codes and to report those violations to the appropriate community service inspectors. The Fire Inspectors shall have the authority to cite such violations on fire inspections.

- (1) General Hazard on Fire Prevention, Wisconsin Administrative Code, SPS chapter 314;
- (2) General Orders on Existing Buildings, Wisconsin Administrative Code, SPS chapters 375 to 379;
- (3) Wisconsin Administrative Code, Wisconsin State Electrical Code, SPS Chapter 316;
- (4) Wisconsin Administrative Code, Wisconsin Commercial Building Code, SPS Chapters 361 - 366;
- (5) Elevator Code, Wisconsin Administrative Code, SPS chapter 318;
- (6) Existing Building Code, Wisconsin Administrative Code, SPS chapter 370;
- (7) Flammable and Combustible Liquids Code, Wisconsin Administrative Code, SPS 310.

Overall enforcement responsibility is equally shared by the Building Inspection Division and the Fire Department. Primary responsibility for particular sections of the above provisions shall be as indicated in the Wisconsin Administrative Code.

(b) The International Fire Code 2021 Edition, hereinafter “IFC” is hereby adopted as though fully set forth herein, with the following exceptions:

- (1) Chapter 1 and Chapter 57 are not included in the adoption of the 2021 edition of the IFC.
- (2) Appendices A, J, K, L, and M are not included as part of the adoption of the 2021 IFC.

(c) Any fire prevention issue not herein addressed by code or adopted standards will be addressed on the basis of current accepted National Fire Protection Association

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Standards.

(Ord 1-91, §1(19.02), 1-9-91; Ord 12-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99, Ord 181-01, §1, 10-22-01, Ord 96-02, §1, 6-25-02; Ord 23-09, §1, 1-13-09; Ord 124-11, §1, 4-26-11; Ord 25-12, §1, 3-7-12; Ord 25-18, §1, 2-27-18; Ord 70-18, §1, 8-7-18; Ord 12-21, §1, 4-21-21; Ord 141-23, §1, 1-1-24)

Cross reference(s) – Buildings and building regulations, Chapter 4.

Sec. 6-57. Automatic sprinkler systems.

(a) **Intent of section.** The intent of this section is to provide a means for the automatic extinguishment of fires in buildings or parts of buildings which because of their size, construction or occupancy or lack of suitable protection equipment, constitute a special fire hazard to life or property and an excessive burden upon the fire extinguishing facilities of the Fire Department.

(b) **Definitions.** For the purpose of this section, the following definitions shall be applicable:

Approved shall mean that the material, workmanship and installation of the sprinkler system complies with the regulations as set down in the National Fire Protection Association standards for the installation of automatic sprinkler systems in effect at the date of installation and approved by Fire Chief.

Area shall mean the gross ground floor area of a building or when a building is divided by approved firewalls, each section so divided shall be considered an area.

Authority having jurisdiction shall be the Fire Chief or whomever the Chief designates to enforce this chapter, the laws of the state pertaining to the prevention of fires and public safety and approving equipment, installation or procedure as outlined in National Fire Protection Association Codes and Standards.

Automatic sprinkler equipment shall mean a system of water supply pipes and orifices to apply water to a fire when activated by an automatic, manual or remote control device.

Fire-resistive construction shall mean a building is of fire resistive construction if all the walls, partitions, piers, columns, floors, ceilings, roof and stairs are built of noncombustible materials as specified in Wisconsin Commercial Building Code.

Housing for the elderly shall mean a residential occupancy building where the occupancy is limited to primarily elderly people meeting specific age criteria as specified by the financing or owning agency.

Institutional buildings shall mean and include convents, monasteries, children's homes, homes for the aged, nursing homes, convalescent homes, asylums, mental hospitals and jails.

(c) **Buildings and areas where required.** Every building constructed or structurally altered shall have an approved automatic sprinkler system installed and maintained when occupied in whole or part for the following purposes:

- (1) Multifamily dwellings of three (3) units or more exceeding four thousand eight hundred (4,800) square feet per floor and dormitories, except housing for the elderly, shall include the protection of all areas within the building by an automatic fire sprinkler system complying with Standard 13 of the National Fire Protection Association and equipped with residential type sprinkler heads in the living units.
- (2) Educational Group E occupancies:
 - a. In basements, kitchens, shops and other spaces where combustibles are stored or handled.
 - b. In other than fire resistive buildings.
 1. Ten thousand (10,000) square feet or over.
 2. Two (2) stories and up exceeding six thousand (6,000) square feet in area.
 3. Three (3) stories and up in height.

(d) **Application to existing buildings.** Where the Fire Chief finds that by reason of construction or highly combustible occupancy, existing buildings constitute a severe fire hazard to its occupants or to adjoining property, the provisions of this section will apply.

(e) **System types and approval of plans.** Approved automatic sprinkler equipment shall be installed, connected to an adequate water supply with sprinkler heads, valves and auxiliary equipment of standard types suitable for the individual building to be protected as determined by adopted Standard 13, of the National Fire Prevention Association. Automatic sprinkler systems shall be designed with a minimum five (5) psi water supply safety factor. No automatic sprinkler equipment shall be installed or altered in a building until plans have been submitted to fire prevention and reviewed. Electronic plans, including specification sheets and calculations as necessary, shall be submitted in an approved format to the Fire Department for review. Once reviewed and conditionally approved, plans

shall be electronically signed and returned to the requesting party.

(Ord 142-23, §1, 1-1-24)

(f) **Alternative materials and methods.**

- (1) The Fire Chief, on notice to the Inspections Supervisor, may approve any alternate material or method, provided he/she finds that the proposed design, use or operation satisfactorily complies with the intent of this code and that the material, method of work performance or operation is, for the purpose intended at least the equivalent of that prescribed in this section in quality, strength, effectiveness, fire resistance, durability and safety, provided, however, that any approval under the authority herein contained shall be subject to the approval of the building official whenever the alternate material or method involves matters regulated by the Wisconsin Administrative Code.
- (2) The Fire Chief may require tests as proof of compliance with the intent of this section, such tests to be made by an approved agency at the expense of the person requesting approval of the alternate material or method of construction.
- (3) If technical expertise is unavailable within the Department because of new technology, process, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to the inspection of the Department, the Fire Chief may require the owner or the person in possession or control of the building or premises to provide without charge to the Department, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire-safety organization acceptable to the Fire Chief and the owner and shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, and prescribe the necessary recommended changes.

(g) **Inspection.** Every automatic sprinkler system required under this section shall be tested and inspected upon installation, according to the National Fire Protection Association Standards in effect at time of installation.

(h) **Maintenance.**

- (1) The owner or occupant of a building containing the required automatic sprinkler system shall maintain the system in an operative condition at all times. The occupant of the building shall notify the Fire Department prior to interrupting this system for any reason or at the time it is withdrawn or its service interrupted or curtailed. Testing and maintenance of such systems shall be performed according to Standard 25, of the National Fire Protection Association. Copies of all tests results shall be furnished to the Fire Chief of the Fire Department.

(i) **Water.** Where an automatic sprinkler system is required, the supply shall be from the city water supply. Testing of the water supply shall be conducted by using the two (2) hydrants closest to the property being sprinkled. Tests over two (2) years old will not be accepted unless approved by the Fire Chief after taking into consideration growth, size and changes in the general area. The sprinkler contractor will take all readings with the Director of Public Works approval and assistance in hydrant use. The Fire Chief will be informed of all testing twenty-four (24) hours in advance and be given an opportunity to observe testing. (Code 1965, §19.10; Ord 1-91, §1(19.10), 1-9-91; Ord 176-93, §1, 10-19-93; Ord 13-95, §1, 2-1-95; Ord 14-95, §1, 2-1-95; Ord 120-96, §1, 12-18-96, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-58. Reserved.

(Code 1965, §19.08; Ord 1-91, §1(19.08), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18; Ord 143-23, §1, 1-1-24 (repealed))

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Sec. 6-59. Reserved.

combustion, installed in a manner and location consistent with its listing.

(c) **Approval.** A smoke alarm or heat detector required under this section shall be approved by Underwriter's Laboratories, Factory Mutual or any other comparable testing firm.

(d) **Department inspection and order.** Inspection of new construction will be carried out by the Division of Inspections at its final inspection.

(e) **Conveyance of property.** No person shall convey any real property which includes a dwelling unit to another unless there are installed in the dwelling unit approved smoke alarms in accordance with (d) above. Any purchaser of real property found not to be in compliance with this subsection may bring an action in circuit court for damages. A violation of the provisions of this subsection shall not affect the conveyance of title or possession to the affected property.

(Code 1965, §19.09; Ord 1-91, §1(19.09), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18; Ord 144-23, §1, 1-1-24 (repealed))

Sec. 6-60. Smoke alarms.

(a) **Definitions.** For purposes of this section, the following definitions shall apply:

Dwelling shall mean a structure or part of a structure providing complete, independent living facilities for one (1) or more persons, including permanent provisions for sleeping, eating, cooking and sanitation.

Sleeping area shall mean the area of the unit in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas, but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

Smoke alarm shall mean a device which detects particles or products of combustion other than heat.

(b) **Location and installation of smoke alarms.**

- (1) Each dwelling unit shall be provided with a minimum of one (1) approved smoke alarm installed in a manner and location consistent with its listing. The Fire Department Fire Prevention Division can be contacted for recommendations when an owner is concerned about the installation and number of smoke alarms.
- (2) All existing dwelling units must meet the requirement of the State of Wisconsin Uniform Dwelling Code, Wisconsin Administrative Code, SPS 321.09 and 328.01 Smoke Detectors. Each dwelling unit shall be provided with a minimum of one (1) approved, listed and labeled smoke alarm sensing visible or invisible particles of

(Code 1965, §19.12; Ord 1-91, §1(19.12), 1-9-91; Ord 176-93, §1, 10-19-93; Ord 120-96, §1, 12-18-96, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12; Ord 25-18, §1, 2-27-18)

Sec. 6-61. Discharge of hazardous materials.

(a) **Prohibited discharges.** No person shall discharge or cause to be discharged, leaked, leached or spilled upon any public or private street, alley, public or private property, or onto the ground, surface waters, subsurface waters, or aquifers, or within the city, except those areas specifically licensed for waste disposal or landfill activities and to receive such material, any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.

(b) **Spill notification.** Immediately upon discovery of a discharge involving any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment the property owner, equipment operator, or discovering person shall notify the Appleton Fire Department of the discharge of a hazardous material.

(c) **Responsibility for containment, cleanup and restoration.** Any person in violation of (a) above shall, upon direction of any Fire Department officer, begin immediate actions to contain, cleanup and remove to an approved repository the offending material(s) and restore the site to its original condition, with the offending person

being responsible for all expenses incurred. If any person fails to engage the necessary men and equipment to comply or to complete the requirements of this section, the office of the Fire Chief may order the required actions to be taken by public or private sources and allow the recovery of any and all costs incurred by the City as required by (d) below.

(d) **Reimbursement for costs of emergency services response.** Emergency service response includes, but is not limited to, fire service, emergency medical service and law enforcement. A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for the actual and necessary expenses incurred in carrying out their duties under this article. Actual and necessary expenses may include, but not be limited to, replacement of equipment damaged by the hazardous material, cleaning, decontamination and maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response, decontamination, cleanup and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agency's medical advisor.

(e) **Site access.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to Fire Department officers and staff and to Police Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.

(f) **Public protection.** If any prohibited discharge occurs that threatens the life, safety or health of the public at, near or around the site of a prohibited discharge, and the situation is so critical that immediate steps must be taken to protect life and limb, the Fire Chief, his/her assistant or the senior police official on the scene of the emergency may order an evacuation of the area or take other appropriate steps for a period of time until the Common Council can take appropriate action.

(g) **Enforcement.** The Fire Chief, as well as the police officers, shall have authority to issue citations or complaints under this section.

(h) **Civil liability.** Any person in violation of this section shall be liable to the City for any expenses incurred by the City or loss or damage sustained by the City by reason of such violations.

(Code 1965, §19.13; Ord 1-91, §1(19.13), 1-9-91; Ord 34-92, §1, 3-18-92, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Cross reference(s) – Citation for violation of certain

ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 6-62. Reserved.

(Ord 1-91, §1(Appendix), 1-9-91; Ord 16-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 145-23, §1, 1-1-24 (repealed))

Sec. 6-63. Fireworks and pyrotechnic devices.

(a) Definition: For the purpose of this section the following definition shall be applicable:

“Fireworks shall include all items under W.S.A. sec. 167.10(1) (intro), (e), (f), (i), (j), (k), (l), (m) and (n).”

(b) The provisions in this section shall apply to places where fireworks are stored or handled. Such premises shall be adequately equipped with fire extinguisher approved by the Fire Chief. Smoking is prohibited where fireworks are stored or handled.

(c) Every wholesaler, dealer or jobber keeping, storing, or handling fireworks of any description within the City shall notify the Fire Chief immediately upon receipt of such fireworks for the removal thereof from one (1) location to another and shall indicate the location where such fireworks are stored. No such fireworks shall be stored in any building used for dwelling purposes or in any building situated within fifty (50) feet of any building used for dwelling purposes, or in any place of public assemblage, or within fifty (50) feet of any gasoline pump, gasoline filling station, or gasoline bulk station, or in any building in which gasoline or flammable liquid is sold in quantities in excess of one (1) gallon. The storage buildings for fireworks shall conform to Standard 1124 of the National Fire Protection Association Standards and Codes.

(d) This section shall prohibit the use of any pyrotechnic device indoors of an occupancy without a permit from the Fire Chief. Such permits shall not be issued for any event in an unsprinkled occupancy. Permit applications will be made in writing seven (7) days in advance of the date of the display.

(Ord 146-23, §1, 1-1-24)

(e) The use of the pyrotechnic device shall be handled by a competent adult operator and shall be of such composition, character and be located, discharged or fired as in the opinion of the Fire Chief shall not be hazardous to property or endanger any persons.

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(f) The display, storage and discharge of fireworks shall be regulated by and comply with all IFC, NFPA, state and local codes and nationally recognized standards.

(g) The outdoor use of pyrotechnic devices shall be regulated by §10-5 of this Code and W.S.A. §167.10. (Ord 1-91, §1(19.18), 1-9-91; Ord 34-92, §2, 3-18-92; Ord 17-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-64. Posted occupant load.

(a) Every room or space that is an assembly occupancy shall comply with International Fire Code.

(b) The number of persons in any building or portion thereof shall not exceed the amount determined as specified in the State building code, as surveyed by the Supervisor of Inspections, the Fire Chief, or his/her designee.

(c) No person shall permit overcrowding or admittance of any person beyond the approved capacity of any place of public assemblage as specified above. The Fire Chief, upon finding any overcrowding conditions or obstruction in aisles, passageways or other means of egress or upon finding any condition which constitutes a serious menace to life, shall cause the performance, presentation, spectacle or entertainment to be stopped with the assistance of the Police Department until such condition or obstruction is corrected. The manager or person in charge of the premises shall be responsible for preventing overcrowding.

(Ord 1-91, §1(19.19), 1-9-91; Ord 174-93, §1, 10-19-93; Ord 120-96, §1, 12-18-96, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-65. Reserved.

(Ord 1-91, §1(19.20), 1-9-91, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18; Ord 147-23, §1, 1-1-24 (repealed))

Sec. 6-66. Reserved.

(Ord 1-91, §1(19.23), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18; Ord 148-23, §1, 1-1-24 (repealed))

Sec. 6-67. Working plans of suppression/detection and control systems.

(a) Working plans of all fire suppression, detection and control systems shall be submitted to the Fire Department Prevention Division in an approved electronic format for review prior to any installation of new equipment or modification to existing equipment. Deviation from approved plans shall require permission of the authority having jurisdiction.

(b) Fire protection system plans shall be drawn to an indicated scale of not less than 1/8" on sheets of uniform size with a plan of each floor or section. Plans must be easily duplicated and shall show all pertinent information as required by NFPA standards for plan submittals.

(Ord 1-91, §1(19.24), 1-9-91; Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18; Ord 149-23, §1, 1-1-24)

Sec. 6-68. Plan review fee structure and requirements.

A schedule of plan review fees shall be maintained in the City Clerk's Office. This schedule specifies the fees for plan examination and approval for projects located within the city of Appleton.

Note: If the property is subject to state plan review, the additional fee required under Wisconsin Administrative Code, SPS Table 302.31-3 will be added to the appropriate municipal fee.

(1) **Miscellaneous fee.** The miscellaneous fee shall apply to any fire protection system that is not a fire sprinkler system as defined in section 903 of the International Fire Code or a fire alarm system as defined in section 907 of the International Fire Code. For standpipe systems as defined in section 905 of the International Fire Code, the miscellaneous fee shall not apply if the standpipe plans were submitted as part of a fire sprinkler system. The miscellaneous fee shall also apply to the following:

- a. Fire protection systems that include a fire pump.
- b. Fire protection systems for buildings that exceed five (5) stores in height, with an additional miscellaneous fee for every five (5) stories thereafter.

(2) **Fire doors/shutters.** Fire door/shutter plan review and inspection shall be assessed an initial minimum fee as indicated on the fee schedule for the first fire door/shutter and as

indicated on the fee schedule for each additional door/shutter. This fee does not apply to fire doors/shutters already reviewed as part of an ongoing project.

- (5) **Re-submission fee.** A fee shall be assessed for review of plans submitted following denial of plan approval.
- (6) **Re-inspection fee.** The inspection of work performed under an approved plan is included in the fee for plan reviews. This fee does not include any re-inspections required because the inspected work failed to pass inspection. A re-inspection fee equaling twenty-five percent (25%) of the original plan review fee, two hundred and fifty dollars (\$250.00) minimum, shall be assessed due to system failure during the initial inspection.
- (7) **Fee for initiation without a permit.** Penalty for failure to obtain a permit before starting work shall automatically triple the applicable fees, and all work shall cease until the proper permits have been attained.

(Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12; Ord 25-18, §1, 2-27-18; Ord 150-23, §1, 1-1-24)

Sec. 6-69. Maintenance, approval and registration of installed fire protection systems.

(a) **Maintenance.** All sprinkler systems, fire hydrant systems, standpipe systems, fire alarm systems, portable fire extinguishers, smoke and heat ventilators, smoke-removal systems and other fire protection or extinguishing systems or appliances shall be maintained in an operative condition at all times and shall be replaced or repaired where defective. Fire-protection or extinguishing systems coverage, spacing and specifications shall be maintained in accordance with recognized standards at all times. Such systems shall be extended, altered or augmented as necessary to maintain and continue protection whenever any building so equipped is altered, remodeled, added to or changes occupancy hazard. All additional, repairs, alterations and servicing shall be in accordance with recognized standards and copies of such work sent to Fire Prevention of the Fire Department.

(b) **Approvals.** All fire protection systems shall be tested and approved in accordance with their respective National Fire Protection Association standards and shall be subject to periodic tests as may be required. A copy of all test results of the above systems must be provided to the Fire Chief or his/her designee upon completion of the testing. The location and size of all Fire Department hose connections shall be approved by the Fire Chief or his/her

designee.

(c) A fee may be assessed to any installer and/or monitoring agent deemed responsible for causing a false alarm. Said fee will be billed to the responsible party, if not the alarm user, and will be that amount indicated in the false alarm fee schedule. Failure to pay fees could result in failure to obtain permit(s) for future work. An appeal of a false alarm assessment can be made by writing the Fire Chief or his/her designee within ten (10) business days after notification of the fee. Contesting the Chief's decision involves a review by the Safety and Licensing Committee by submitting a written notification to the City Clerk's Office.

(Ord 65-99, §1, 9-19-99, Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18; Ord 151-23, §1, 1-1-24)

Sec. 6-70. Notification of special public assembly events.

(a) For the purpose of this section, public assembly is defined as an event which exceeds one hundred (100) people.

(b) Except as provided in (d), notification must be provided to the Department within five (5) business days prior to the holding of special public assembly events which involves the use of buildings or spaces not approved for public assembly in accordance with the Wisconsin State Building Code and the IFC.

(c) Except as provided in (d), notification must be provided to the Department within five (5) business days prior to the holding of special public assembly events which involves the placement of temporary seating in an area not otherwise approved for such seating.

(d) Notification is not required if a plan indicating occupancy capacity, seating arrangements, location and width of exit ways and aisles is submitted to the Fire Department and pre-approved by the Fire Chief or his/her designee.

Note: Building owners may pre-approve a building or space within the building for special events by submitting an approved plan. This exception allows for multiple special events.

(Ord 65-99, §1, 9-19-99, Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-71. Reserved.

FIRE PREVENTION AND PROTECTION

(Ord 65-99, §1, 9-19-99, Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18; Ord 152-23, §1, 1-1-24 (repealed))

Sec. 6-72. Repeat violation rule.

Whenever the Fire Chief or his/her designee shall find in any building, upon inspections or re-inspections, a repeat violation involving a fire detection, life safety component, or suppression system which is defective, inoperative, improperly maintained or operated the Fire Chief or designee may order the following remedies and/or a re-inspection fee.

(a) If the system includes one (1) or more exit light(s) which have not been illuminated during inspections, it may be ordered that any or all of the exit lights in such premises be equipped with self-illuminating lights or light equipped with light emitting diodes (LEDs).

(b) If the system includes one (1) or more self-closing fire door(s), any of which have been found to have been held open with non-approved hold open devices during inspections, it may be ordered that any or all of the fire doors in such premises be equipped with an automatic closing device.

(c) If the system includes one (1) or more battery operated smoke detector(s) which have been found to be inoperative during inspections, it may be ordered that the premises be equipped with long life (5 – 10 year battery life) smoke detectors.

- (1) If the same occupancy is subsequently found to have inoperative smoke detector(s) it may be ordered that the smoke detectors be hardwired into the electrical service of the premises.
- (2) If the premise is found to have no operable smoke detectors, the Fire Department may install smoke detectors and may charge the owner for the actual cost of the detectors and installation.

(d) If the system includes emergency exit doors which, during hours of occupancy, have been found to be secured or locked with bolts, bars, chains, padlocks, or locking devices other than the primary locks, it may be ordered that such bolts, bars, chains, padlocks, or additional locking devices be immediately removed; and it may be further ordered that all emergency exit doors within the premises be equipped with panic door release hardware.

(e) This subsection shall not be construed as a limitation upon the powers of the Chief or his designee to issue orders for corrections of violations nor shall this

subsection be construed as a limitation upon any of the powers of the Chief under any applicable provision of the City of Appleton Municipal Code, Wisconsin Administrative Code, or the Wisconsin Statutes. (Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

(The next page is 491.)

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State law reference(s)--Municipal administrative procedure, W.S.A. §68.001 et seq.

of an application for renewal of a license issued under this article.

(b) Any violation of the requirements of this article shall be grounds for revocation of a license issued under this article.

Sec. 9-838. Responsibilities of the operator.

(a) The operator of an escort service shall maintain a register of all employees or independent contractors, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, social security number and date of employment and termination. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(b) *Records and reports required.* Every escort and escort service shall:

- (1) Provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.
- (2) Maintain a legible written record of each transaction of any escort furnished to or arranged for on behalf of any person or customer. The record shall show the date and hour of each transaction, the name, address and telephone number of the person requesting an escort, and the name of every escort furnished.
- (3) The record required by subsections (1) and (2) shall be kept available and open for inspection by the Police Department during business hours.

(c) The operator of an escort service shall make the register of employees, along with any other records required to be maintained under this article, available immediately for inspection by police upon demand of a member of the Appleton Police Department at all reasonable times.

(d) Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct. The operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(e) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(f) No person shall escort or agree to escort a person under the age of eighteen (18) years.
(Ord 128-03, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

Sec. 9-839. Registration of employees.

(a) All operators or employees working for any escort service and independent contractors shall, prior to beginning employment or contracted duties, obtain a photo identification card from the City Clerk. Prior to issuance, the person shall provide:

- (1) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer;
- (2) Photographs and fingerprinting with the Appleton Police Department.

(b) Upon registration, the Appleton Police Department will provide to each registered employee or independent contractor an identification card, provided by the City Clerk, containing the employee's or independent contractor's photograph identifying the person as such, which shall be kept available for production upon request.

(c) All identification cards shall expire on December 31st following its issuance.

(d) The applicant shall pay a fee, the amount of which is on file in the office of the City Clerk.

(e) Any escort employed by more than one (1) escort service shall submit a separate registration for each service by which the escort is employed.
(Ord 98-97, §1, 12-5-97, Ord 128-03, §1, 8-12-03)

Sec. 9-840. Penalties.

Any person found to have violated any provision of this article shall be subject to a forfeiture of not less than two thousand dollars (\$2,000) and not more than five thousand dollars (\$5,000).

Sec. 9-841. Severability.

If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of same.

Secs. 9-842 – 9-849. Reserved.

ARTICLE XVIII. TATTOO AND BODY PIERCING ESTABLISHMENTS

Sec. 9-850. Authority and purpose

(a) This article is promulgated under the authority of Wis. Stat. §463.16 (2021-22), as amended from time to time, for the purpose of regulating tattooists, tattoo establishments, body piercers and body piercing establishments in order to protect public health and safety.

(b) *State sanitation regulations adopted.* All tattoo and body piercing establishments, practitioners, and licenses under this division shall be subject to and comply with the provisions of Wis. Admin. Code, SPS § 221 (2021-22) as amended from time to time, which are hereby adopted by reference and incorporated as part of this article.
(Ord 90-16, §1, 11-8-16; Ord 135-23, §1, 10-10-23)

Sec. 9-851. Reserved.

(Ord 64-18, §1, 7-24-18; Ord 135-23, §1, 10-10-23)

Sec. 9-852. Scope.

Applicability. This chapter applies to all tattooists, body piercers, tattoo establishments and body piercing establishments.
(Ord 135-23, §1, 10-10-23)

Sec. 9-853. Right of entry.

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, view the practice (with patron's permission), secure samples or specimens, examine and copy documents, obtain photographs or take any other action deemed necessary to properly enforce the provisions of applicable laws regulating such business or activity.

Sec. 9-854. Responsibility of the operator.

(a) Every act or omission by an employee or practitioner constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, the operator shall be liable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(b) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed an act or omission of the operator for purposes of determining whether the license shall be suspended, revoked, or not renewed.

Sec. 9-855. Correction of violations, citations.

Whenever the Health Officer finds that any establishment, tattooist or body piercer required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment or activity, the Health Officer may notify, in writing, the person operating the premises, or performing the activity, specifying the requirements of such ordinance or law, and requiring that such business or practitioner comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also issue citations for any such violations pursuant to the provisions of Appleton Municipal Code Sec. 1-17(c).

Secs. 9-856 — 9-859. Reserved.

Sec. 9-860. Generally.

(a) No person shall operate a tattoo establishment, body piercing establishment or combination tattoo and body piercing establishment without first obtaining a license from the Health Department.

(b) Application for a license required in this article shall be made to the local health department upon a form furnished by the local health department and shall contain such information that the local health department may prescribe and require and shall be accompanied by payment of the application fee. In addition, the applicant must pay any state administrative fees, the amount of which is on file with the local health department.

(c) Within thirty (30) days after receiving a completed application for a license, the local health department or its agent shall either approve the application and issue a license or deny the application. If an application for a license is denied, the local health department shall give the applicant reasons, in writing, for the denial and provide information about how the applicant may appeal that decision.

(d) A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the local health department.

(e) The operator of a tattoo or body-piercing establishment shall promptly notify the local health department of his or her intention to cease operations and shall supply the local health department with the name and mailing address of any new operator. A license is not transferable. A new operator will submit an application for a new license. No license shall be issued to or used by any person acting as agent for or in the employ of another.
(Ord 135-23, §1, 10-10-23)

Sec. 9-861. Expiration and renewal of license.

(a) Except where otherwise provided, every Health Department license shall terminate or expire on June 30th of each year and may be renewed annually thereafter.

(b) The application for renewal shall be filed with the Health Department on or before June 30th, together with payment of the required fee. The fee for said license shall be on file with the local health department.

(c) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the local health department. If the annual renewal fee has not been paid on or before June 30th, an additional late payment fee shall be required; the amount of which is also on file

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with the local health department. Establishments operating on July 15th without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18, Appleton Municipal Code. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(Ord 64-18, §1, 7-24-18; Ord 135-23, §1, 10-10-23)

Sec. 9-862. Suspension or revocation of license.

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating activity and for other good cause.

(Ord 64-18, §1, 7-24-18)

(The next page is 695)

Sec. 9-863. Emergency powers of health officer.

Whenever the Health Officer has reasonable or probable cause to believe that the premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises, tattooist, and/or body piercer constitute an immediate health hazard.

Sec. 9-864. Appeals.

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a license or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of appeal. The Board may affirm, modify or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings related to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record.

Secs. 9-865 – 9-879. Reserved.

Chapter 11

Manufactured and Mobile Homes and Manufactured and Mobile Home Communities

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Editor's Note: This chapter was repealed and recreated pursuant to Ordinance 79-08, adopted April 16, 2008 and published April 21, 2008, becoming effective on April 22, 2008.

Cross reference(s) – Buildings and building regulations, ch. 4; numbering system for mobile homes, §4-3; mobile homes and parking of trailers restrictions in parks and recreation areas, §13-86.

State law reference(s) – Mobile homes, W.S.A. §66.058; manufactured housing, W.S.A. §101.90 et seq.

ARTICLE I. IN GENERAL

Sec. 11-1. Purpose of chapter.

The standards and requirements for manufactured and mobile home community design, layout and development contained in this chapter are intended to be the minimum standards necessary to uphold the public's health, safety and welfare in manufactured and mobile homes and manufactured and mobile home communities in the City. The express enumeration of such standards shall not preclude the Common Council, by resolution or by law, or through express written agreement with the manufactured and mobile home community owner or developer, from imposing modifications or additions to the requirements of this chapter. The Council shall only modify or add to such requirements when it is determined that such modifications or additions are more likely to achieve the purpose set out in this section than the requirements set forth in this chapter, and will not conflict with applicable laws of the state.

Sec. 11-2. Definitions.

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

Accessory structure means all structures constructed on a manufactured and mobile home lot apart from the basic manufactured and mobile home unit, and shall include awnings, cabanas, storage cabinets or sheds, carports, windbreaks, attached porches and garages.

Common area means any area or space designed for joint use of tenants occupying the community.

Community means a manufactured and mobile home community.

Community management means the person or entity who owns or has charge, care or control of the community.

Community street means a private way which affords the principal means of access to individual manufactured or mobile home lots or auxiliary buildings.

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

Health Department license means a license issued by the City Health Department under the provisions of this chapter.

License means a written license issued by the City

Clerk allowing a person to operate and maintain a community under the provisions of this chapter and regulations issued under this chapter.

Lot means a parcel of land located in a community for the placement of a single manufactured or mobile home and the exclusive use of its occupants.

Lot area means the total area reserved for exclusive use of the occupants of a manufactured or mobile home.

Manufactured and mobile home community means any plot or plots of ground upon which three (3) or more manufactured homes or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether a charge is made for the accommodation.

Manufactured home has the meaning given in W.S.A. §101.91(2) and includes foundations and accessory structures.

Mobile home has the meaning given in W.S.A. §101.91(10) and includes foundations and accessory structures.

Mobile home stand means that part of an individual lot which has been reserved for the placement of one (1) manufactured or mobile home unit.

Municipal permit fee means the fee defined in W.S.A. §66.0435(3)

Permit means any written permit issued by the City in accordance with this chapter, including a special use permit under the provisions of the zoning regulations.

Special use permit means a special use permit issued by the City permitting the construction, alteration and extension of a community under the provisions of this chapter and the regulations issued under this chapter.

Street means the paved or surfaced portion of a roadway between two (2) curbs.

Unit means a manufactured or mobile home. (Ord 42-92, §1, 4-15-92, Ord 79-08, §1, 4-22-08)

Cross reference(s) – Definitions and rules of construction generally, §1-2.

Sec. 11-3. Manufactured and mobile home municipal permit fee.

(a) There is hereby imposed on each owner of a nonexempt manufactured or mobile home in the City a monthly municipal permit fee determined in accordance with W.S.A. §66.0435(3). It shall be the full and complete responsibility of the community licensee to collect the proper amount from each unit's owner or occupant.

Licensees and owners and occupants of units permitted to be located on land outside a community and the owners of land on which such homes are parked shall pay such municipal permit fees to the Director of Finance on or before the tenth (10th) day of the month following the month for which such fees are due, in accordance with terms of this chapter and such reasonable regulations as the Director of Finance may promulgate. Remittances delinquent for seven (7) business days beyond the tenth (10th) day of the month shall be considered in default and shall subject the licensee to revocation of the city license.

(b) Licensees under this chapter and owners of land on which any unit is parked shall inform the assessor of such units as are added to their community or lands within five (5) days after the arrival of such unit on forms furnished by the assessor in accordance with W.S.A. §66.0435(3)(c) and (e).
(Ord 4-93, §1, 1-6-93; Ord 79-08, §1, 4-22-08)

Sec. 11-4. Placement of manufactured or mobile homes outside licensed community prohibited; exceptions.

No person shall park, locate or place any unit outside of a licensed community in the City, except for unoccupied units parked on the lawfully situated premises of a licensed manufactured or mobile home dealer for purpose of sales and display, and units parked on the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs and portable field offices for construction projects and structures which meet the design requirements of §23-51.
(Ord 120-95, §1, 11-15-95, Ord 79-08, §1, 4-22-08)

Sec. 11-5. Stopping or parking manufactured or mobile home on street.

No person shall stop, stand or park a manufactured or mobile home in any street, alley or highway within the City in violation of W.S.A. chapters 340 and 348 or ordinances or regulations of the City.
(Ord 79-08, §1, 4-22-08)

Sec. 11-6. Damaged or dilapidated manufactured or mobile homes.

Wrecked, damaged or dilapidated manufactured or mobile homes shall not be kept or stored in a community or upon any premises in the City. The building inspector shall determine if a unit is damaged or dilapidated to a point which makes it unfit for human occupancy. Such units are hereby declared to be a public nuisance. Whenever the inspector so determines, he shall notify the licensee or landowner and the owner of the unit in writing that such public nuisance exists within the community or on lands owned by him, giving the findings upon which his determination is based, and shall order such unit removed

from the community or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time.
(Ord 79-08, §1, 4-22-08)

Sec. 11-7. Compliance with building regulations.

All plumbing, building, electrical work, oil or gas distribution and alterations or repairs in a community shall be in accordance with applicable law and the ordinances and regulations of the State and the City and their authorized agents.
(Ord 79-08, §1, 4-22-08)

Sec. 11-8. Skirting; storage under manufactured or mobile homes.

All manufactured or mobile homes in communities shall be skirted within thirty (30) days of placement of the unit unless the unit is placed within one (1) foot vertically of the stand with soil or other material completely closing such space from view and entry by rodents and vermin. Areas enclosed by such skirting shall be maintained and kept free of rodents and fire hazards. All skirts shall be of fire-resistant material. Storage under a unit is prohibited.
(Ord 79-08, §1, 4-22-08)

Sec. 11-9. Construction or alteration of attachments and accessory structures.

Except as otherwise provided in this chapter, no person shall construct, add to or alter any structure, attachment or building in a community or on a manufactured or mobile home space without written permission from the City building inspector. Construction on or addition or alteration to the exterior of a unit shall be of the same type of construction and materials as the unit affected. This section shall not apply to the addition of awnings, antennas or skirting to units. Accessory structures on manufactured or mobile home spaces shall comply with all setback, side yard and rear yard requirements for manufactured or mobile home units.
(Ord 79-08, §1, 4-22-08)

Secs. 11-10 – 11-25. Reserved.

ARTICLE II. MANUFACTURED AND MOBILE HOME COMMUNITIES

DIVISION 1. GENERALLY

Sec. 11-26. Special use permit for construction or expansion.

(a) *Required.* No person shall construct or expand any manufactured and mobile home community without first securing a special use permit from the City.

(b) *Application; issuance.* Application for a manufactured and mobile home community special use permit shall be obtained pursuant to the provisions of the Zoning Code. No such permit shall be issued to applicants in arrears on financial obligations of any kind to the City. (Ord 79-08, §1, 4-22-08)

Sec. 11-27. Responsibilities of management.

(a) In every manufactured and mobile home community, there shall be located an office of the attendant or person in charge of the community. A copy of the community's license and of this chapter shall be posted therein and the community's register shall be kept in the office at all times.

(b) The attendant or person in charge and the community's licensee shall operate the community in compliance with the chapter and regulations and ordinances of the city and state and their agents or officers, and shall have the following duties:

- (1) The management shall maintain a register of all of the community's occupants, to be open at all times to inspection by state, federal and city officers, which shall show the names and addresses of all owners and occupants of each unit.
- (2) The management shall annually provide the Fire, Health and Police Departments with a list of persons who can be contacted in the event of fire, explosion, severe storm damage or other emergency.
- (3) The management shall notify the community's occupants of the provisions of this chapter and inform them of their duties and responsibilities, and report promptly to the proper authorities any violations of this chapter or any violations of law which may come to their attention.
- (4) The management shall supervise the placement of each unit on its stand, which includes securing its stability and installing

all utility connections.

- (5) The management shall maintain community grounds, buildings and structures free of insect and rodent harborage and infestation and accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
- (6) The management shall maintain the community free from growth of noxious weeds.
- (7) The management shall maintain the community free of litter, rubbish, and other flammable materials, provide portable fire extinguishers of a type approved by the Fire Chief in any community building used by the public, and cause every area within the community designated as a fire lane by the Fire Chief to be kept free and clear of obstructions.
- (8) No person shall store LP gas containers under a unit. All containers, full or empty, shall be secured in place, and all containers and LP gas service shall comply with all Wisconsin laws and regulations concerning Liquefied Petroleum Gas, including Wisconsin Administrative Code SPS Chapter 340.
- (9) The management shall require every unit to be provided with solid waste containers as set forth in §15-28.
- (10) The management shall provide for the sanitary and safe removal and disposal of all refuse and garbage. Removal and disposal of garbage and refuse shall be in accordance with the laws of the state and the ordinances and regulations of the City, including regulations promulgated by the Health Officer and the Fire Chief.
- (11) The management shall collect the municipal permit fee for each occupied nonexempt unit within the community and remit such fees and deposits to the Director of Finance as required by §11-3.
- (12) The management shall allow inspections of community premises and facilities at reasonable times by municipal officials and their agents or employees.
- (13) In cases where the owner of the community is also the owner of a unit and leases the unit

to occupant, the unit shall be made available for inspection at reasonable times by City agents, and the owner shall maintain the units in good repair and in a clean and sanitary condition.

(Ord 4-93, §1, 1-6-93; Ord 79-08, §1, 4-22-08; Ord 136-23, §1, 10-10-23)

Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 11-28. Responsibilities of occupants.

(a) Manufactured and mobile home community occupants shall comply with all applicable requirements of this chapter and regulations issued under this chapter and shall maintain their unit’s space, its facilities and equipment in good repair and in clean and sanitary condition.

(b) Each owner or occupant of a nonexempt unit within a community shall remit to the licensee or authorized community management the municipal permit fee as required under State Statutes.

(c) Units shall be parked only on the stands provided and shall be placed thereon in accordance with all requirements of this chapter.

(d) No owner or occupant shall conduct in any unit or any community any business or engage in any other activity which would not be permitted by the use regulations of the City Zoning Code.

(e) No person shall erect or place upon any unit’s space any permanent or temporary structure intended to be used for dwelling purposes or in connection with any unit, except as specifically authorized by this chapter.
(Ord 79-08, §1, 4-22-08)

Sec. 11-29 – 11-45. Reserved.

DIVISION 2. LICENSES*

Sec. 11-46. Manufactured and mobile home community license – required.

No person shall operate or maintain a manufactured and mobile home community within the city without a valid, unexpired community license issued by the City Clerk and approved by the Common Council.
(Ord 79-08, §1, 4-22-08)

Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 11-47. Manufactured and mobile home community license – term.

Manufactured and mobile home community licenses shall be issued for a fiscal year and shall expire on June 30 next succeeding the date of issue. Licenses may be issued after July 1 of any year, but no rebate or diminution of the fee shall be allowed.
(Ord 79-08, §1, 4-22-08)

Sec. 11-48. Manufactured and mobile home community license – fee; bond.

(a) The license fee for a manufactured and mobile home community license is one hundred dollars (\$100).

(b) The applicant shall furnish a surety bond in the amount of five thousand dollars (\$5,000).

Sec. 11-49. Manufactured and mobile home community license – standards of issuance.

Manufactured and mobile home community licenses shall be granted subject to the following standards:

- (1) Compliance with state law and local ordinances, rules and regulations. Proof of valid Manufactured Home Community permit issued by the Wisconsin Department of Safety and Professional Services is required.
- (2) Compliance with City zoning ordinances and procurement of any permits affecting land use which may be required.
- (3) Compliance with the applicable ordinances of the city, as well as payment of all outstanding obligations due the City as certified by reports from the Inspections Division, Police, Community Development Department, Health, Finance and Fire Departments.

(Ord 79-08, §1, 4-22-08; Ord 137-23, §1, 10-10-23)

Cross reference(s) – Licenses, permits and business regulations, Ch. 9.

Sec. 11-50. Manufactured and mobile home community license – appeal of denial.

If an application for a license under this division is recommended for denial, the City Clerk shall forthwith notify the applicant by certified mail, return receipt requested of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the Committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.

Sec. 11-51. Manufactured and mobile home community license – revocation or suspension.

Licenses granted under this division shall be subject to revocation or suspension by the Common Council for cause in accordance with W.S.A. §66.0435(2)(d). Cause, as used in this section, shall include, but not be limited to:

- (1) Failure or neglect to abide by the requirements of this chapter or the laws of regulations of the state relating to communities and their operation.
- (2) Conviction of any offense under the laws of the state or ordinances of the city relating to fraudulent or misleading advertising or deceptive practices regarding the sale or renting of manufactured or mobile home spaces or sale, lease or operation of community facilities.
- (3) Operation or maintenance of the community in a manner detrimental to the health, safety or welfare of occupants or the inhabitants of the city, including, but not limited to, repeated violations of laws or ordinances related to health, sanitation, refuse disposal, fire hazards, morals or nuisances.

(Ord 79-08, §1, 4-22-08)

Secs. 11-52 – 11-70. Reserved.

DIVISION 3. DESIGN STANDARDS

Sec. 11-71. Applicability of division.

All new manufactured and mobile home communities or additions, or extensions to communities existing on the effective date of the ordinance adopting this code of ordinances, shall comply with the provisions of this division.

(Ord 79-08, §1, 4-22-08)

Sec. 11-72. Adoption of state law.

Wisconsin Administrative Code, chapters SPS 382 and SPS 326, are hereby made a part of this chapter and incorporated as part of this section by reference as if fully set forth in this section, except that such regulations shall not be deemed to modify any requirement of this chapter or any other applicable law or ordinance of the state or the city which is more restrictive.

(Ord 27-03, §1, 1-21-03; Ord 79-08, §1, 4-22-08; Ord 25-12, §1, 3-7-12)

Sec. 11-73. Site and lots; spacing of units.

The community shall conform to the following standards:

- (1) The community shall be located on a site having a minimum of twenty (20) acres of land.
- (2) Each space shall have an area of not less than four thousand five hundred (4,500) square feet and a width of not less than forty-five (45) feet.
- (3) All manufactured or mobile homes shall be located on a site so that there shall be at least twenty (20) feet of clearance between basic units, at least twelve (12) feet of clearance between units and rear lot lines, and at least ten (10) feet of clearance to side lot lines.
- (4) No manufactured or mobile home unit or accessory structure shall be located closer than twenty-five (25) feet to any common community area, community maintenance building or administrative building within the community, or to any property line of the community.
- (5) Attached accessory structures shall be no closer than six (6) feet to side and rear property lines.

(Ord 79-08, §1, 4-22-08)

Sec. 11-74. Use of city water and sewer service required.

No manufactured and mobile home community shall be laid out, constructed or operated without city water supply and sanitary sewer service available to the site. All water or sanitary sewer facilities in any unit not connected with public water and sewer systems by approved pipe connections shall be sealed and their use declared unlawful.

(Ord 79-08, §1, 4-22-08)

Cross reference(s) – Utilities, ch. 20.

Sec. 11-75. Specifications for water utility.

(a) All water main and water services materials, as well as installation, shall meet existing specifications on file with the utility for single-family residential areas.

(b) Depth of mains and services shall be a minimum of six (6) feet, with each unit supplied with an independent curb box and meter. In lieu of independent meters, a master meter may be installed.

Cross reference(s) – Water utility, §20.31 et seq.

Sec. 11-76. Fire hydrants.

Fire hydrants shall be installed within two hundred fifty (250) feet of every manufactured or mobile home stand and community building. Where these standards do not apply due to the fact that the community was in existence prior to the effective date of the ordinance adopting this Municipal Code or the date it was annexed to the City, the Fire Chief may order the licensee to install fire hydrants within two hundred fifty (250) feet of every manufactured or mobile home stand and community building and provide that the order be complied with within two (2) years, where in his discretion and opinion fire protection cannot otherwise be adequately provided.

(Ord 79-08, §1, 4-22-08)

Cross reference(s) – Fire prevention and protection, ch. 6; water utility, §20.31 et seq.

Sec. 11-77. Specifications for sewer system.

All liquid wastes originating at units or service or other buildings shall be discharged into a sewer system. Such system shall comply with all provisions of the state code and city ordinances relating to plumbing and sanitation. Each individual space shall be provided with a three- (3-) inch watertight sewer connection protected from damage by heating and thawing or parking of the unit, with a continuous grade, which is not subject to surface drainage, so constructed that it can be closed when not in use and sealcapped in such a manner that it can be kept odor-free.

Cross reference(s) – Sewers and wastewater disposal, §4-341, §20-66, et seq.

Sec. 11-78. Electrical distribution system.

Electrical distribution systems shall be new and all parts and installations shall comply with all applicable state and local codes as adopted by §4-341.

(Ord 79-08, §1, 4-22-08)

Cross reference(s) – Electrical code, §4-311, et seq.

Sec. 11-79. Off-street parking spaces.

A minimum of two (2) off-street parking spaces surfaced with bituminous concrete or Portland cement concrete capable of carrying a gross vehicle weight of three thousand (3,000) pounds shall be provided for each manufactured and mobile home space for new areas.

(Ord 79-08, §1, 4-22-08)

Sec. 11-80. Pad; tie-downs.

Each manufactured and mobile home stand shall be provided with an asphalt or concrete pad, concrete footings, or the equivalent, complete with approved tie-downs, which shall be connected when the manufactured or mobile home is placed upon the lot and shall remain connected until the manufactured or mobile home unit is removed from the lot, as determined by the Inspections Supervisor, to provide for solid footing of the unit.

(Ord 79-08, §1, 4-22-08)

Sec. 11-81. Topography of site; exposure to adverse conditions.

The condition of the soil, groundwater level, drainage and topography of the site shall not create hazards to the property, health or safety of occupants of manufactured or mobile home spaces or living unit. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property within or outside of the community to hazards.

(Ord 79-08, §1, 4-22-08)

Sec. 11-82. Erosion and dust control.

Exposed ground surfaces in all parts of every manufactured and mobile home community shall be maintained in such a way as to prevent soil erosion and eliminate objectionable dust.

(Ord 79-08, §1, 4-22-08)

Sec. 11-83. Drainage of surface water.

The ground surface in all parts of every manufactured and mobile home community shall be graded and equipped to drain all surface water in a safe, sanitary and efficient manner.

(Ord 79-08, §1, 4-22-08)

Sec. 11-84. Lighting.

All communities shall be furnished with lighting so spaced and equipped with luminaries placed at such heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

- (1) All parts of community street systems shall be illuminated at an average level of six-tenths (0.6) foot-candle, with a minimum of one-tenth (0.1) foot-candle.
- (2) Potentially hazardous locations such as major community street intersections and steps or stepped ramps shall be individually illuminated with a minimum of three-tenths (0.3) foot-candle.

(Ord 79-08, §1, 4-22-08)

Sec. 11-85. Streets generally.

All unit spaces shall abut upon a community street. Widths of streets shall be in accordance with Wisconsin Administrative Code, SPS 326. All community streets shall be constructed in a manner that is consistent with standards established by the Department of Public Works. (Ord 28-03, §1, 1-21-03; Ord 79-08, §1, 4-22-08; Ord 25-12, §1, 3-7-12)

Cross reference(s) – Streets, §16-36 et seq.

Sec. 11-86. Marking of streets and parking areas.

Streets shall be clearly marked by signing at appropriate corners or intersections. Signs should be of standard size and be reflectorized. All fire lanes and restricted parking, standing or stopping areas should be clearly marked with pavement markings and signed according to city ordinance or state law.

Sec. 11-87. Numbering of units.

Each unit shall have a separate or distinct number for ease of identification. Numbers shall meet the size and placement requirements set forth in §4-3.

(Ord 79-08, §1, 4-22-08)

Cross reference(s) – Building marking system, §4-3.

Sec. 11-88. Pedestrian walkways.

All communities shall be provided with pedestrian walks not less than three (3) feet in width between individual manufactured and mobile homes, community streets and facilities.

(Ord 79-08, §1, 4-22-08)

Cross reference(s) – Sidewalks, §16-56 et seq.

Sec. 11-89. Buffer strip.

In addition to standard lot setbacks, all manufactured and mobile home communities shall have a greenbelt or buffer strip not less than fifteen (15) feet wide along all boundaries. Unless adequately screened by existing vegetative cover, all manufactured and mobile home communities shall be provided within such greenbelt or buffer strip with a screening of natural growth. Permanent plantings shall be grown and maintained at a height of not less than six (6) feet. Screening or planting requirements may be waived or modified by the Common Council if it finds that the exterior, architectural appeal, concerns for public safety or functional plan of the community, when completed, will be materially enhanced by modification or elimination of such screen planting requirements.

(Ord 79-08, §1, 4-22-08)

Sec. 11-90. Recreation area.

All manufactured and mobile home communities shall contain one (1) or more recreation areas easily accessible to all community residents. Such areas shall be a minimum of one-half (½) acre for each fifty (50) spaces. Recreation areas shall be so located as to be free of traffic hazards.

(Ord 79-08, §1, 4-22-08)

Cross reference(s) – Parks and recreation, ch 13.

(The next page is 813.)

Sec. 11-91. Signs.

No signs more than two (2) square feet in area shall be erected in manufactured and mobile home communities except traffic signs, street signs and markings, signs pertaining to the lease, hire or sale of individual units, and one (1) community identification sign not more than forty-eight (48) square feet in area at each community entrance.

(Ord 79-08, §1, 4-22-08)

Cross reference(s) – Signs, §23-500.

Sec. 11-92. Entrances.

Entrances to manufactured and mobile home communities shall be designed to minimize congestion and traffic hazards and allow free movement of traffic on adjacent streets.

(Ord 79-08, §1, 4-22-08)

Cross reference(s) – Traffic and vehicles, ch. 19

Sec. 11-93. Accessory storage buildings.

Accessory storage buildings shall be placed at least three (3) feet from the rear line of each lot and not closer than three (3) feet to any unit. Persons or parties not in compliance shall be issued a sixty- (60-) day notice to properly place the accessory storage buildings or structures by the Inspections Division.

(Ord 176-93, §1, 10-19-93; Ord 125-96, §1, 12-18-96; Ord 79-08, §1, 4-22-08)

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CHAPTER 23

ZONING

ZONING

Chapter 23

Zoning

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Editor’s Note: This chapter was repealed and recreated pursuant to Ordinance 74-04, adopted June 2, 2004 and published June 7, 2004.

Editor’s Note: All references to Planning Director or Planning Department were changed to Community Development Director or Community Development Department pursuant to Ordinance 139-05, adopted December 7, 2005, published December 12, 2005 and effective December 13, 2005.

Editor’s Note: All references to Community Development Director of Community Development Department were changed to Community and Economic Development Director or Community and Economic Development Department pursuant to Ordinance No. 32-12, adopted April 4, 2012, published April 9, 2012 and effective April 10, 2012.

ZONING

ARTICLE I. INTRODUCTORY INFORMATION

Sec. 23-1. Title.

This chapter shall be known and may be cited and referred to as the “Appleton Zoning Ordinance”, or “this chapter”.

Sec. 23-2. Purpose; intent.

This chapter is adopted for the following purposes:

(a) To promote and protect the health, safety, morals, comfort, convenience and general welfare of the community through encouraging the most appropriate uses of land in the city.

(b) To achieve the arrangement of land uses described in the VISION 20/20: Comprehensive Plan for the development of the City as adopted by Council.

(c) To minimize congestion in the public rights-of-way through the regulation of off-street parking, maneuvering, loading and signage;

(d) To ensure the provision of adequate open space for light, air and fire safety.

(e) To facilitate the adequate, efficient and cost effective provisions for infrastructure and other public services and facilities.

(f) To promote the conservation, protection, restoration and enhancement of the historic resources of the city.

(g) To enhance economic development.

(h) To conserve the natural, scenic beauty and attractiveness of the City and to enhance the aesthetic desirability of the environment.

(i) To divide the City into districts within which the uniform location, sizes and uses of buildings and minimum open spaces shall be regulated.

(j) To prohibit the use of buildings, structures and lands which are incompatible with the intended use or development of lands within specified districts.

(k) To provide regulations pertaining to pre-existing lots, structures and uses that do not conform to provisions of this chapter.

(l) To provide for the compatible and appropriate use of land throughout the City.

(m) To promote orderly development of all areas of the community.

(n) To provide for the administration of this chapter and its amendments.

(o) To define the powers and duties of the officers and bodies charged to administer this chapter.

(p) To describe penalties for the violation of provisions of this chapter or any of its amendments.

(Ord 61-94, §5, 5-18-94)

23-3. Relationship to comprehensive plan.

The VISION 20/20: Comprehensive Plan for the City of Appleton, adopted on July 8, 1996, and as amended establishes the goals, objectives and strategies that serve as a basis for this zoning ordinance. All regulations or amendments adopted pursuant to this ordinance shall be generally consistent with the VISION 20/20: Comprehensive Plan as adopted and revised or updated.

Secs. 23-4 – 23-20. Reserved.

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ARTICLE II. DEFINITIONS

Sec. 23-21. Purpose

The following words and terms, wherever they occur in this chapter, shall be construed as herein defined. Words not defined in this zoning ordinance shall be interpreted in accordance with definitions in Municipal Code of the City of Appleton, *The New Illustrated Book of Development Definitions* by Harvey S. Moskowitz, the Wisconsin State Statutes, the State Building Code or Uniform Dwelling Code. If a word or term is not defined as identified by the protocol above, it shall have the meaning set forth in the latest edition of Webster's New World College Dictionary. (Ord 24-20, §1, 3-25-20)

Sec. 23-22. Words and terms defined.

For the purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

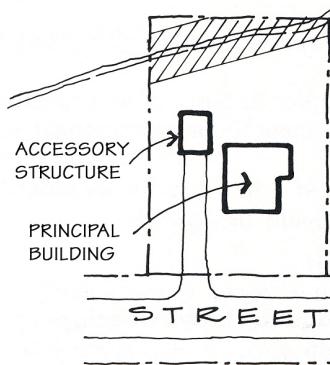
A

Abandonment means to cease or discontinue a use or activity without intent to resume, but excluding the temporary or short term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abutting means having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

Accessory building means a subordinate building, the use of which is incidental to and customary in connection with the principal building, structure or use, and which is located on the same lot with such principal building, structure or use. Examples of accessory buildings include, but are not limited to, attached garages, detached garages, attached carports, detached carports, sheds and gazebos.

Accessory structure means a subordinate structure, the use of which is incidental to and customary in connection with the principal building, structure or use, and which is located on the same lot with such principal building, structure or use. An accessory structure is not necessarily a building. Examples of non-building accessory structures include, but are not limited to, parking lots, fences, patios, decks, play equipment, swimming pools and tennis or basketball courts.



Accessory use means a subordinate use that is incidental to and customary in connection with the principal building, structure or use, and is located on the same lot with such principal building, structure or use.

Addition or Expansion means an increase in gross floor area, gross square foot area, height, lot coverage, building coverage, length, or width of an existing building, structure, off-street parking lot, off-street loading area or use.

Adjacent. See *Abutting*.

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Agriculture means a use involving the raising of field crops and horticulture.

Alley means a public thoroughfare that generally affords only a secondary means of access to abutting property.

Alteration, Building or Structure means any change involving the addition, removal, replacement, relocation of supporting members of an existing building or structure, not including off-street parking lots and loading areas, such as bearing walls, posts, columns, beams, plates, doors, windows, foundation walls, roofs or exterior walls.

Amusement arcade means a use in which fifteen (15) or more pinball machines, video games or other similar player-operated amusement devices (see §9-126) are maintained. Principal uses which require a special use permit are not considered an amusement arcade (e.g. taverns, neighborhood recreation centers).

Antenna means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including, but not limited to, directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

Apartment dwelling means a use containing a room or suite of rooms rented or leased, with cooking facilities available within the suite of rooms which is occupied as a residence by a single family or a group of individuals living together as a single family unit. This includes any unit in residential buildings with three (3) or more dwelling units or any one (1) or more units in a building used primarily for nonresidential uses.

Architectural features means ornamentation or decorative features attached to or protruding from an exterior wall including, but not limited to, cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

Arterial street means a street that is designed to efficiently carry substantial traffic volumes within and through the City. Access to abutting properties is a subordinate arterial street function.

Asphalt plant means use that stores materials for and manufactures asphalt products for distribution off premises.

Assisted living and retirement home means a use involving a nonprofit residential facility, which as its primary function provides personal care above the level of room and board to retired persons, where three (3) or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

Attached building or structure means a building or structure, which is attached to another building or structure by a wall, a roof or by a continuous foundation.

Automobile/vehicle car wash. See *Car wash.*

Automobile maintenance shop means a use where the exclusive service performed or executed on any motor vehicles of less than twenty-six thousand (26,000) pounds gross vehicle weight rating (GVWR), for compensation, includes the installation of exhaust system, repair of the electrical system, transmission repair, brake repair, tire repair and installation, rust proofing, motor vehicle diagnostic center, major and minor mechanical repairs.

Automobile, RV, truck, cycle and boat rental and display lot means a use involving the display and temporary storage of motor vehicles, including recreational vehicles, trucks, motorcycles and boats for rental or lease to the general public and where repair or service work to those vehicles is incidental to the operation of the rental fleet.

Automobile, RV, truck, cycle and boat sales and display lot means a use involving the display and temporary storage, for sale, of new or used motor vehicles including recreational vehicles, trucks, motorcycles and boats, and where repair or service work is incidental to the operation of new or used vehicle sales.

B

Bar. See *Tavern*.

Barrier means anything that prevents access to a particular location.

Base course means the horizontal layer of stone aggregate or other compacted material underneath the surface course.

Bed and breakfast establishment means a use involving lodging in a single-family dwelling that provides for overnight accommodations and a morning meal to transients for compensation.

Berm means earthen material and soil covered with sod placed in an irregular shaped mound or linear shaped mound along a property line, right-of-way, or other feature. Berm shall also include earthen berm.

Bicycle parking space means an area designated and equipped for the purpose of parking and securing a bicycle.

Body repair or paint shop means a use conducting body work, frame work, welding and painting of an entire vehicle, boat, RV, or truck or a major portion thereof of any of the aforementioned motor vehicles of less than twenty-six thousand (26,000) pounds gross vehicle weight rating (GVWR), or boats.

Brewery means a use which manufactures, bottles and packages a total of more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages per calendar year on premises including storage and distribution of fermented malt beverages that have been manufactured on the premises.

Broadcast Equipment Building, Shelter or Cabinet means a cabinet or building used to house equipment used by broadcast station or an owner.

Broadcasting and receiving antennas means any broadcasting and receiving device mounted on a broadcast tower, building or structure and used in broadcasting or receiving audio or visual programming materials by a radio & television broadcasting station or communications between individuals. This broadcasting or receiving device includes but is not limited to omni-directional antennas, such as whip antennas, satellite dishes and microwaves.

Broadcasting towers means a freestanding structure designed to support broadcast or receiving antennas.

Buffer means the use of land, topography, difference in elevation, space, fences or landscape planting to screen, or partially screen, a use or property from another use or property.

Buildable area means the space remaining on a lot after the minimum setback, open space, easements and other site constraint requirements of this chapter have been satisfied.

Building means any structure having a roof that may provide shelter, support, protection or enclosure of persons, animals or property of any kind.

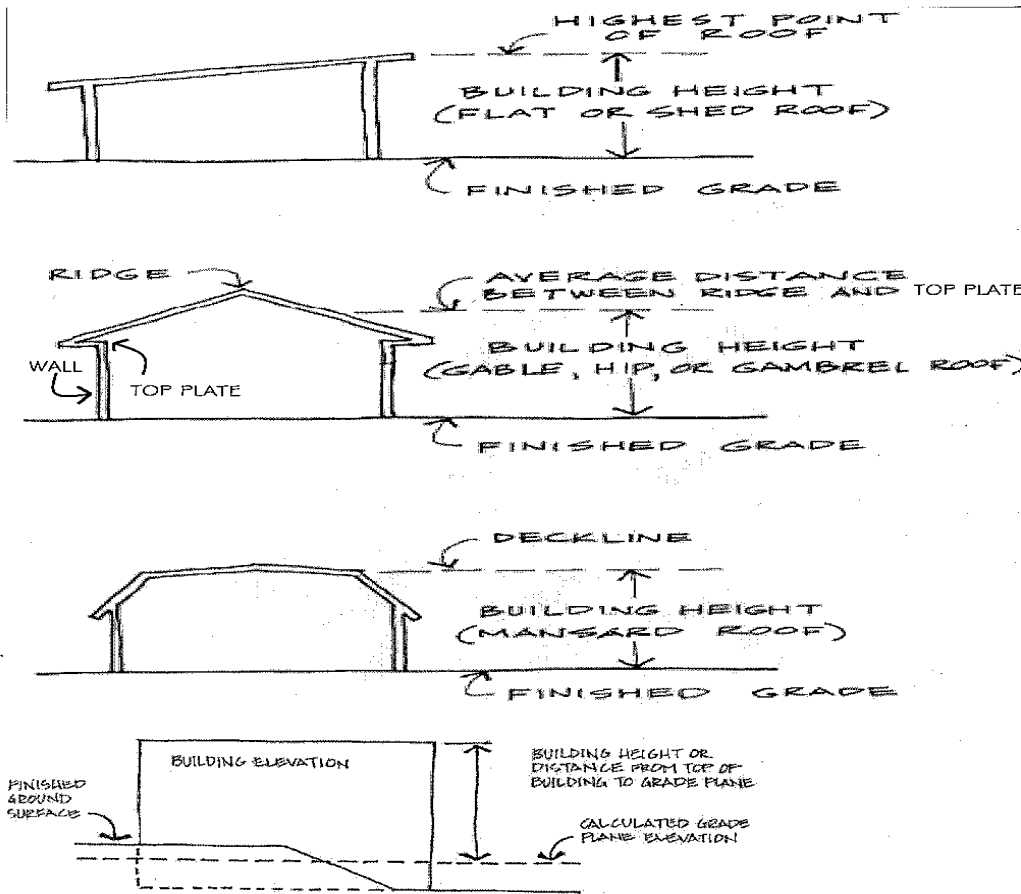
Building Code means the various adopted codes of the City of Appleton, that regulate construction and required building, electrical, HVAC permits, plumbing permits and other permits to do work regulated and adopted by the Appleton Municipal Code pertaining to building/structure and building/structure regulation.

Building coverage means a percentage figure referring to that portion of a lot covered with principal and/or accessory buildings.

Building footprint means the ground area covered by and including the exterior dimensions of a building, including enclosed porches, attached garages and carports.

Building height means the vertical distance to be measured from the finished grade plane of a building line, to the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the average height between the top plate and ridge for gable, hip and gambrel roofs. (See graphic on the following page)

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Building line means a line separating buildable area from any required yards or open spaces as defined herein. Building line will constitute the footing walls rather than the overhang.

Building, principal means a building which contains the primary use of the lot, as contrasted to accessory structure, building or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

Bulk flammable or combustible liquid storage or distribution facility means a use involving the storage and eventual resale to distributors or retail dealers of liquids, chemicals, or petroleum products that, by reason of their toxic, caustic, corrosive, abrasive, flammable or combustible nature, may be detrimental to the health of any person handling or otherwise coming into contact with such liquids.

Bus terminal means any use involving the storage or parking of motor-driven buses and the loading and unloading of passengers.

Business means any lawful use, occupation, employment or enterprise where merchandise is exhibited or sold or where services are offered for compensation.

C

Canopy means a structure constructed of fabric or pliable material, metal, wood, brick or other material, consisting of a roof and support by columns or stanchions, not enclosed, attached or unattached to a building. Examples of canopies include, but are not limited to, gas pump canopies at gasoline stations, canopies associated with a temporary use, drive-through canopies at banks, pharmacies and restaurants.
(Ord 33-15, §1, 3-24-15)

Car wash means the use of a tract of land, building, or portion thereof, for the manual or automatic washing and cleaning of passenger vehicles, recreational vehicles or other light duty equipment.

Carport means a detached or attached accessory building that consists of a roof and that has at least two (2) sides completely unenclosed from the ground to the roof, which is designed primarily for storage and/or parking of passenger vehicles, trailers, recreational vehicles, and trucks of a rated capacity not in excess of ten thousand (10,000) pounds gross weight.

Cemetery means the use of land or land dedicated for the burial of the dead, including mausoleums, necessary sales and maintenance facilities.

Certificate of Occupancy means a document issued by the proper authority certifying that a proposed development project complies with the provisions of this chapter.

Change of use means the replacement of an existing use on any portion of a lot, by a new use or change in the nature of any existing use, but does not include a change of ownership, tenancy, or management associated with a use in which the previous nature of the use remains unchanged. A change in use from a vacant building or structure to an occupied building or structure shall be considered a Change of use, unless the use is a continuation of a prior use. For the purposes of this chapter, the prior use includes the last established use that was issued a certificate of occupancy to legally occupy the vacant building or structure.

Child welfare agency means any use operated by a person required to be licensed by the Department of Health and Family Services that takes custody of and provides care and maintenance for four (4) or more children for a period of seventy-five (75) days in any consecutive twelve (12) month period.

Christmas tree sales lot, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells Christmas trees and related holiday items such as wreaths and Christmas tree stands to the general public.

Circus and carnival means any use including a temporary outdoor amusement center, bazaar, or fair, involving the use of special purpose equipment operated by professional operators and where activities include such things such as: live performances, animal exhibits, rides, exhibitions, food services, sales, and/or small scale games.

Class 2 notice means notice of a public hearing that is required by Wisconsin Statutes to be inserted twice into the official municipal newspaper. For City planning matters, notice is required once in each of two (2) separate weeks prior to the scheduled hearing.

Class A vehicle means any combination of vehicles with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, if the aggregate total gross vehicle weight rating, actual gross weight or registered weight of the vehicle or vehicles being towed is in excess of 10,000 pounds.

Class B vehicle means any single vehicle with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, and any such vehicle towing a vehicle or vehicles with an aggregate total gross vehicle weight rating, actual gross weight or registered weight of 10,000 pounds or less.

APPLETON CODE

Class C vehicle means any single vehicle with a gross vehicle weight rating, actual gross weight and registered weight of 26,000 pounds or less, including any such vehicle towing a vehicle with a gross vehicle weight rating, actual gross weight and registered weight of less than 10,000 pounds, if any of the following applies:

1. The vehicle is designed to transport sixteen (16) or more passengers, including the driver.
2. The vehicle is transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

Class D vehicle is any motor vehicle not identified as a Class A, B, C, or M motor vehicle.

Class M vehicle means any type 1 motorcycle.

Club means any use where a nonprofit association of persons who are bona fide members paying regular dues, and who are organized for some common purpose. Clubs shall exclude places of worship or groups organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Clubhouse means a support facility in conjunction with a golf course, that provides services to patrons of the golf course.

College or university. See *Educational institution, college or university.*

Commercial entertainment means a use that provides services related to the entertainment field within an enclosed building. Examples include: theaters, motion picture theaters, miniature golf, skate park, bowling alleys, pool and billiard halls and similar entertainment activities.

Commercial truck body and/or paint shop means a use conducting body work, frame work, welding and painting of the entire vehicle or major portion thereof any truck, tractor, semi-trailer or truck-trailer combination of 26,000 pounds gross vehicle weight rating (GVWR) or more.

Commercial truck maintenance shop means a use where the exclusive service performed or executed on any truck tractor, semi-trailer combination of 26,000 pounds gross vehicle weight rating (GVWR) or more, for compensation shall include the installation of exhaust system, repair of the electrical system, transmission repair, brake repair, tire repair and installation, rust proofing, truck diagnostic center, major and minor mechanical repairs.

Commercial use means a use that involves conducting business, including the sale of goods and/or services.

Community-based residential facility means a use where five (5) or more adults who are not related to the licensed operator or administrator and who do not require care above intermediate level nursing care, reside and receive care, treatment, or services that are above the level of room and board but that include no more than three (3) hours of nursing care per resident. (Considered a community living arrangement) A community-based residential facility is subject to the standards listed in §23-52 of this ordinance.

“Community-based residential facility” does not include any of the following:

- (a) A convent or facility owned or operated by members of a religious order exclusively for the reception and care or treatment of members of that order.
- (b) A facility or private home that provides care, treatment and services only for victims of domestic abuse, as defined in W.S.A. §49.165(1)(a), and their children.
- (c) A shelter facility as defined as under W.S.A. §16.308(1)(d).
- (d) A place that provides lodging for individuals and in which all of the following conditions are met:
 - (1) Each lodged individual is able to exit the place under emergency conditions without the assistance of another individual.

ZONING

- (2) No lodged individual receives from the owner, manager or operator of the place or the owner's, manager's or operator's agent or employee any of the following:
- a. Personal care, supervision or treatment, or management, control or supervision of prescription medications.
 - b. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for an individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services by an agency that is not affiliated with the owner, manager or operator.
- (e) An adult family home.
- (f) A residential care apartment complex.

Community garden means land or roof tops that are managed and maintained by a group of individuals, an organization or business to grow and harvest fruits, vegetable, flowers, and other plant and herb products for education, for personal or group consumption or for donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed by members of the group and may include common areas maintained and used by group members.
(Ord 45-12, §1, 6-6-12)

Community living arrangement means any of the following uses licensed or operated or permitted under the authority of the Department of Health and Family Services: residential care centers for children and youth, as defined in W.S.A. §48.02(15d), and operated by child welfare agencies licensed under W.S.A. §48.60, group homes for children, as defined in W.S.A. §48.02(7), and community-based residential facilities, as defined in W.S.A. §50.01(1g). Community living arrangements are subject to the standards listed in §23-52 of this ordinance.

This definition does not include: adult family homes, as defined in W.S.A. §50.01(1), day care centers, nursing homes, general hospitals, special hospitals, and prisons or jails.

Comprehensive plan means a compilation of policy statements, goals, standards and maps for guiding the physical, social, and economic development, both private and public, of the municipality and its environs adopted by the City and as may be amended from time to time.

Concrete mixing plant means a use that stores water, aggregate and cement and mixes those items for the production of concrete for distribution into trucks for off site use.

Condominium means a building or group of buildings in which dwelling units, offices or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

County means the county in which the property is located: Outagamie, Calumet or Winnebago.

Covenant means a contract or other written agreement between private parties that constitutes a restriction on a particular parcel of land.

Craft-Distillery means a use which manufactures, bottles and packages a total of not more than 100,000 proof gallons of intoxicating liquor under the name of "whiskey", "brandy", "gin", "rum", "spirits", "cordials" or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

D

Day care, adult means a day program that provides the elderly and other adults with services when their caregivers are at work or need relief.

Day care, family means a use licensed as a day care center by the State of Wisconsin Department of Health and Family Services where care is provided by a resident for not more than eight (8) children.

Day care, group means a use, not in a private residence, that provides care and supervision for nine (9) or more children, licensed by the State of Wisconsin Department of Health and Family Services.

Density means the ratio of the number of dwelling units to the lot area.

Detached building or structure means a freestanding building or structure and where all sides of the building or structure are surrounded by yards or open space on the same lot.

Developed property means all parcels or a portion there of that is improved with buildings, paved off-street parking spaces, or that is actively used as recreational facilities.

Development project means the construction of a new building or other structures on a lot, the change in use of any building, structure or land, the expansion or alteration of an existing building or structure, the relocation of an existing building or structure on a lot or another lot, or the use of open land for a new use.

Development regulations means the parts of a zoning ordinance that applies to elements including but not limited to parking, loading and unloading, building and structure height, lot coverage, design and yard setback requirements.

Distillery means a use which manufactures, bottles and packages a total of more than 100,000 proof gallons of intoxicating liquor under the name of “whiskey”, “brandy”, “gin”, “rum”, “spirits”, “cordials” or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

Domestic animal means any animal that has been bred and/or raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Domicile means a residence that is a permanent home to an individual.

Drive through facility (also drive-in facility) means any portion of a building or structure from which business is transacted or is capable of being transacted, directly with customers located in a motor vehicle during such business transaction.

Dwelling means a building or part of a building containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one (1) or more families.

Dwelling, incidental apartment means a portion of a building designed for occupancy by a single family.

Dwelling, detached means single family dwelling that is entirely surrounded by open space on the same lot.

Dwelling, multi-family means a building or portion thereof containing three (3) or more dwelling units.

Dwelling, residential. See **Dwelling**.

Dwelling, single family detached means a building containing one (1) dwelling unit that is entirely surrounded by open space on the same lot. Typically referred to as a single-family home.

Dwelling, two-family (or duplex) means a building containing two (2) dwelling units. The dwelling units are attached and may be located on separate floors or side-by-side.

ZONING

Dwelling, two-family zero lot line means two (2) single-family dwellings, attached by a common wall, each being on separate lots (a side-by-side duplex with each unit typically under separate ownership).

Dwelling unit means a residential building or portion thereof intended for occupancy by one (1) family, but not including hotels, motels, boarding or rooming houses or tourist homes.

E

Easement means a grant by a property owner for use of a parcel of land by the public or any person for any specific purpose or for purposes of access, constructing and maintaining utilities, including: sanitary sewers, water mains, electric lines, telephone lines, cable television lines, other transmission lines, storm sewer, storm drainage ways, gas lines or other service utilities.

Educational institution; business, technical or vocational means a use including specialized instructional classes that provides training for business, commercial, or trade skills such as accounting, data processing or automotive repair.

Educational institution; college or university means a public or private post-secondary use, with an academic curricula, including uses, structures, and/or facilities sanctioned by, ancillary to, or necessary to the operation of the college or university. This includes, but is not limited to the following ancillary uses affiliated with the college or university: food sales, retail sales indoor and/or outdoor recreation facilities, offices, printing, museums and professional service.

Educational institution; elementary school, junior high school, high school means a public or private use that provides an academic curricula of elementary or secondary academic instruction, kindergartens, elementary schools, middle schools, junior high schools and high schools.

Essential services means overhead or underground electrical, gas, steam or water transmission or distribution systems, and collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or systems as are required for the protection of public health, safety or general welfare, including: utility substations, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables and similar improvements.

Expansion. See *Addition or Expansion.*

F

Fair market value means the assessed value divided by the ratio of assessed value to recommended value as last published by the Department of Revenue or the City Assessor for the City of Appleton.

Family means one (1) or more individuals not necessarily related by blood, marriage, adoption, or guardianship, living together under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Family home (A), adult means a use operated by a person or entity licensed under the authority of the Department of Health and Family Services and located in a private residence where care and maintenance above the level of room and board, but not including nursing care, are provided in the private residence by the care provider whose primary domicile is this residence for three (3) or four (4) adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in W.S.A. §51.01(5). Additionally, the residence must have been licensed under W.S.A. §48.62, as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (A) operated by a person or entity whose primary domicile is this residence and is certified under W.S.A. §50.032 (1m)(b) is not subject to the standards listed in §23-52 of this ordinance.

Family home (B), adult means a use operated by a person or entity licensed as a foster home under the authority of the Department of Health and Family Services and is located in a private residence where care and maintenance are provided to children, the combined total of adults and children so served being no more than four (4) or more adults or children, if all of the adults or all of the children are siblings. Additionally, the residence must have been licensed under W.S.A. §48.62 as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (B) operated by a person whose primary domicile is this residence and is certified under W.S.A. §50.032(1m)(b) is not subject to the standards listed in §23-52 of this ordinance. Adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies are subject to the standards listed in §23-52 of this ordinance.

Family home (C), adult means a use operated by a person or entity licensed as a treatment foster home under the authority of the Department of Health and Family Services and is located in a private residence where care and maintenance are provided to children, the combined total of adults and children so served being no more than four (4). Additionally, the residence must have been licensed under W.S.A. §48.62 as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (C) operated by a person whose primary domicile is this residence and is certified under W.S.A. §50.032(1m)(b) is not subject to the standards listed in §23-52 of this ordinance. Adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies are subject to the standards listed in §23-52 of this ordinance.

Family home (D), adult means a use operated by a person or entity licensed under the authority of the Department of Health and Family Services or certified under W.S.A. §50.033(1m)(b) and is located in a private residence where three (3) or four (4) adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to seven (7) hours per week of nursing care per resident. An adult family home (D) is not subject to the standards listed in §23-52 of this ordinance.

Farmers market means a temporary or seasonal use selling home produced vegetables produce, or goods in a pre-designated area, where vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail.

Farmers market, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot by two (2) or more temporary merchants are displaying and selling either products of the farm or garden or any combination of products of the farm and garden and commercially processed foods, household products, crafts and handmade items.

Fence means a structure constructed to enclose, screen, decrease noise levels, separate areas, or decorate areas of a lot. Fences include walls, hedges and berms meeting this definition. The term “Fence” shall not include “Guardrail”. Fences are further defined as to their general purpose as follows:

(a) **Boundary fence** means a fence placed on or near the boundary lines common with adjacent properties to indicate the location of such boundaries.

(b) **Sound barrier fence or berm** means a fence or berm constructed to decrease the noise levels along an abutting major roadway.

Fireworks sales, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells small fireworks and related 4th of July items.

Floor area, gross floor area means the sum of the horizontal areas of all floors of a building or structure measured from the exterior face of the exterior walls, or from the centerline of a wall separating two (2) buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.

Floor area, useable means the area to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Floor area shall be measured from the interior faces of the exterior walls. Area excluded from useable floor area includes: areas principally used for storage or processing of merchandise, hallways, stairways, elevator shafts, areas for utilities or sanitary facilities and mechanical areas.

ZONING

Foster home means a use operated by a person or entity required to be licensed by W.S.A. §48.62(1)(a) and that provides care and maintenance for no more than four (4) children or, if necessary to enable a sibling group to remain together, for no more than six (6) children or, if the Department of Health and Family Services promulgates rules permitting a differing number of children, for the number of children permitted under those rules.

Foster home, treatment means any facility that is operated by a person or entity required to be licensed under W.S.A. §48.62(1)(b), that is operated under the supervision of the Department of Health and Family Service, a county department or a licensed child welfare agency, and that provides to no more than four (4) children care, maintenance and structured, professional treatment by trained individuals, including the treatment foster parents.

Freight distribution or moving center means a use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Frontage means that boundary of a lot that abuts a dedicated public street.

Funeral home means a building used for the preparation of the deceased for display and burial, along with the rituals connected therewith, before burial or cremation. (See also **Professional service**)

G

Garage means a detached or attached accessory building or a portion of the principal building, which is designed primarily for storage and/or parking of passenger vehicles, trailers, recreational vehicles, and trucks of a rated capacity not in excess of ten thousand (10,000) pounds gross weight.

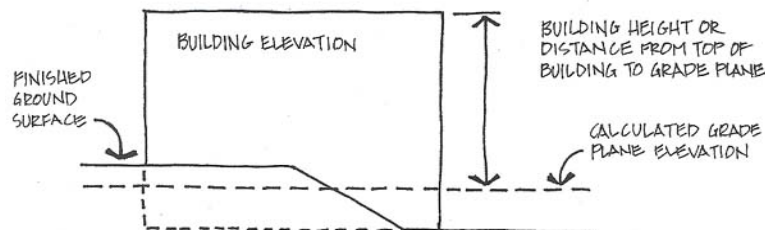
Gasoline sales means a use limited to the retail sales of gasoline, motor oil, lubricants, motor fuels, travel aides, minor automobile accessories and convenience goods to the public, but not including automobile maintenance shops.

Golf course means the use of a tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways and hazards. A clubhouse, maintenance facility and shelters may be permitted as accessory uses.

Governmental facilities mean a use or buildings owned or occupied by federal, state and local governments.

Grade, Finished means the elevation of the finished surface of the ground adjacent to the building or structure after final grading.

Grade plane means a reference plane representing the average of the finished ground level adjoining the building at the exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plan shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1,829 mm) from the building, between the building and a point six (6) feet (1,829 mm) from the building.



Greenhouse or greenhouse nursery means a use that is devoted to the protection and/or cultivation of horticultural and floricultural products.

Group day care. See *Day care, group*.

Group home, adult means a use where five (5) or more adults, who are not related to the operator or administrator and who do not require care above intermediate level nursing care, reside and receive care, treatment or services that are above the level of room and board but that include no more than three (3) hours of nursing care per week per resident.

Group home for children means any facility operated by a person or entity required to be licensed by the department under W.S.A. §48.625, for the care and maintenance of five (5) to eight (8) children, as provided in W.S.A. §48.625. (Considered a community living arrangement) A group home for children is subject to the standards listed in §23-52 of this ordinance.

Group housing means a not for profit use where rooms or suites of rooms occupied by individuals not living together as a single family or families, may include common cooking facilities and resident management, but not group care providers. This category includes fraternities, sororities and dormitories; it does not include convalescent homes or community living arrangements.

Guardrail means a protective railing, other than a fence, placed along a parking lot, driveway or roadway which serves to provide protection from or to vehicular traffic.

H

Harvesting of wild crops means the use of land, in its natural state, to gather or collect naturally grown berries, fruits, nuts, mushrooms and seeds.

Hearing, informal means a hearing on a matter contained within this chapter that is not required by Wisconsin Statutes.

Hazardous waste. See *Toxic Waste*.

Hearing, public means the official hearing on a matter contained within this chapter that is required by Wisconsin Statutes and subject to legal notice requirements.

Height of towers means the vertical distance of the broadcast tower, mobile service support structure (cell tower) or other similar structure. Measurement of height shall include antenna, base pad and other appurtenances and shall be measured from finished grade below the center of the base of said tower to the highest point of the tower even if said highest point is an antenna or piece of equipment attached thereto.

Helicopter landing pad means an area designed to be used for the landing and/or takeoff of one (1) helicopter, the temporary parking of one (1) helicopter, and other facilities as may be required by federal and state regulations, but not including operations facilities such as maintenance, storage, fueling or terminals.

Historic Preservation

(1) **Archeological significance** means subsurface or aboveground structural remains, artifacts or other natural or cultural features of past human life or activities and may yield additional information about prehistory or history.

(2) **Architectural feature** means ornamentation or decorative features attached to or protruding from the outer surface of a local historic structure, local historic site or contributing structure, including but not limited to gable cornices, columns, decorative ornaments, and trim.

(3) **Architectural significance** means importance of a building or structure based upon the distinctive characteristics of a time period, type or method of construction.

ZONING

(4) ***Certificate of Appropriateness or COA*** means the certificate issued by the Historic Preservation Commission approving a historic preservation alteration, or demolition of a local historic structure, local historic site, or a contributing structure located within a local historic district.

(5) ***Contributing structure*** means a building, object or site located within the boundaries of a local historic district and identified as contributing to the historical, cultural, archeological or architectural significance of the local historic district.

(6) ***Cultural significance*** means the importance of an improvement parcel or natural area, including any object, building, improvement or structure therein, associated with an event, or series of events, significant to the cultural traditions of Appleton, the state or the nation.

(7) ***Demolition*** means razing, destroying, dismantling or in any manner causing partial destruction or total destruction of a local historic structure, local historic site, contributing structure or any improvement.

(8) ***Designation criteria*** means a set of established standards by which the local historical significance of an improvement parcel or natural area, including any object, building, improvement or structure is judged and eligibility for designation is determined pursuant to the provisions of this section.

(9) ***Destruction, partial*** means any act or process that razes, destroys, or dismantles less than seventy-five percent (75%) of any exterior feature, exterior wall of a local historic structure, local historic site or contributing structure.

(10) ***Destruction, total*** means any act or process that razes, destroys, or dismantles seventy-five percent (75%) or more of any exterior feature, exterior wall of a local historic structure, local site or contributing structure.

(11) ***Director*** means the City of Appleton Director of Community and Economic Development Department or designee.

(12) ***Economic hardship*** means in the content of Section 23-651, economic hardship occurs when a property owner is unable to sell a local historic structure, local historic site or contributing structure solely because of the designation. The property owner or owner's agent must provide a written statement for the potential purchaser stating that they are of the requirement imposed by this section and are unwilling to make an offer on the property because of the local historic designation.

(13) ***Economically feasible*** means that the costs of the renovation/restoration of a local historic structure, local historic site or contributing structure when combined with the cost of the land, do not exceed the fair market value of the property after the renovation/restoration of the local historic structure, local historic site or contributing structure has been completed.

(14) ***Event*** means a specific occasion, circumstance, or activity that occurred on a property marking an important moment in Appleton's, the state's or the nation's prehistory or history or a historic trend that made a significant contribution to the development of Appleton, the state or the nation.

(15) ***Exterior feature*** means the general design and arrangement of the outer surfaces of a local historic structure, local historic site or contributing structure, including the kind and texture of the building material, and the type and style of all windows, doors, and other architectural features.

(16) ***Historic district, local*** means an area of two (2) or more improvement parcels that together possess significant, common characteristics that are historically, aesthetically or architecturally significant to Appleton, the state or the nation and which has been designated as a local historic district pursuant to the provisions of this section.

(17) ***Historic district plan, local*** means a document that identifies and defines appropriate strategies for the protection of the architectural, historical and cultural features of a local historic district.

(18) ***Historic preservation alteration*** means those outer surface alterations made to a local historic structure, local historic site or contributing structure, such as:

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- a. Installation or alteration of windows, doors or other architectural features where the original opening is proposed to be enlarged, reduced, or altered.
- b. Relocation.
- c. Reconstruction.
- d. Rehabilitation.
- e. New construction of any improvement or additions to a local historic structure, local historic site or contributing structure.

(19) **Historic Preservation Commission** means the Commission created under this section.

(20) **Historic preservation repair** means the act or process of applying measures, except for painting, necessary to prolong or replace deteriorated, decayed or damaged existing exterior features of a local historic structure, local historic site or contributing structure or any part thereof by using materials that are identical in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to original materials. The term “historic preservation repair” includes the installation of roof singles, windows, doors or other architectural features where the original opening will not be enlarged, reduced or altered.

(21) **Historic site, local** means any parcel of land whose historic significance is due to a substantial value in tracing the history or prehistory of humanity or upon which a historic event has occurred and which has been designated as a local historic site pursuant to the provisions of this section, or an improvement parcel, or part thereof, on which is situated a local historic structure and any abutting improvement parcel, or part thereof, used as, and constituting part of, the premises on which the local historic structure is situated.

(22) **Historic structure, local** means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of Appleton, the state or the nation and which has been designated as a local historic structure pursuant to the provisions of this section.

(23) **Historical significance** means the importance for which an improvement parcel or natural area, including any object, building, improvement or structure has been evaluated and found to meet the designation criteria.

(24) **Identical (materials)** means for the purpose of Section 23-651, means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.

(25) **Important person or persons** means an individual or a group of individuals who has made significant contributions to Appleton, the state or the nation, including but not limited to medicine, politics, commerce, history, engineering and/or architecture.

(26) **Improvement** means any building, structure, or object constituting a physical betterment of real property, or any part of such betterment.

(27) **Improvement parcel** means a lot or parcel of land together with the buildings and structures thereon, which has been assigned a tax parcel number by the City Assessor’s Office. The term “improvement parcel” shall also include any unimproved area of land which has been assigned a tax parcel number by the City Assessor’s Office.

(28) **Member** shall mean a regular or alternate member of the Historic Preservation Commission.

(29) **Natural area** as defined by Section 23.27 Wisconsin State Statutes.

(30) **Object** means a term used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, moveable,

ZONING

an object is associated with a specific setting or environment. Examples of objects include boundary markers, fountains, monuments, mileposts, sculptures, murals, statues, carvings, or stained glass,

(31) **Owner's agent** means a mortgagee, buyer in possession, receiver, executor, or trustee in control of a nominated or designated local historic site, local historic structure or contributing structure.

(32) **Reconstruction** means the act or process of depicting, by means of new construction, the exterior features and detailing of a local historic structure, local historic site or contributing structure or any part thereof that no longer exists for the purpose of replicating its appearance at a specific period of time and in its historic location.

(33) **Rehabilitation** means the act or process of making possible a code compliant use for a local historic structure, local historic site or contributing structure through repair, alterations, and additions while preserving those exterior features which convey its historic, architectural or cultural significance.

(34) **Relocation** means moving a local historic structure, local historic site or contributing structure from its original location.

(35) **Similar (materials)** means for the purpose of Section 23-651, means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.

(36) **Work** means demolition or historic preservation alteration or repair.
(Ord 99-12, §1, 10-9-12; Ord 87-19, §1, 9-10-19)

Home Garden means an accessory use of land or roof top involving the growing and harvesting of fruits, vegetables, flowers, and other plant and herb products primarily for the consumption or enjoyment of the owner or tenant of such property.
(Ord 45-12, §1, 6-6-12)

Home occupation means the production of goods and/or services within a dwelling unit, attached garage or detached garage by a member(s) of the family residing in the residence, provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and which does not change the residential character of the neighborhood.
(Ord 28-11, §1, 1-15-11)

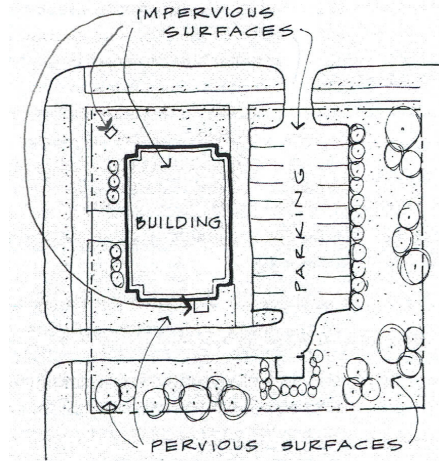
Hospital means a use providing inpatient and outpatient medical and surgical care, diagnosis and treatment for sick or injured persons including beds for overnight care, laboratories, training facilities, and/or other necessary accessory facilities.

Hotel or motel means a use offering lodging accommodations, in individual rooms or suites, on a daily rate to the general public and which may include additional accessory services such as restaurants, meeting rooms and personal fitness facilities.

Human habitation means the use of a vehicle for dwelling. Evidence of human habitation shall include activities such as sleeping, setting up housekeeping or cooking and/or any other activity where it reasonably appears, in light of all the circumstances, that a person or persons is using the vehicle as a living accommodation. The use of a vehicle for six or more consecutive hours for eating, resting, recreating and/or sleeping shall per se constitute "human habitation" for purposes of this chapter.

I

Impervious surface means an area that releases, as runoff, all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots, and streets are examples of surfaces that are typically impervious.



Impervious surface ratio means the measure of intensity of land use, determined by dividing the total of all impervious surfaces on a site by the gross area of the site.

Indoor kennel means any use where any person engages in the business of boarding, grooming, breeding, buying, letting for hire, training for a fee or selling of small animals in a completely enclosed building or structure.

Industrial use means a use at a scale greater than commercial uses that is engaged in custom, light and heavy manufacturing, production, processing, fabrication, assembly, packaging of finished goods, warehousing, wholesaling, and distribution of finished goods.

J

No Definitions.

K

Kennel. See *Indoor kennel* or *Outdoor kennel*.

L

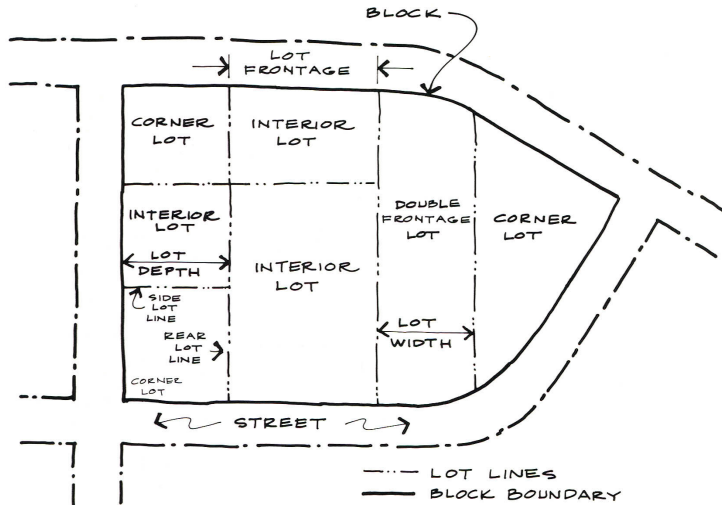
Landscape business means a use engaged in the decorative and functional alteration, planting and maintenance of grounds. Such a use may engage in the installation and construction of such alterations and plantings and may store the necessary equipment and materials to perform such work.

Landscaping means alteration of the natural terrain, including the planting of trees, grass, shrubs and ground cover.

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Loading space means that portion of a lot or space accessible from a street, alley or way, in or outside of a building, designed to serve the purpose of loading or unloading for all types of vehicles.

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



Lot area means any area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee title to such street is held by the owner of the lot.

Lot area per unit means the lot area required by this chapter to be provided for each dwelling unit.

Lot, corner means a lot situated at the junction of, and abutting on, two (2) or more intersecting streets.

Lot coverage. See *Impervious surface*.

Lot depth means the horizontal distance between the front lot line and the rear lot line. Where these lot lines are not parallel, the lot depth shall be the length of a line joining the midpoints of the front and rear lot lines.

Lot, double frontage means an interior lot having frontage on the front and the rear of the lot.

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

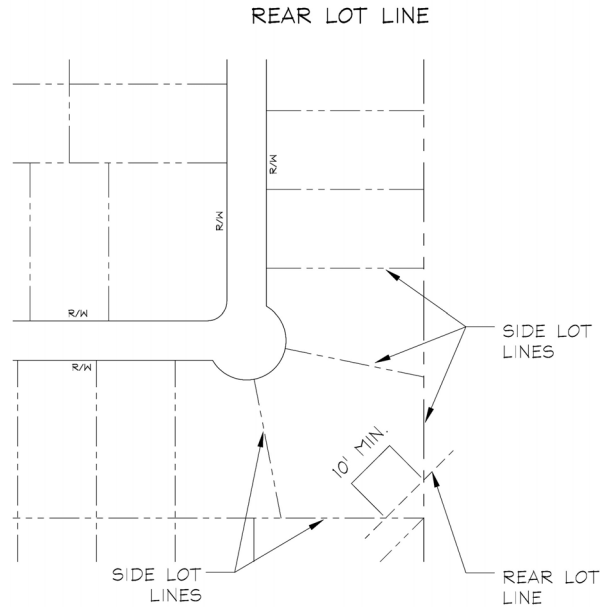
Lot, land-locked means a lot not fronting or abutting a public street and where access to the public street is limited to a narrow ingress/egress easement.

Lot line means a boundary line dividing one (1) lot from another lot or from a street or alley.

Lot line, front means that boundary of a lot which abuts a dedicated public street or private street. If a lot abuts two (2) or more dedicated public streets or two (2) or more private streets, all sides facing a dedicated public street or private street shall be considered the front. In the case of a land-locked lot, the front lot line shall be that lot line that faces the access to the lot.

Lot line, rear means that boundary of a lot which is opposite the front lot line with the exception of corner lots, in which case, the lot owner will have a choice to designate the rear and side yard. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be defined as a line ten (10) feet in length within the lots, parallel to, and at the maximum distance from the front lot line.

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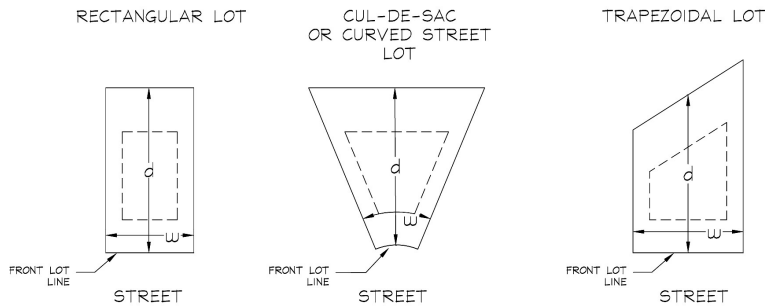


Lot line, side means any boundary of a lot that is not a front lot line or a rear lot line.

Lot of record means a lot which is part of a subdivision, the map of which has been recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds.

Lot depth means the average distance measured between the front lot line to the rear lot line.

EXAMPLES OF LOT WIDTH AND LOT DEPTH



LEGEND

- w LOT WIDTH
- d LOT DEPTH
- [] MINIMUM YARD SETBACKS

Lot, vacant means a lot upon which no buildings or structures exists.

Lot width means the maximum horizontal distance between the side lot lines of a lot measured along the front lot line. On a cul-de-sac, or curved street, the front setback line shall be used to determine minimum lot width.

M

Management of forestry and fish means the protection and preservation of land, in its natural state, for woodlands, native species of woody plant material and watercourses, lakes and ponds for fish.

Manufacturing, custom means a use primarily engaged in the limited on-site production of goods by hand manufacturing which involves only the use of hand tools or domestic mechanical equipment that does not exceed two (2) horsepower each or a single kiln not exceeding eight (8) cubic feet in volume and the incidental direct sale to consumers. Typical custom manufacturing include: custom furniture, ceramic studios, glass blowing, candle making, custom jewelry, stained and leaded glass, woodworking shops, custom textile manufacturing and craft shops.

Manufacturing, heavy means a use engaged in the processing or production of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions which would generate objectionable or hazardous elements such as: heat, smoke, noise, odor, vibration, water pollution, electromagnetic disturbances, radiation or dust. Heavy manufacturing uses may include uses such as a metal foundry, metal stamping plant, electrical generation plants, extraction of mineral resources in an open mine, concrete processing facility, paper manufacturing facility from raw materials, asphalt manufacturing facility, petroleum refining, private garbage incineration and animal processing and rendering plants.

Manufacturing, light means a use engaged in the processing, repair, production, assembling, altering, converting, fabricating, finishing, processing or treatment of a product utilizing a relatively clean and quiet process which does not include or generate objectionable or hazardous elements such as smoke, noise, odor, vibration, water pollution or dust and which is operating and storing products and materials in a completely enclosed structure. Light manufacturing uses may include uses such as: assembly or maintenance of machinery, manufacture or assembly of cloth, wire or rubber products in a completely enclosed building, chemical mixing or storage in a completely enclosed building, microchip manufacturing, assembly of precision instruments, assembly of electronic devices, assembly of medical devices, completely enclosed machine shops, cabinet making facilities and silk screening facilities.

Marina or boat landing means use providing docking and landing, moorage space, and related activities limited to the provisioning or minor repair of pleasure boats and yachts, and accessory facilities including gasoline sales and personal services.

Market garden. See Urban farm.

Maximum extent practicable means no feasible or practical alternative exists on the site, as determined by the Community and Economic Development Director, and all possible efforts to comply with the standards of this chapter and minimize potential visual, heat, glare, harmful or adverse impacts have been undertaken by the property owner and/or applicant.

Metes and bounds description means a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.

Microbrewery/Brewpub means a use which manufactures, bottles and packages a total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages per calendar year and may or may not operate restaurant on the premises including storage and distribution of fermented malt beverages that have been manufactured on the premises.

Mobile home means a unit designed to be towed or transported and used as a residential dwelling, but does not include a unit used primarily for camping, touring or recreational purposes

Mobile home park means any tract of land containing two (2) or more sites for the placement of mobile homes.

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Mobile home sales lot means a tract of land where mobile homes are displayed and sold including all accessory structures for office use.

Motel. See **Hotel**.

Multi-tenant building means any building or structure that is occupied by two (2) or more owners, renters or land uses, which is managed as a single property.

Museum means a use serving as a repository for a collection of natural, scientific, or literary curiosities, works of art, or other objects of interest, that are arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge.

N

Nonconforming lot means a lot of record that does not comply with the lot width or lot area requirements of this chapter.

Nonconforming building or structure means a dwelling, building or structure that existed lawfully before the current zoning ordinance was enacted, but does not conform with one or more of the development regulations in the current zoning ordinance.

Nonconforming use means a use of land, a dwelling, a building or a structure that existed before the current zoning ordinance was enacted or amended, but does not conform with the use restrictions in the current ordinance.

Nursery, orchards or tree farm means the use of land for the establishment, care and harvesting of trees, shrubs, plants or fruit from fruit bearing trees.

Nursing or convalescent home means a home in which three (3) or more persons not of the immediate family are received, kept or provided with food, shelter or care for compensation, and by reason of chronic illness or infirmity are unable to care for themselves. A hospital, clinic or similar institution shall not be construed to be included in this definition.

O

Occupancy means to reside in as an owner or tenant on a permanent or temporary basis.

Off-street loading area means an area or space designated for the loading and/or unloading of goods into or out of motor vehicles, including loading docks.

Off-street parking space means a hard surfaced area for one (1) motor vehicle with room to open doors on both sides of the motor vehicle that is directly accessible to a parking aisle if located in an off-street parking lot or area and having access to a driveway, street, alley or private street.

Off-street parking lot or area means a structure and use involving an open, hard surfaced area which contains off-street parking spaces, parking aisles and driveways for the maneuvering and parking of motor vehicles which is not located in a street or alley right-of-way.

Off-street parking lot and loading area construction means soil, gravel or bedrock being excavated or modified to allow for the construction of an off street parking lot and loading area, or the expansion of an existing off-street parking lot and/or loading area.

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Off-street parking lot and loading area maintenance means removal and replacement of existing curbing or wheel stops located in existing off-street parking lots or loading areas. Line re-striping, crack sealing, seal coating existing off-street parking lots or loading areas, including patching which means removal and replacement of fifteen percent (15%) or less than the total square foot area of the existing surface and base course with a new surface and base course.

Off street parking lot and loading area reconstruction means the existing surface course and base course are removed to allow for the installation, grading and compaction of a new base and surface course with no expansion of the off street parking lot and/or loading area, including patching which means removal and replacement of greater than fifteen percent (15%) of the total square foot area of the existing surface and base course with a new surface and base course with no expansion of the off street parking lot and/or loading area.

Off street parking lot and loading area rehabilitation means the following:

(a) The existing surface course is removed above the existing base course and repaved with a new surface course, including the addition of base course to existing base course, the re-grading and/or compaction of the base course with no expansion of the off street parking lot and/or loading area; and

(b) The existing surface course is pulverized, graded and/or compacted on site with a new surface course being added on top of the base course with no expansion of the off street parking lot and/or loading area.

Off street parking lot and loading area resurfacing means removing a portion of the surface course but leaving at least one inch thickness of undisturbed surface course in place and adding a new layer of surface course over the undisturbed surface course with no expansion of the off-street parking lot and/or loading area.

Off street parking lot and loading area overlay means adding a new layer of surface course over the existing surface course with no expansion of the off street parking lot and/or loading area.

Office means a use in a building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations.

Opaque fence means a solid (non-spaced) fence, alternating board on board fence, wall or exterior building wall with a gate that provides a solid or opaque barrier that blocks the transmission of light and visibility through ninety (90) percent or more of its surface area. Chain link fences and gates with slats are not considered to be opaque fences. A fence used in combination with evergreens that provide the equivalent screening as a required opaque fence may also be used to satisfy this definition.

Open space means a natural or manmade landscaped area not occupied by any structures, buildings or impervious surfaces.

Orchards, tree farms and nurseries. See *Nursery, orchards or tree farm.*

Ordering station, drive through means a remote station from the building and along the vehicular drive-thru land from which the order is taken.

Ordinary high water mark means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Ordinary maintenance and repairs, building or structure means internal and external painting, decorating or the repair or replacement of doors, windows, nonbearing walls, fixtures, heating components, wiring, plumbing, siding, or roof shingles of an existing building or structure, not including off-street parking lots and loading areas.

Outdoor commercial entertainment means a use involving entertainment or recreation services offered outside of an enclosed building that is open to the general public for a fee. Examples include: driving ranges, miniature golf courses, Go-Kart tracks, volleyball courts, water parks, skating rinks, batting cages and amusement parks.

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Outdoor display means an area of designated size located outside of an enclosed permanent building or structure used in conjunction with the a business that is occupying a permanent building or structure for the display of merchandise, goods, wares or tangible property normally sold, rented or leased within the business on the lot where the merchandise is sold, rented or leased.

Outdoor kennel means a use, outside of any building or completely enclosed structure, where any person engages in the business of boarding, grooming, breeding, buying, letting for hire, training for a fee or selling of small animals.

Outdoor sales area means the area of designated size located outside of an enclosed permanent building or structure where merchandise, goods, wares, articles or things are kept, displayed or sold.

Outdoor storage means an area of designated size located outside of an enclosed permanent building or structure used in conjunction with the business that is occupying a permanent building or structure on the same lot for the keeping of personal or business property, goods, wares, or merchandise that are not located in that specific area for customer viewing or immediate sale, in the same place for a period of more than seventy-two (72) hours.

Overlay zoning district means a district established to prescribe special regulations to be applied to a described area in combination with the underlying zoning district.

Owner means a person, individual firm, association, syndicate or partnership that appears on the recorded deed of the lot.

P

Painting/Craft Studio with alcohol sales means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and alcoholic beverages for consumption while they paint and/or make crafts.

Painting/Craft Studio without alcohol sales means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that offers customers the opportunity to purchase food and non-alcoholic beverages for consumption while they paint and/or make crafts.

Parcel. See lot.

Park or playground, private means the use of any land or open space, owned or controlled by a private or for profit entity, for passive or active recreation purposes.

Park or playground, public means the use of any land or open space, owned or controlled by a governmental entity, for passive or active recreation purposes.

Parking a hard surfaced area (e.g., asphalt, concrete or brick pavers) for one (1) motor vehicle with room to open doors on both sides of the vehicle that is directly accessible to an access aisle if located in a parking lot or otherwise accessible to a driveway, street or alley.

Parking aisle means that area adjacent to an off-street parking space which permits maneuvering of the motor vehicles entering and leaving a off-street parking space and having access to a driveway, street, alley or private street.

Parking facility underground means off-street parking spaces that is located below the finished grade of a building or located beneath a building, except for driveways. Parking ramps shall not be considered underground parking facilities.

Parking lot means a use involving an open, hard surfaced area used exclusively for the temporary storage of motor vehicles.

Parking ramp means a use involving a building or structure, or part thereof, composed of more than one (1) level, used or designed to be used for the parking of motor vehicles.

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ZONING

Pedestrian way means a use of land to be used by pedestrians.

Perimeter means the outer boundaries or borders of a lot, building, structure, use, or area.

Personal services mean any use which caters to customers' needs, and which may include the incidental sale of products. Personal services may include barbershops, beauty shops, copying and duplicating services, dry cleaners, health clubs, pet grooming and tanning spas. Personal services shall not include adult entertainment or sexually oriented businesses.

Personal storage facility (self storage/mini-warehouse) means the primary use of a building containing individual, compartmentalized and controlled access spaces, rooms or lockers that are leased, rented or owned by different individuals for the storage of individual possessions or personal property, but may include outdoor storage areas for recreational vehicles as an accessory use.

Pervious surface means an area that releases, as runoff, a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or similar vegetated areas are examples of surfaces that are typically pervious.

Place of worship means a use involving a building, together with its accessory structures and uses, where persons regularly assemble for religious worship and which building, together with its accessory structures and uses, is maintained and controlled by a religious body organized to sustain public worship.

Plan, comprehensive. See ***Comprehensive plan.***

Plan, development means a report, in map and text form, including depiction of the location, purpose, type of land use, circulation pattern, primary relationship between site elements and between the proposed development and surrounding development.

Plan, implementation means the final, detailed plan for a planned development (PD) that is filed following Common Council approval.

Plan, site means a map or graphics, prepared to scale, depicting the development of a tract of land, including the location and relationship of the structures, streets, driveways, recreation areas, parking areas, lighting, utilities, drainage, landscaping, existing and proposed grading, walkways and other site development information as related to a proposed development.

Planned development (PD) means a parcel of land or contiguous parcels of land controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, the environment of which is compatible with adjacent parcels, and the intent of the zoning district or districts in which it is located.

Plat means a minor land division (Certified Survey Map), map, graphics or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record title. The plat is a recorded, legal document and must conform to all Wisconsin Statutes.

Portable storage unit means any container designed for temporary storage of property related to the owners or occupants of property and which is delivered and removed from the property.

Printing means a use for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes may include, but are not limited to: photocopying, blueprint, in-house computer rental and facsimile sending and receiving.

Prison or jail means a facility used for the incarceration of individuals who have violated federal, state or local laws.

Private drive means a roadway, not maintained by the City, providing access from a public street to a parcel or building.

Professional service means the use of office and other related spaces for such services as are provided by medical practitioners not intended for overnight care, dentists, attorneys, architects, real estate agents, engineers, funeral homes,

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banks, credit unions, savings and loan institutions, lending establishments and mortgage companies and other similar professions.

Proof means the ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percentage of ethyl alcohol by volume.

Proof gallon means a gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof. Proof is a method of measuring the alcohol content of spirits (intoxicating liquor). You calculate the proof of a spirits product by multiplying the percent of alcohol by volume by two (2). For example, a spirits (intoxicating liquor) product that has a 40% alcohol content by volume is 80 proof [40 multiplied by 2 = 80]. Converting U.S. gallons into proof gallons:

1. Multiply U.S. gallons by the percent of alcohol by volume.
2. Multiply by 2.
3. Divide by 100.

Sample calculation:

1. 100 U.S. gallons x 40% alcohol by volume = 4000
2. 4000 x 2 = 8000
3. 8000/100 = 80 proof gallons

Property line means the legal boundaries of a parcel of property that may or may not coincide with platted lot lines or street right-of-way.

Public facility means a building and/or land owned and controlled and/or in which the use is operated by the City or other government agency, including fire stations, City Hall, public works and park facilities, library and the like.

Public institutional use means a use that provides a public service to the general public such as or similar as places of worship, libraries, educational institutions, hospitals, governmental facilities, land use for public purposes.

Public land means land owned or operated by municipal, school district, county, state or other governmental unit.

Q

No Definitions.

R

Radio and television broadcasting stations means a use engaged in transmitting verbal and visual programs to the public and that consists of a studio, transmitter, antennas and towers.

Recreation facility, commercial. See *Outdoor commercial entertainment.*

Recreation facility, non-profit means any land or facility operated by a non-profit organization and which is open to the public or members of the non-profit organization, that may include, but not be limited to, athletic fields, picnic areas and bike/hike trails.

Recreational vehicle means a structure or vehicle designed to be towed, hauled or driven and used for temporary living or sleeping purposes and equipped with wheels to facilitate movement from place to place including, but not limited to: campers, motorized homes and travel trailers.

ZONING

Recycling and waste recovery center means a use in which recoverable resources such as newspapers, magazines, books and other paper products, glass, metal cans and other products are recycled, reprocessed and treated to return such products to a condition in which they may be used again for production.

Recycling center means a use whose purpose is to collect and process recyclable materials and transfer the processed materials off site, not including a junkyard. Processing shall be limited to the preparation of material for efficient shipment by such means as compacting, flattening, crushing, mechanical sorting, cleaning and loading, all done within the confines of a building. For the purposes of this zoning ordinance, recyclable material collection shall be limited to aluminum, glass, paper or plastic.

Recycling collection point means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items shall be allowed.

Refuse container means moveable receptacle for collecting solid waste produced on-site for temporary storage until transferred for final disposal, including “dumpsters” or similar receptacles and bins.

Registered historic place open to the public means any use or structure that meets one (1) of the following criteria:

(a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

Replacement means a construction process of completely removing all or a portion of an existing building and/or structure, so as to replace it with a new building or structure.

Residential care apartment complex means a place where five (5) or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than twenty-eight (28) hours per week of services that are supportive, personal and nursing services. “Residential care apartment complex” does not include a nursing home or a community-based residential facility, but may be physically part of a structure that is a nursing home or community-based residential facility.

Residential care center for children and youth means a facility operated by a child welfare agency licensed under W.S.A. §48.60, for the care and maintenance of children residing in that facility. (Considered a community living arrangement) A residential care center for children and youth is subject to the standards listed in §23-52 of this ordinance.

Residential use means the occupancy of a dwelling or dwelling unit by a family or congregate living arrangements.

Research laboratory or testing facility means a use in which scientific research, investigation, testing or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental and accessory to the main purpose of the facility.

Residence. See **Dwelling**.

Restoration means a construction process of repairing or renovating all or a portion of an existing building and/or structure, so as to restore it to its former or original appearance or condition.

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Retail food establishment means an establishment required to be licensed under Wisconsin Statutes §97.30, and all other commercial enterprises, fixed or mobile, where food is processed or sold or offered for sale at retail. The term shall also include all areas and facilities of such establishments used in conjunction therewith and all vehicles and equipment utilized in conjunction therewith. It includes retail grocery stores, meat markets, poultry markets, fish markets, delicatessens, bakeries, confectionaries, ice cream shops, cheese stores, convenience marts, milk cases, spice and herb shops, temporary retail food establishments and all other establishments where food is processed or sold or offered for sale at retail.

Restaurant (with alcohol) means a use involving a business establishment, with a valid liquor license issued by the City, with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state in individual serving or in non-disposable containers.

Restaurant (without alcohol) means a use involving a business establishment, without a liquor license issued by the City, with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state in individual serving or in non-disposable containers.

Restaurant, fast food means a use involving a business establishment whose principal business is the sale of previously prepared food, in disposable containers, directly to the consumer in a ready to consume state for consumption either within the restaurant or off-premises.

Retail business means a use that provides goods, wares, merchandise and/or services directly to the consumer, where such goods are available for immediate purchase.

Rummage sale means the sale of personal household goods on a property customarily used as a residence.

S

Sale of seasonal agricultural products, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells products obtained through farming or agricultural activities such as pumpkins, fruits and vegetable of all kinds. For the purpose of definition, processed or prepared food products of any kind shall not be considered as seasonal agricultural products.

Salvage yard or junk facility means a use including land, buildings or structures where junk, waste, discarded, salvaged or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, cordage, barrels, containers, etc., are brought, bought, sold, exchanged, baled, packed, stored or handled, including used lumber and building materials, equipment, wrecking yards and the like. This definition shall not include automobile salvage or wrecking yards or pawnshops and establishments for the sale, storage, or purchase of secondhand vehicles, clothing, furniture, appliances or similar household goods, all of which shall be useable, nor shall it apply to the processing of used, discarded or salvageable materials incidental to manufacturing activity on the same site or to recycling and waste recovery centers.

Satellite dish means a dish shaped antenna designed to receive radio or television broadcasts relayed by microwave signals from earth orbiting communication satellites.

Screening means a method of visually shielding or obscuring an adjacent building, structure, use from another by fencing, walls, berms or densely planted vegetation.

Senior care facility. An establishment that provides medical care or housing exclusively to the elderly. A senior care facility shall include, but not be limited to, nursing homes, independent care facilities, elderly condominiums and elderly apartments.

Service structure means an accessory structure or equipment that provides support to the principal use or building on the lot. Service structures include, but are not limited to: propane tanks, trash and dumpster enclosures, electrical transformer boxes and above ground utility vaults.

ZONING

Setback means the required distance the exterior wall of a structure must be located from a lot line, easement, right-of-way, adjacent building or other feature as indicated in this chapter.

Sexually-oriented business.

Booths/Cubicles/Rooms/Compartments/Stalls. Enclosures that are specifically offered to the public or member of a sexually-oriented establishment for hire or for a fee as part of a business operated on the premise which offers as part of its business the entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, “booth”, “cubicle”, “room”, “compartment”, or “stall” does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, are not open to any person other than employees nor shall this definition apply to hotels, motels or similar establishments licensed by the State of Wisconsin pursuant to Wisconsin law.

Operator. Any person, partnership or corporation operating, conducting, maintaining or owning any sexually-oriented establishment.

Predominant. Fifty-one percent (51%) or more of a business’ stock in trade, display space, gross floor space or retail sales in any one (1) month during the license year.

Sexually explicit material. Any picture, photograph, drawing, sculpture, motion picture, film or other visual representation of an image depicting uncovered or less than opaquely covered, post pubertal human genitals or pubic areas in a lewd fashion, or depicting human sexual intercourse, human or animal masturbation, bestiality, oral intercourse, anal intercourse, human-animal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person who is nude or clad in revealing or bizarre costumes in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering, which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of these subsections. Works of art or of anthropological significance are not included within the definition of this paragraph.

Sexually-oriented bookstore. An establishment which includes, but is not limited to, booths, cubicles, rooms or stalls for the presentation of sexually-oriented entertainment, including sexually-oriented films, movies or live performances for observation by patrons therein, or which, as part of its regular and predominant course of conduct, offers for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.

Sexually-oriented cabaret. A building or structure which features topless dancers, strippers, male or female impersonators, or similar entertainers that display specified anatomical areas or engage in specified sexual activities as defined in this section.

Sexually-oriented entertainment. Any exhibition of any motion pictures, live performances, displays or dances of any type, which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, appearing unclothed, or the removal of articles of clothing, to reveal specified anatomical areas.

Sexually-oriented establishment. Any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures; or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult-oriented establishment includes, but is not limited to, adult bookstores and adult motion picture theaters.

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Sexually-oriented motion picture theater. An establishment which is significantly or substantially used for presenting motion picture films, video cassettes, cable television or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Specified anatomical areas:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola;
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(Ord 201-11, §1, 9-27-11)

Shelter facility means a temporary place of lodging for homeless individuals or families.

Shopping center means a use involving a group of retail business establishments and/or service uses on a single site, under one (1) ownership, which leases spaces for separate establishments and which has common parking spaces and no lot lines between establishments.

Showroom means an indoor use or the indoor portion of a building or use where merchandise is on display for consumer viewing.

Sign means any device, fixture, placard, or structure that uses any writing, representation, emblem, logo, symbol, or other display illuminated or non-illuminated to advertise, announce the purpose of, or identify the purpose of a person or entity to attract attention, or to communicate information of any kind to the public, visible from any public place. Streamers, pennants, balloons and inflatable figures are not considered signs. For the purpose of removal, signs shall also include all sign structures as well as the sign itself.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Small wind energy systems.

- (1) "Meteorological tower" (met tower) is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (2) "Owner" shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.
- (3) "Micro" or small scale turbines mean turbines that are sized in order to fit on top of building and are usually less than ten (10) feet in height.
- (4) "Rotor diameter" means the cross sectional dimension of the circle swept by the rotating blades.
- (5) "Small wind energy system" means a wind energy system that:
 - a. Is used to generate electricity;
 - b. Has an individual wind turbine nameplate capacity of 100 kilowatts or less;
 - c. Has an total installed nameplate capacity of 300 kilowatts or less;

ZONING

d. Has a total height of 170 feet or less;

e. Meteorological tower; and

f. Micro towers placed on buildings.

(6) “Total height” means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

(7) “Tower” means the monopole, freestanding, or guyed structure that supports a wind generator.

(8) “Wind energy system” means equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by the Wis. Stat. §66.0403(1)(m)). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

(9) “Wind generator” means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(Ord 72-11, §1, 3-8-11)

Stacking space means a hard surfaced area (e.g., asphalt, concrete or brick pavers) designated as an area for temporary queuing of motor vehicles.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof above it.

Story, half means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half (½) story containing independent apartment or living quarters shall be counted as a full story.

Street means a dedicated right-of-way affording primary access by pedestrians or vehicles to abutting property. Egress and ingress easements shall not be considered streets or roads.

Street, private means a street that has not been accepted by the City of Appleton or other governmental agency.

Structure means anything constructed or erected with a fixed location on the ground or attached or resting on something having a fixed location on the ground or anything assembled with a combination of materials to give support to something having a fixed location on the ground, including but not limited to off-street parking lots and loading areas, buildings, walls, fences, towers, outdoor lighting fixtures, signs and billboards.

Structure, principal means a structure or building in which the principal or primary use of the lot is conducted.

Structural alteration means any change, other than incidental repairs, which would prolong the life of supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

Surface course means the horizontal layer of hard surface material such as asphalt, concrete, brick, pervious pavers, or similar material, which supports the traffic load.

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T

Tasting room means a use offering fermented malt beverages, wine or intoxicating liquor for consumption and/or retail sales on the premises where the fermented malt beverages, wine or intoxicating liquor is manufactured and/or at an off-premises location associated with premises. Tasting rooms may include food sales.

Tavern means a use, licensed by the City, to sell retail alcoholic beverages to be consumed on or off premises and which may provide dancing, entertainment and food. The term tavern shall include bar, pub, nightclub and cocktail lounge.

Temporary contractor's offices means a temporary structure used as an office in conjunction with a construction project.

Temporary merchandise sales, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant or a group of temporary merchants displays and sells goods, wares and merchandise to the general public.

Temporary merchant includes any individual who engages in, conducts any temporary use in this City, either in one (1) location or by moving his or her place of business from one lot to another lot in the City, displaying or selling goods, wares or merchandise, or who solicits for such trade to the general public.

Temporary model home sales office means a dwelling temporarily used as a real estate office for a residential development or subdivision under construction for on-site real estate sales.

Temporary structure means a structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected or placed has ceased. For the purposes of this ordinance, mobile homes, travel trailers and any other structure that can be moved on wheels is considered as a temporary structure.

Tent means a temporary structure constructed of fabric or pliable material supported by any manner except by air or the contents that it protects, and is open without sidewalls or drops on seventy-five percent (75%) or more of the perimeter.

Towed vehicle storage means a use that provides for the temporary storage of vehicles that have been towed, but does not include disposal, permanent disassembly, salvage or accessory storage of inoperable vehicles.

Towing business means a use that provides for the removal of vehicles.

Townhouse. See *Dwelling, multi-family*.

Toxic and hazardous waste means waste materials as defined by the DNR and EPA.

Truck and heavy equipment sales and rental means a use involving the display and temporary storage of trucks or other equipment commonly used in commercial, industrial or construction enterprises for sale, lease or rental.

U

Undue hardship as used in connection with the granting of a variance means the property in question cannot be put to any reasonable use if established under conditions required by this chapter, and, where the plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if approved, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if any reasonable use for the property exists under the terms of the zoning ordinance.

ZONING

Urban farm means the land or rooftops that are managed and maintained by an individual, group of individuals, organization or business for growing, harvesting, washing and packaging of fruits, vegetables, flowers and other plant and herb products with the primary purpose of growing food for sale and/or distribution.
(Ord 45-12, §1, 6-6-12)

Use means the purpose or activity for which the land, building or structure thereon is designated, arranged or intended, for which it is occupied, utilized or maintained.

Use, accessory means a use subordinate to and serving the principal use, building or structure on the same lot and customarily incidental thereto.

Use, permitted means a public or private use which of itself conforms to the purposes, objectives, requirements, regulations and performance standards of a particular district.

Use, principal means the primary or predominant use of any lot or parcel.

Use, special means a use that is permitted in a zoning district only if a special use permit is expressly authorized by the Common Council in accordance with the provisions in this zoning ordinance, but does not include a variance.

Use, temporary means a use that is established for a limited duration with the intent to discontinue such use upon the expiration of the time period. A temporary use is not a special event, which is regulated under the Municipal Code and the Special Event Policy.

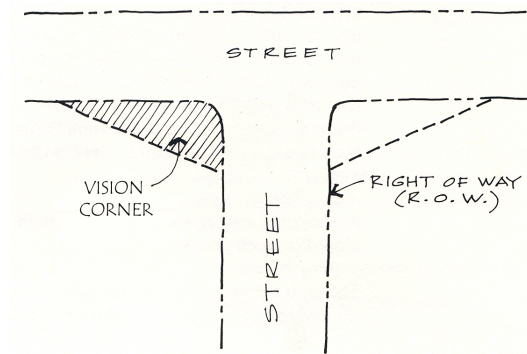
V

Variance means a modification or variation of the provisions of this chapter where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of this chapter would cause an undue hardship.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway including, but not limited to a recreational vehicle, except railroad trains.

Veterinarian clinic means a use in a completely enclosed building, or portion thereof, designed or used for the care, observation or treatment of domestic animals by or under the supervision of a licensed veterinarian.

Vision corner means triangular approach zones at street and/or driveway intersections intended to allow visibility of approaching traffic, pedestrians and bicycles and as regulated in Chapter 19, Traffic and Vehicles.



W

Warehouse means a use of a building or part of a building primarily involved in the indoor storage of goods and materials.

Wholesale facility means a use that maintains a stock of goods, other than samples on premises, and is engaged in the resale of commodities in quantity, to businesses, industries and institutions.

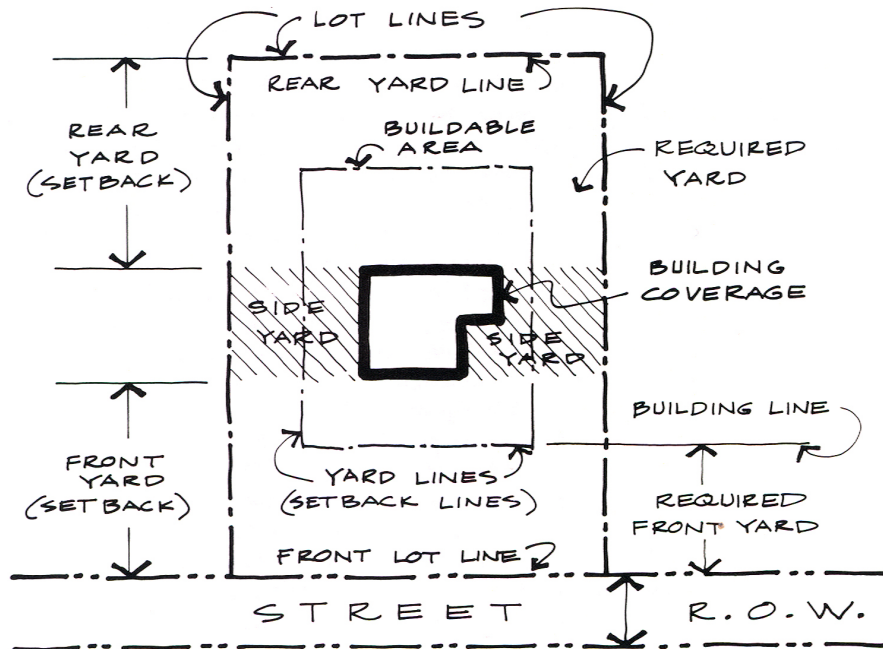
Winery means a use which manufactures, bottles and packages wine on premises including storage and distribution of wine that have been manufactured on the premises. The establishment shall hold the required liquor license issued by the state and/or city if, in addition to offering for sale fermented malt beverages manufactured on the premises, it also offers for sale fermented malt beverages and other alcohol manufactured by other producers other than the establishment.

X

No Definitions.

Y

Yard means a required open space, on a lot between a lot line and a building or structure, which is unoccupied and unobstructed from the ground upward, except for permitted obstructions (see graphic on the following page and the Required Yard graphic).



Yard, front means an open space extending the full width of the lot, between the main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as provided herein, the depth of which shall be measured as the least distance between the front lot line and the front foundation wall of the main building. (See the Required Yard graphic.)

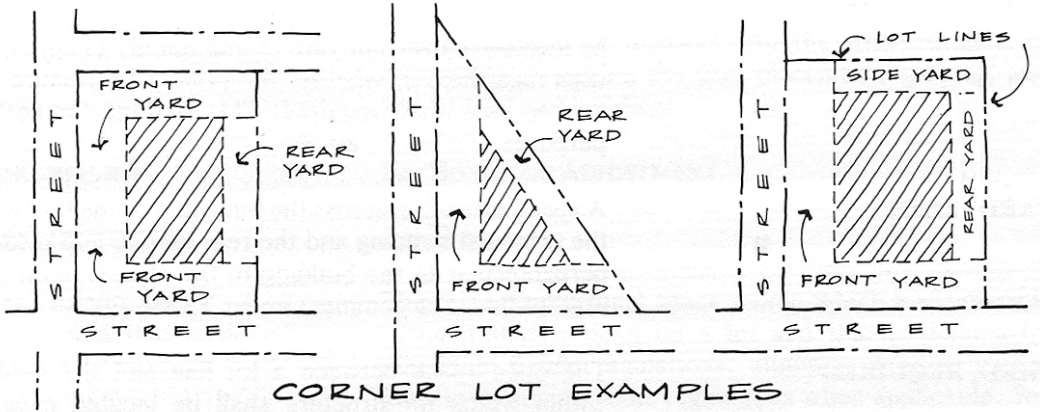
ZONING

Yard, rear means an open space extending the full width of the lot, between the main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward, except as provided herein, the depth of which shall be measured as the least distance between the rear lot line and the rear foundation wall of the main building. (See the Required Yard graphic.)

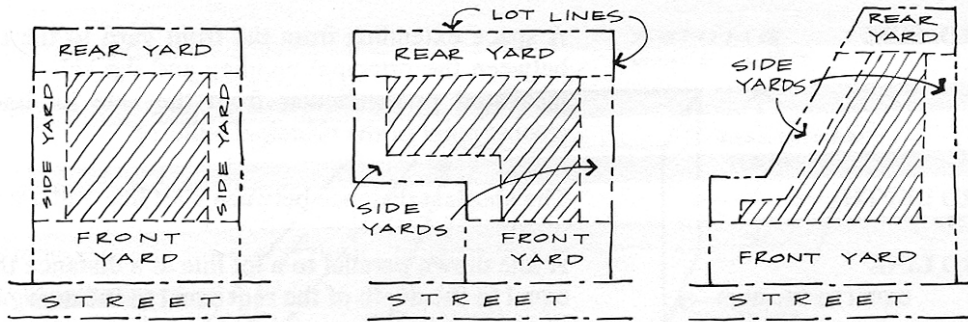
Yard, side means an open space extending from the front yard to the rear yard, between the main building and the side lot line, unoccupied and unobstructed from the ground upward, except as provided herein, the depth of which shall be measured as the least distance between the side lot line and the side foundation wall of the main building. (See the Required Yard graphic.)

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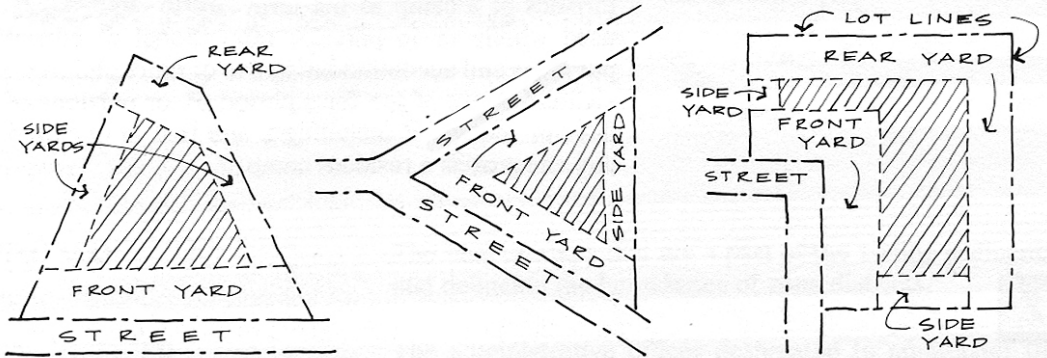
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CORNER LOT EXAMPLES



INTERIOR LOT EXAMPLES



ODD-SHAPED LOT EXAMPLES

REQUIRED YARDS

 BUILDING (ZONING) ENVELOPE
(TWO DIMENSIONAL)

ZONING

Z

Zoning Administrator shall be the Inspections Supervisor.

Zoning amendment means a change of the zoning map or zoning text authorized by the City, either in the allowable use within a district, in the boundaries of a district or in a change to the ordinance text.

Zoning district means an area or areas within the limits of the City for which the regulations and requirements governing uses of land, premises and buildings are uniform, within which certain yards and open spaces are required and certain height limits are established for buildings.

Zoning district, overlay. See **Overlay zoning district**.

Zoning map means the map or maps incorporated into this chapter as a part thereof, designating the zoning districts. (Ord 121-05, §1, 10-25-05; Ord 81-07, §1, 5-8-07; Ord 86-08, §1, 5-27-08; Ord 121-08, §1, 8-12-08; Ord 141-08, §1, 10-7-08; Ord 201-11, §1, 9-27-11; Ord 202-11, §1, 9-27-11; Ord 232-11, §1, 12-27-11; Ord 44-12, §1, 6-6-12; Ord 99-12, §1, 10-9-12; Ord 68-13, §1, 8-13-13; Ord 25-20, §1, 3-25-20; Ord 117-23, §1, 10-10-23)

Secs. 23-23 – 23-30. Reserved.

ARTICLE III. GENERAL PROVISIONS

Sec. 23-31. Rules.

(a) The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

- (1) Any use not herein expressly permitted is hereby expressly prohibited.
- (2) Sexually-oriented establishments are regulated pursuant to §23-390.
- (3) The singular number includes the plural and plural the singular.
- (4) The present tense includes the past and future tenses and the future, the present.
- (5) The word “shall” is mandatory and the word “may” is permissive.
- (6) The masculine gender also indicates the feminine and neutral genders.
- (7) Words or terms defined in this Chapter shall be construed as set forth in the definition section. Any words or terms not found in the definition section shall have the meaning set forth in *The New Illustrated Book of Development Definitions* by Harvey S. Moskowitz, the State Building Code or Uniform Dwelling Code. If a word or term is not defined, it shall have the meaning set forth in the latest edition of Webster’s New World College Dictionary.
- (8) The word “person” shall include any firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- (9) The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.
- (10) The words “Community and Economic Development Director” or “Inspections Supervisor” or “Director” shall include his or her designee.

(11) Application fees shall be paid as on file in the Office of the City Clerk.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 155-02, §1, 7-23-02; Ord 203-11, §1, 9-27-11)

Sec. 23-32. Application of this chapter.

This ordinance applies to all land and land development within the jurisdictional limits of the City of Appleton, Wisconsin.

This ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous zoning, subdivision or related code. Furthermore, this code shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

(a) In their interpretation and application, the provisions of this chapter shall be minimum requirements for the promotion of the public health, safety, morals, comfort, convenience and general welfare of the community.

(b) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(c) From and after the effective date of this chapter:

- (1) The use of all land and every building or portion of a building erected, altered in respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the City, shall be in conformity with the provisions of this chapter.

ZONING

- (2) Any existing building or structure and any existing use or properties not in conformity with the regulations herein prescribed, shall be regarded as nonconforming, but may be continued, extended or changed, subject to the special regulations herein provided in §23-42 with respect to nonconforming properties or uses.

(d) A nonconforming use in violation of the provisions of the zoning ordinance that this chapter supersedes shall not be validated by the adoption of this chapter unless it is in compliance in all respects.

(e) If there are found to be differences between the meaning or implication of the text of this code and any drawing, table, figure, title or section heading, the text of this code shall apply.

(f) See §23-50 for exceptions to structures that may appear nonconforming.
(Ord 61-94, §5, 5-18-94)

Sec. 23-33. Private agreements.

This chapter does not revoke or repeal any easement, covenant, or any other private agreements which are legally enforceable, provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of this chapter shall govern.
(Ord 61-94, §5, 5-18-94)

Sec. 23-34. Separability.

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

(a) If any court of competent jurisdiction shall determine any provisions of this chapter to be invalid, such judgment shall not affect any other provisions of this chapter not specifically included in said statement.

(b) If any court of competent jurisdiction shall determine invalid the application of any provision of this chapter to a particular property, building, or structure, such judgment shall not affect the application of said provision to any other property, buildings or structure not specifically included in said judgment.
(Ord 61-94, §5, 5-18-94)

Sec. 23-35. Transition rules.

This section addresses the applicability of new substantive standards enacted by this ordinance to activities, actions, and other matters that are pending or occurring as of the effective date of this ordinance.

(a) Any application that has been filed with the Community and Economic Development Department or Inspections Division and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall be regulated by the terms and conditions of the ordinances and codes that were in place at the time of filing. However, all administrative procedures and penalties shall follow those set forth by this code.

(b) Except as noted otherwise, any application for a Zoning District Map Amendment that was filed, and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall continue through the process to completion pursuant to the terms and conditions of the ordinances and codes that were in place at the time of filing.

(c) Planned development districts in force at the time of adoption of this ordinance shall continue to be controlled under the standards of the existing planned development district until rezoned by Common Council. However, processes for approving or amending adopted final development plans, plats, certified survey maps, or site plans, shall follow the procedures of this ordinance.

(d) Any application before the Board of Appeals or any application that has been filed with the Community and Economic Development Department or Inspections Division and is fully completed, prior to the effective date of this ordinance, shall continue the process pursuant to the terms and conditions of the ordinance that were in place at the time of filing, provided that:

APPLETON CODE

- (1) If such application is no longer required by the terms of this ordinance, the application will be dismissed; or,
- (2) If the proposed use or development requires additional approvals from the Board of Appeals pursuant to the terms of this ordinance that were not required under the previous ordinance, the application will be amended to include only those additional approvals that are now required and within the purview of the Board of Appeals.

(c) All new building sites shall meet the requirements of this ordinance unless, prior to the effective date of this ordinance:

- (1) A building permit was issued and is still valid; or,
- (2) A parcel was approved as a buildable lot by the Common Council, Plan Commission, Community and Economic Development Director or the Board of Appeals prior to the effective date of this code.

(f) Previously Approved Special Use Permits. All special use permits approved prior to the effective date of this chapter or subsequent amendments to this chapter shall remain in full force and effect under the terms and conditions of the special use permit approval. Any expansions or change of use of a previously approved special use permit may require compliance with the nonconforming building, structure, use and lot and/or special use permit provisions of this chapter. (Ord 26-20, §1, 03-25-20)

Sec. 23-36. Repeal of conflicting ordinances and effective date.

All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this chapter, are hereby repealed to the extent necessary to give this chapter full force and effect. This chapter shall become effective on June 8, 2004. (Ord 61-94, §5, 5-18-94)

Sec. 23-37. Zoning districts.

(a) The zoning districts are so designed to assist in carrying out the intents and purposes of the comprehensive plan and are based upon the comprehensive plan which has the purpose of protecting the public health, safety, comfort, convenience and general welfare. Therefore, the incorporated territory of the City of Appleton, Wisconsin, is hereby divided into the following zoning districts wherein regulations are uniform for each class or type of building or structure, or use, throughout each zoning district in order to:

- (1) Classify, regulate, and restrict the location of residences, commercial establishments, industries, institutional, recreation and other land uses, and the location of buildings designed for specific uses;
- (2) Assure the proper relation and conformity of new buildings and structures to the fabric of existing surrounding neighborhoods;
- (3) Regulate and limit the heights of buildings and structures;
- (4) Regulate the percentages of lot areas which may be covered by impervious surfaces;
- (5) Establish setback lines, sizes of yards and other open spaces surrounding buildings;
- (6) Regulate the density of the City of Appleton, Wisconsin; and
- (7) To carry out the intent and purposes established in the VISION 20/20: Comprehensive Plan for the City of Appleton, Wisconsin.

(b) The City is hereby divided into the following zoning districts and zoning overlay districts:

ZONING

<i>Symbol</i>	<i>District Name</i>
AG	Agricultural District
R-1A	Single-Family District
R-1B	Single-Family District
R-1C	Central City Residential District
R-2	Two-Family District
R-3	Multifamily District
P-I	Public Institutional District
NC	Nature Conservancy District
C-O	Commercial Office District
C-1	Neighborhood Mixed Use District
C-2	General Commercial District
CBD	Central Business District
P	Parking District
M-1	Industrial Park District
M-2	General Industrial District
PD	Planned Development Overlay District
TND	Traditional Neighborhood Overlay District

(Ord 61-94, §5, 5-18-94)

(c) Any land use that is not listed or that is questionable as a permitted use, accessory use or special use in the established district, where such use is proposed, is not allowed unless determined otherwise, through interpretation of this intent of the ordinance and the purpose for each individual district.

- (1) The Community and Economic Development Director may determine that an unlisted or questionable use may be placed if it is significantly similar to another use that is a principal use, accessory use or as a special use.
- (2) The decision of the Community and Economic Development Director may be appealed to the Plan Commission.
- (3) In no instance may this interpretation be construed as a process for establishing a use variance.

Sec. 23-38. Official zoning map.

The Official Zoning Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

Amendments to the Official Zoning Map may be made from time to time as provided for in §23-65, Zoning amendments, of this chapter. Such changes shall be made promptly following action by the Common Council by the Community and Economic Development Director, who shall be responsible for maintaining the Official Zoning Map. The Community and Economic Development Director shall annually provide the City Clerk with an updated and certified copy of the current Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret due to the nature or number of changes, the Common Council may, by resolution, adopt a new Official Zoning Map that shall, to the extent possible, duplicate the accuracy of the damaged, destroyed or lost map.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96)

Sec. 23-39. Rules for interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;

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- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (c) Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- (d) Boundaries indicated as following railroad lines shall be construed to be the centerline of the railroad right-of-way;
- (e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;
- (f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (g) Boundaries indicated as dividing a lot or plot of land shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (h) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (a) through (g) above, the Community and Economic Development Director shall interpret the district boundaries.
(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96)

Sec. 23-40. Application of district regulations.

- (a) The regulations set by this chapter within each district shall be minimum or maximum regulations and shall apply uniformly to each class or kind of structure or land except as provided:
 - (1) No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
 - (2) No structure shall hereafter be erected or altered:
 - a. To exceed the height;
 - b. To accommodate or house a greater number of families;
 - c. To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required;
or
 - d. To be in any other manner contrary to the provisions of this chapter.
 - (3) Every building hereafter erected or moved shall be on a lot having frontage on a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and off-street parking.
 - (4) No more than one (1) principal building shall occupy a single lot, except where a lot or tract is in a PD district or used for multi-family, educational, institutional, motel, hotel, commercial or industrial purposes. In such cases, more than one (1) principal building may be located upon the lot or tract, provided such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.
 - (5) No part of a yard or other open space or off-street parking or loading space required in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as specified in §23-172, Off-street parking and loading standards and §23-601, Landscaping and screening standards, of this chapter.
 - (6) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.

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- (7) Temporary structures are prohibited for use as permanent principal or accessory buildings or structures in all zoning districts, except for mobile homes.

(b) There shall not be more than one (1) zoning district on any parcel of land with the exception of the application of an overlay district which has been applied over a base zoning district and which has been approved by the City.
(Ord 61-94, §5, 5-18-94; Ord 160-94, §1, 12-21-94; Ord 142-08, §1, 10-7-08)

Sec. 23-41. Exemptions.

The following uses are exempt from the permit provisions of this chapter as stated below:

(a) Essential services as defined in Article II are exempted from the permit provisions of this chapter, provided that all such systems shall be placed underground when located within a residentially zoned district unless otherwise authorized by action of the Plan Commission.

(b) State installed sound barrier fences shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses and structures.

(c) Radio and television antennas not exceeding sixty (60) feet in height shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses permitted in residential and non-residential districts.

(d) Dish antennas not exceeding one (1) meter in diameter shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses permitted in residential and non-residential districts.
(Ord 61-94, §5, 5-18-94; Ord 87-08, §1, 5-27-08)

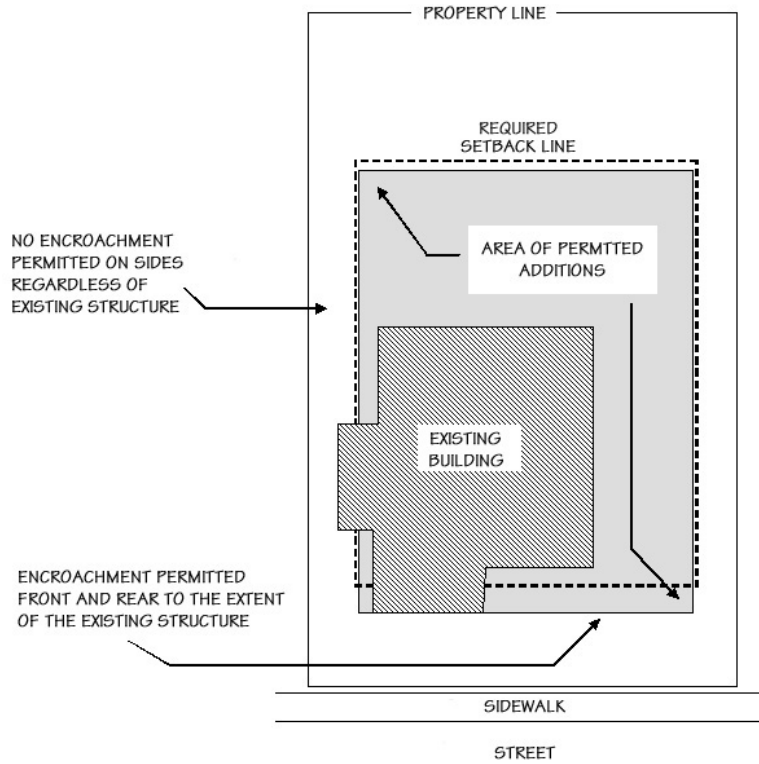
Sec. 23-42. Nonconforming buildings, structures, uses and lots.

(a) **Purpose.** Within the Zoning Districts established by this chapter, there may exist uses, buildings, structures and lots that do not conform to the applicable provisions of this chapter, the purpose of this section is to specify those circumstances and conditions under which these nonconforming uses, buildings, structures, and lots may be allowed to continue.

(b) **Continuance of nonconforming principal or accessory buildings or structures.** A nonconforming principal or accessory building or structure existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming principal or accessory building or structure shall be subject to the following requirements:

- (1) **Principal building or structure alterations.** Alterations within the existing footprint of a nonconforming principal building or structure may be allowed provided that the alteration does not increase the degree of the existing nonconformity(ies) of the nonconforming principal building or structure.
- (2) **Principal building or structure additions or expansions.** Additions or expansions made to nonconforming principal buildings or structures may be permissible in the front, side and rear yards provided all of the following requirements of this subsection are complied with:
 - a. **Side yard setback.** The addition or expansion shall not encroach into the required principal building or structure side yard setback and required building and/or structure separation setback of the applicable zoning district in which it is located, unless otherwise stated in this chapter;
 - b. **Front and rear yard setback.** The addition or expansion shall not further encroach beyond the existing nonconforming front or rear yard setbacks of the existing nonconforming principal or structure, unless otherwise stated in this chapter;

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- c. **Other requirements.** The addition or expansion shall conform with all other requirements of the applicable zoning district in which it is located and all other applicable provisions of this chapter, unless otherwise stated in this chapter.
- (3) **Accessory building or structure alterations.** Alterations within the existing footprint of a nonconforming accessory building or structure may be allowed provided that the alteration conforms with the requirements of the applicable zoning district in which it is located, and provided the alteration conforms with all other applicable provisions of this chapter.
- (4) **Accessory building or structure additions or expansions.** Additions or expansions made to nonconforming accessory buildings or structures may be permissible provided that all of the following requirements of this subsection are met and provided the addition or expansion conforms with all other applicable provisions of this chapter.
 - a. The existing accessory building or structure is not located closer than two (2) feet from the side or rear lot line.
 - b. The addition or expansion shall be located a minimum of five (5) feet from the principal building or structure.
 - c. The addition or expansion shall not result in new construction which exceeds fifty percent (50%) of the original size of the accessory building or structure or two hundred (200) gross square feet, whichever is less.
 - d. The addition or expansion shall not further encroach beyond the existing nonconforming front, side or rear yards setback.
- (5) **Restoration or replacement of certain nonconforming principal or accessory buildings or structures.**
 - a. A nonconforming principal or accessory building or structure may be restored, replaced or repaired to the size, location and use that it had immediately before damage or destruction occurred, and without regard to the cost of such restoration, replacement, repairs or improvements if both of the following apply:

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1. The nonconforming principal or accessory building or 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.
- b. The size of such nonconforming principal or accessory building or structure or to which this subsection applies may be enlarged if such enlargement is made necessary for the principal or accessory building or structure to comply with applicable state and federal requirements.
- (6) **Relocation of a principal or accessory building or structure.** No principal or accessory building or structure shall be moved, or placed in whole or in part, to any other location on the same or any other lot unless every portion of such building or structure which is moved or placed and, the use thereof, conforms to all of the requirements of the applicable zoning district in which it is located, and provided the principal or accessory building or structure conforms with all other applicable provisions of this chapter.
- (7) **Principal or accessory building and structure ordinary maintenance and repairs.** Ordinary maintenance and repairs within the existing footprint of a nonconforming principal or accessory building or structure may be allowed provided that the ordinary maintenance and repair does not increase the degree of the existing nonconformity(s) of the nonconforming principal or accessory building or structure.
- (8) **Nonconforming parking lots or loading areas.** A nonconforming off-street parking lot or loading area existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming off-street parking lot or loading area shall be subject to the following provisions:
- a. The maintenance, overlay, resurfacing, rehabilitation, reconstruction or expansions to a nonconforming off-street parking lot or loading area shall not increase the degree of the existing nonconformity(ies) of the nonconforming off-street parking lot and/or loading area.
 - b. Wherever possible, when rehabilitation or reconstruction occurs to a nonconforming off-street parking lot or loading area, all applicable off-street parking lot and/or loading area standards governing design, interior landscaping, perimeter landscaping and required amount of parking and loading spaces identified in this chapter shall be complied with. Sites that are physically constrained from complying with all aforementioned off-street parking lot and/or loading area standards shall comply to the maximum extent practicable, as determined by a site plan review pursuant to §23-570.
 - c. An expansion of a nonconforming off-street parking lot or loading area shall require that the expanded portion conform to the all applicable provisions of this chapter.

(c) **Continuance of nonconforming use of building, structure, or land.** The nonconforming use of a building structure or land existing on the effective date of this chapter or subsequent amendments to this chapter may be continued. However, said nonconforming use of a building, structure or land shall be subject to the following requirements:

- (1) **Change in tenancy or ownership.** A historically allowed nonconforming use of a building, structure or land may be transferred to a new tenant or owner provided; that the historically allowed nonconforming use is not expanded, relocated or discontinued as identified in subsections (2), (3) and (5) of this section.
- (2) **Expansions.** The nonconforming use of a building, structure or land shall not be enlarged or expanded, unless otherwise specified in this chapter.
- (3) **Relocation.** No nonconforming use of a building, structure or land shall be moved or placed in whole or in part to any other portion of the lot, parcel or site than was occupied by such use at the time of the effective date of this chapter or subsequent amendments to this chapter.

(4) **Ordinary maintenance and repairs.**

- a. Ordinary maintenance and repairs required to keep a building, structure or use in a safe condition, or when necessary to comply with state or local building codes or property maintenance requirements may be allowed provided that ordinary maintenance and repair conforms with the applicable requirements of this chapter, and there is not an identifiable change in or expansion of the historically allowed nonconforming use.
- b. Off-street parking lot and loading area maintenance, overlay, resurfacing or rehabilitation may be allowed provided that maintenance, overlay, resurfacing or rehabilitation activity conforms with the applicable requirements of this chapter and there is not an identifiable change in or expansion of the historically allowed nonconforming use of land as a parking lot or loading area use.

(5) **Discontinuance of nonconforming use.** The nonconforming use of a building, structure or land which has been discontinued for a period of twelve (12) consecutive months, shall be deemed abandoned and the future proposed use of the building, structure or land shall be in conformity with the use requirements of the applicable zoning district in which it is located.

(d) **Establishing the existence of a nonconforming use.** The burden of proof that a nonconforming use of structure, building or land existed on the effective date of this chapter or subsequent amendments to this chapter shall be the responsibility of the property owner. Any property owner requesting to have a nonconforming use validated under the terms of this chapter or subsequent amendments to this chapter, shall make a request to the Inspections Supervisor for the issuance of a Certificate of Occupancy in accordance with this subsection.

(1) **Certificate of Occupancy for a nonconforming use.** In order to have a nonconforming use of structure, building or land validated under the terms of this chapter or subsequent amendments to this chapter, the property owner may request a certificate of occupancy be issued from the Inspections Supervisor. The property owner shall present historical data to the Inspections Supervisor that demonstrates the nonconforming use occupied the land, building or structure in conformance with the use regulations of the applicable zoning ordinance(s) preceding the effective date of this chapter or any subsequent amendments to this chapter and did not discontinued for a period of twelve (12) consecutive months between the time the use became nonconforming and the date when the request for a certificate of occupancy is submitted to the Inspections Supervisor.

- a. The decision of the Inspections Supervisor as to issue or not issue a certificate of occupancy shall be based upon the information provided by the property owner of the property on which the nonconforming use is located and on any other information available to the Inspections Supervisor as public record. Information may include, but shall not be limited to historical data related to building permits, certificate of occupancy permits, licenses, tax records, sales receipts, business records, photographs, site plans, utility information, assessment information, inspection records, affidavits from the owner or neighboring property owners who have knowledge of the existence of the use.

(e) **Nonconforming due to public acquisition.** When the federal, state, county or city government acquires land for public use including dedication, condemnation or purchase, the affected property or structure shall not be considered nonconforming if the property or structure was conforming prior to the federal, state, county or city government's action. All affected properties or structures shall be documented in the Inspections Division. This will be effective as of June 1, 1996 and not be retroactive.

(f) **Nonconforming lots of record.** Nonconforming lots of record existing on the effective date of this chapter or subsequent amendments to this chapter, may be built upon, under the following conditions and provided all other applicable provisions of this chapter are met.

- (1) The minimum side and rear yard setbacks shall be proportionally applied as based on the proportion that the nonconforming lot is smaller than the minimum lot size required in the zoning district the lot is located. Fractional numbers shall be rounded up to the nearest whole number.
- (2) In no case, however, shall a side yard setback be less than five (5) feet.

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- (3) The minimum front yard setback shall be as established by the zoning district in which the lot is located without reduction unless abutting structures are closer to the front lot line. In that case, the adjusted front yard setback shall be the average of the existing front yard setbacks of the abutting structures on each side.
- (4) All other applicable development standards of the zoning district shall be complied with.

Example:

Minimum district lot size – 8,000 square feet.

Existing lot size – 6,000 square feet.

Minimum district yard setbacks:

Front – Twenty (20) feet

Side – Eight (8) feet

Rear – Twenty-five (25) feet

Existing lot size is seventy-five percent (75%) the size of the minimum district lot size: $(6,000/8,000) = 0.75$

Apply the seventy-five percent (75%) to side and rear yard setback requirements of the district:

$$0.75 \times 8' = 6'$$

$$0.75 \times 25 = 18.75'$$

Adjusted minimum side yard setback requirement is six (6) feet and adjusted minimum rear yard setback requirement is nineteen (19) feet.

(g) ***Special provisions for manufactured home communities.*** A manufactured home community licensed under Section 101.935, Wis. Stats., that is a legal nonconforming use continues to be a legal nonconforming use notwithstanding the occurrence of any of the following activities within the community:

- (1) Repair or replacement of any manufactured homes.
- (2) Repair or replacement of infrastructure.

(h) ***Special provisions for mobile home and manufactured homes not in a mobile home park.*** A mobile home or a manufactured home not located in a mobile home park is considered a nonconforming use and must comply with Section 11-4 of the Municipal Code of the City of Appleton.

(Ord 88-08, §1, 5-27-08; Ord 233-11, §1, 12-27-11; Ord 27-20, §1, 3-25-20)

Sec. 23-43. Accessory uses, buildings and structures.

(a) ***Authorization.*** Accessory uses, buildings and structures are permitted in any district in connection with any principal use lawfully existing within such district.

(b) ***Purpose.*** Authorization and limitation of specific accessory uses, buildings and structures in the appropriate districts is required to accommodate accessory activities with sufficient impact to require public regulation and having such a relationship to certain principal uses as to require accommodation within the same district.

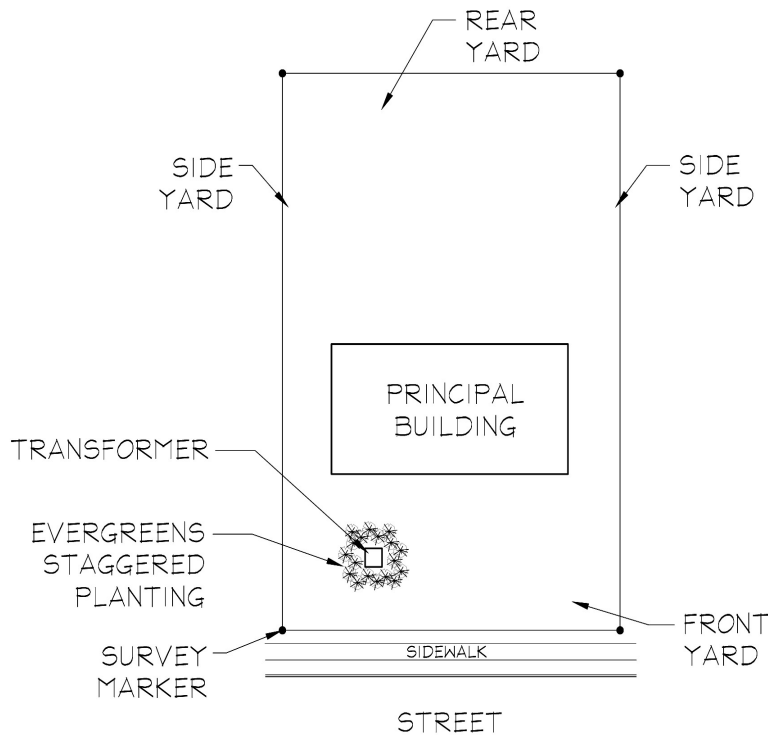
(c) ***Permitted accessory uses and structures.*** Accessory uses, buildings and structures include, but are not limited to, the following:

- (1) Attached garages, attached carports, detached accessory buildings such as detached garages, detached carports, storage sheds, tool/garden sheds, gazebos, children's play houses, pavilions or similar buildings.
- (2) Decks and patios.

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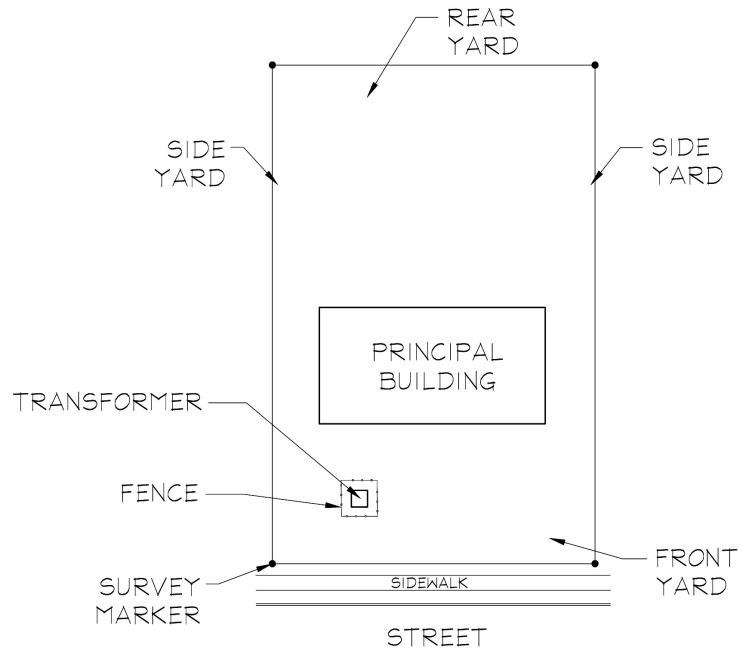
- (3) Parking lots, loading docks, refuse containers and dumpster enclosures.
- (4) Swimming pools and pool houses including, but not limited to, pool service structures, pumping equipment, and filtering equipment accessory to a principal building and limited to use by the occupants thereof and their guests. (See Chapter 4, of the Municipal Code Article VII. Swimming Pools)
 - a. All pool service structures, including, but not limited to, pumping equipment, and filtering equipment shall be screened from view of adjacent properties to the maximum height of the unit.
- (5) Tennis courts, basketball courts or similar recreational facilities accessory to a principal building or use and limited to use by the occupants thereof and their guests. Fixed lighting shall be so arranged to prevent a direct view of the lamp or reflection device from adjacent property.
- (6) Building management offices when limited to the management of the building in which such office is located or a complex of buildings forming an integrated development of which such building is a part.
- (7) Transformer boxes may be permitted in the front yard provided that:
 - a. If the box exceeds five (5) feet wide by five (5) feet long by four (4) feet in height the box shall meet the minimum front yard setback of the zoning district in which it is located.
 - b. If the box is smaller than five (5) feet wide by five (5) feet long by four (4) feet in height, the box may be located anywhere in the front yard.
 - c. The box shall be screened in accordance with §23-601(f)(22) where visible from the public right-of-way.
 - d. The access door to the box is encouraged to be located opposite the side facing the public right-of-way.
 - e. The Diggers Hotline is contacted prior to the siting of the box.

TRANSFORMER LOCATION
EVERGREEN SCREEN



ZONING

TRANSFORMER LOCATION FENCE SCREEN



(8) Radio, satellite, and television antennas not exceeding sixty (60) feet in height do not require a building permit, but are subject to the following:

a. Radio and television antennas:

1. Antennas in residential zones that are roof-mounted shall not extend higher than twenty-five (25) feet above the peak of the roof, except a single-vertical pole antenna may extend to thirty (30) feet above the peak of the roof.
2. Not more than one (1) ground-mounted antenna shall be permitted on any lot and shall be erected or maintained to the rear of the main building in all districts. No portion of a ground-mounted antenna or its guy wires may extend into a required setback area for an accessory structure.
3. The antenna including guy wires, supporting structures and accessory equipment shall be located and designed so as to minimize the visual impact on surrounding properties and from public streets. The materials used in constructing the antenna should not be unnecessarily bright, shiny, garish or reflective.
4. Antennas shall be installed to meet all structural specifications of the manufacturer. All components and materials shall be noncombustible and corrosive-resistant. Self-designed and homemade supporting structures for antennas subject to this chapter shall require engineering and/or design analysis by a registered engineer prior to installation.
5. Clearance of antennas or any supporting guy wires from power or communication lines shall be regulated by Volume 1 of the Wisconsin State Electrical Code.

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b. Satellite dish antennas:

1. Satellite dish antennas may either be ground-mounted or roof-mounted, but shall maintain standards as required in Section 23-43(c)(8)a.1. through 5. of this section. Dish antennas over three (3) feet in diameter shall require a building permit.
2. The maximum height of a ground mounted satellite dish shall be ten (10) feet.
3. Ground-mounted satellite dishes over three (3) feet in diameter shall be setback a minimum distance equal to its height. In no case, however, shall the satellite dish be erected any closer than the setback line of the principal structure.
4. Roof mounted satellite dishes shall not exceed the roof height by more than four (4) feet.
5. Satellite dishes shall be of one color that is compatible with its surroundings.
6. No advertising, logo or corporate symbols other than that of the dish manufacture shall be permitted on the dish.

(9) Home garden.

(d) **General regulations for accessory uses, buildings and structures.** All accessory uses, buildings and/or structures shall abide by the following general regulations:

- (1) No accessory use, building and/or structure shall be constructed or established on a lot prior to the principal use or building being present or under construction.
- (2) When attached to the principal building, accessory buildings and/or structures shall comply with all requirements of this chapter applicable to the principal building, unless otherwise stated, including, but not limited to setback requirements, building height limits, maximum lot coverage standards.
- (3) No truck, truck tractor, truck trailer, canopy or bus, or portion thereof, shall be used for, storage purposes, as a principal use and/or structure or an accessory use and/or structure in any zoning district, unless otherwise stated in this chapter.
- (4) Accessory uses, buildings and/or structures, may contain toilet facilities that are installed in accordance with applicable Municipal Code regulations, including but not limited to, State of Wisconsin Uniform Dwelling Code, Water Utility, Sewer and Wastewater Disposal regulations.
- (5) Accessory uses, buildings and/or structures shall be located on the same lot as the principal use, structure or building.
- (6) Only one (1) detached garage or detached carport shall be permitted on a lot whose principal use is a single or two-family dwelling.
- (7) Detached accessory buildings shall not be used as a secondary dwelling, unless the provisions of Sec. 23-55 are met.
- (8) Dumpster enclosures are exempt from (5) above, refer to Sec. 23-47 Refuse container and dumpster enclosure standards.

(Ord 27-21, §1, 7-7-21; Ord 118-23, §1, 10-10-23)

(e) **Use Restrictions.** All accessory uses, buildings and/or structures shall abide by the following use restrictions:

- (1) *When associated with Residential Dwellings.*

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- a. The enclosed parking or storage of any motor vehicle within an attached garage, attached carport, detached garage, and/or detached carport shall be restricted to vehicles owned or leased by the occupant(s) of the lot upon which the vehicles are parked or stored.
- b. The enclosed parking or storage of not more than one (1) commercial or service vehicle rated at Class A-D may be permitted within an attached garage, attached carport, detached garage, and/or detached carport, provided that such vehicle is used by the occupant(s) of the lot upon which the vehicle is parked or stored.
- c. The outdoor parking or storage of not more than one (1) commercial or service vehicle rated at Class A-D or school bus, may be permitted, provided that such vehicle is parked or stored in the side yard and/or rear yard only and used by the occupant(s) of the lot upon which the vehicle is parked or stored. (Also see §19-91 of the Municipal Code)
- d. The outdoor parking or storage or enclosed parking or storage within a fully enclosed structure of not more than one (1) trailer or recreational vehicle including, but not limited to, boat and boat trailer (except for boats or boat trailers greater than twenty-six (26) feet in length), pickup camper top, camping trailer, utility trailer, camping vehicle, snowmobile and trailer, jet-ski and trailer, motor home or fishing shanty, may be permitted provided:
 1. Such trailer or recreational vehicle is owned or leased by the occupant(s) of the lot upon which the trailer or recreational vehicle is parked or stored.
 2. Such trailer or recreational vehicle shall not be used for business, living, sleeping or housekeeping purposes. (Also see §19-92 of the Municipal Code)
 3. The outdoor parking or storage of such trailer or recreational vehicle shall be located in the side yard and/or rear yard only. (Also see §19-91 and §19-92 of the Municipal Code)
 4. Such trailer or recreational vehicle shall not be permanently connected to sewer lines, water lines or electricity.
 5. Such trailer or recreational vehicle shall not be used for the storage of goods, materials or equipment not normally a part of or essential for immediate use in that vehicle or trailer.

(2) *When associated with Non-Residential Dwelling.*

- a. The enclosed parking or storage of any motor vehicle within an attached garage, attached carport, detached garage, and/or detached carport shall be restricted to vehicles used by the occupant(s) of the lot upon which the vehicles are parked or stored.

(f) **Setback, height and lot coverage restrictions.** Accessory buildings and/or structures, shall meet the following setback, height and lot coverage requirements:

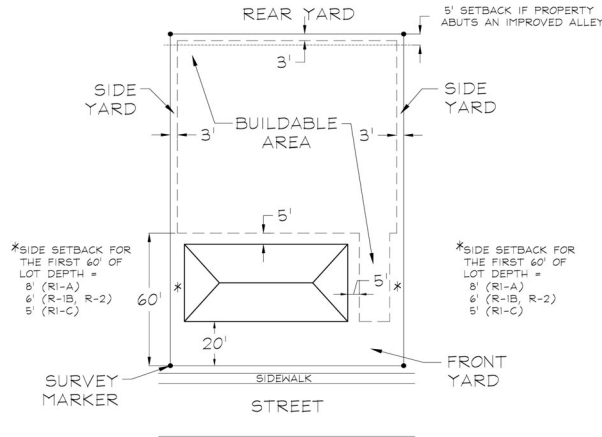
(1) *Residential districts:*

- a. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a five (5) foot separation from a principal building or any other accessory building and/or structure on the same lot.

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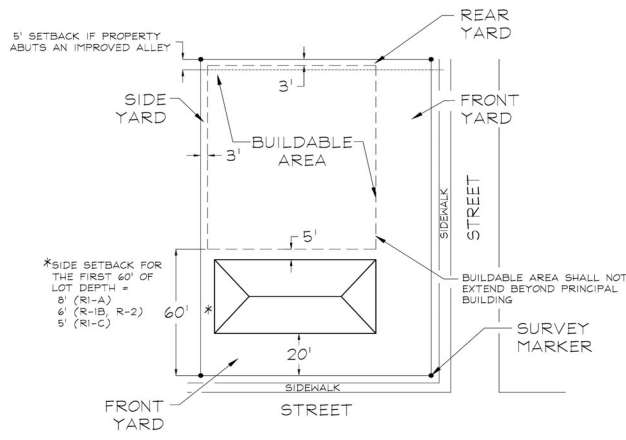
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BUILDABLE AREA FOR ACCESSORY BUILDINGS AND/OR STRUCTURES ON A TYPICAL INTERIOR LOT WITH FRONTAGE ON ONE STREET – RESIDENTIAL DISTRICTS



- b. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain the same side yard setback required of the principal building for the first sixty (60) feet of lot depth and a minimum of three (3) feet from the side lot line thereafter.
- c. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum setback of three (3) feet from the rear lot line, except along an improved public alley where a minimum of a five (5) foot setback is required.
- d. When not attached to the principal building, on corner lots, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum of a three (3) foot setback from the side and rear lot line. However, for the yard that is abutting a street, the accessory building and/or structure shall meet the principal building front yard setback requirement of the abutting property.

BUILDABLE AREA FOR ACCESSORY BUILDINGS AND/OR STRUCTURES ON A TYPICAL CORNER LOT – RESIDENTIAL DISTRICTS



- e. When not attached to the principal building, accessory structures, except for parking lots and driveways shall be prohibited in the front yard, unless otherwise stated in this chapter.

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- f. When not attached to the principal building, accessory structures, except for radio, television and satellite dish antennas, shall not exceed twenty (20) feet in height.
- g. When not attached to the principal building, accessory structures that exceed fifteen (15) feet in height, shall be located on the lot in accordance with the setback requirements of the principal building, as established for the zoning district in which it is located.
- h. Detached accessory buildings shall not exceed fifteen (15) feet in height and shall not exceed one (1) story in height.
- i. Accessory buildings located on a R-1A, R-1B, R-1C or R-2 zoned lot shall comply with all of the following size requirements:
 - 1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
 - 2. Detached accessory buildings: the maximum total combined gross floor area of all detached accessory buildings including, but not limited to, detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be one thousand six hundred (1,600) square feet.
 - 3. Attached accessory buildings: the maximum total square footage allowed for all attached garages, attached carports or any attached accessory building may not exceed a total of one thousand six hundred (1,600) square feet or thirty-five percent (35%) of the total gross area of the principal building, whichever is greater.
 - 4. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to, detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building.
- j. Accessory structures located on a R-1A, R-1B, R-1C or R-2 zoned lot shall comply with the following size requirements:
 - 1. Accessory structures including, but not limited to parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
- k. Accessory buildings located on a R-3 zoned lot shall comply with all of the following size requirements:
 - 1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
 - 2. The maximum total combined gross floor area of all attached garages, attached carports, and/or all detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed fifteen percent (15%) of the lot area.
 - 3. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building(s).

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1. Accessory structures located on a R-3 zoned lot shall comply with the following size requirements:
 1. Accessory structures including but not limited to dumpster enclosures, parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

(2) *Non-residential districts:*

- a. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum five (5) foot setback from the side and rear lot lines unless abutting a residential district. When abutting a residential district, the setback for side and rear lot lines shall be a minimum of the accessory building or structure height.
- b. Accessory buildings located on an AG, P-I, NC, C-O, C-1, C-2, CBD, P, M-1, or M-2 zoned lot shall comply with all of the following size requirements:
 1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
 2. The maximum total combined gross floor area of all attached garages, attached carports, and/or all detached accessory buildings including but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed twenty-five percent (25%) of the lot area.
 3. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building(s).
- c. Accessory structures located on a AG, P-I, NC, C-O, C-1, C-2, CBD, P, M-1, or M-2 zoned lot shall comply with the following size requirements:
 1. Accessory structures including, but not limited to loading docks, refuse containers, dumpster enclosures, parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts, and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
- d. When not attached to the principal building, accessory buildings and/or structures in non-residential districts shall not exceed twenty-five (25) feet in height.
- e. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall be prohibited in the front yard, unless otherwise stated in this chapter.

(Ord 121-05, §1, 10-25-05, Ord 89-08, §1, 5-27-08; Ord 117-08, §1, 6-24-08; Ord 122-08, §1, 8-12-08; Ord 143-08, §1, 10-7-08; Ord 84-09, §1, 6-23-09; Ord 46-12, §1, 6-6-12)

Sec. 23-44. Fences and walls.

- (a) ***Fences and walls.*** Fences and walls are subject to the provisions of this section.

(1) ***Height***

The height of fences and walls shall be measured at grade, except as follows. Height may be measured two (2) inches above grade to allow for proper drainage and prevent rot of materials, when deemed appropriate by the Inspections Supervisor or designee. Berms may not be used to increase grade directly under a fence,

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unless otherwise stated in this chapter. Posts and post caps may project a maximum of four (4) inches above required fence height.

- a. **Boundary fence.** A boundary fence or wall shall not be more than six (6) feet in height in residential districts and not more than twelve (12) feet in commercial and industrial districts, except that hedges may be permitted to grow to their natural height. No boundary fence or wall, including a hedge or row planting, shall be permitted in excess of three (3) feet in height between the front yard setback line and the abutting lot lines, unless otherwise stated in this chapter.
- b. **Sound barrier fence or wall on an arterial/collector roadway.** A sound barrier fence or wall may be erected on a residential property, along the access-restricted lot line abutting an arterial or collector street. It shall not exceed eight (8) feet in height for double frontage lots and not exceed six (6) feet for corner lots, except in the vision corner.
- c. **Sound barrier fence or wall on a freeway.** A sound barrier fence, wall or combination of fence and berm or wall and berm may be erected along the yard abutting a freeway. It shall not be more than twenty (20) feet in height, as measured from the grade of the adjacent freeway. Plans from a state certified engineer/architect that assure structural integrity may be required for fences higher than eight (8) feet

(2) *Materials.*

- a. Barbed wire fences, electrical fences, and single, double and triple strand fences are prohibited except in the AG agricultural, M-1 and M-2 industrial districts.
- b. For all zoning districts other than AG, fence material must be either naturally resistant or treated wood board, vinyl, galvanized and/or vinyl coated chain link material, wrought iron, brick, natural stone, masonry, or other material as approved by the Community and Economic Development Director. Chain link fence slats are subject to provisions of this ordinance.
- c. Fences and walls located in the front yard must be made of materials such as wood, brick, vinyl, wrought iron, or stone. Galvanized chain link material is prohibited in the front yard.
- d. The finished side of the fence shall be erected to face the adjoining property. The side with protruding studs or posts shall face the building of the lot responsible for the erection of the fence.
- e. Fences used for screening purposes for non-residential uses shall be subject to Crime Prevention Through Environmental Design (CPTED) standards. CPTED standards are reviewed and are available through the Appleton Police Department.

(3) *Exceptions.*

Protective security and boundary fences on industrial sites, publicly owned lands or semi-private lands such as places of worship, educational institutions, utility substations, etc. are excluded from the provisions of this section, except that where such fences incorporate the use of barbed wire, such barbed wire shall not be less than seven (7) feet above the ground level, and except such fences shall be a minimum of two-thirds (2/3) open to vision equally distributed throughout the fence length, and maintain allowable height when located within the defined vision corner.

- (4) **Setback.** No fence shall extend closer than five (5) feet from the right-of-way line of an improved public alley.
- (5) **Vision corner.** Fences and walls shall comply with vision corner requirements of §23-50(g), Vision corner.
- (6) **Maintenance.** Both the fence and the property surrounding both sides of the fence shall be properly maintained at all times.

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(Ord 61-94, §5, 5-18-94; Ord 161-94, §1, 12-21-94; Ord 58-95, §1, 5-3-95; Ord 76-95, §1, 6-21-95; Ord 72-96, §1, 8-7-96; Ord 106-96, §1b, 11-6-96; Ord 25-98, §1, 3-18-98, Ord 27-99, §1, 4-24-99; Ord 121-05, §1, 10-25-05; Ord 28-20, §1, 3-25-20)

Sec. 23-45. Home occupations.

(a) **Purpose.** The purpose of this section is to provide regulations for limited non-residential uses that are conducted by an occupant of a dwelling which are compatible with the surrounding residential properties.

(b) **Permit required.** A home occupation permit is required for all home occupations conducted in an attached or detached garage pursuant to the procedures set forth in this section prior to the establishment of a home occupation.

(c) **Permit application.** Applications for home occupations conducted in an attached or a detached garage shall be filed with the Community and Economic Development Department on the forms available in the Community and Economic Development Department.

1. Each application shall be accompanied by a scaled site plan drawing showing the property lines and dimensions, location of all existing buildings/structures, location and number of on-site parking spaces for customers, employee and residence vehicles and the location and size of the home occupation.
2. Other information and plans as may be required by the Community and Economic Development Director or designee to determine whether a home occupation permit application should be approved, conditionally approved, or denied. The Community and Economic Development Director or designee may also authorize omission of any information or plans if he or she finds they are not necessary.

(d) **Action upon acceptance of a permit application.**

- (1) After acceptance of a complete application, the Community and Economic Development Director or designee shall forward each application for a home occupation permit to the Inspections Division, Health Department, Fire Department, and Police Department. An authorized representative from each department shall review each application for a home occupation, insofar as the application relates to their respective department's duties based upon the City of Appleton Municipal Code, to determine whether the application for a home occupation complies with the ordinances and laws applicable thereto. These representatives shall furnish the Community and Economic Development Director or designee, in writing, their recommendation as to whether an application for a home occupation should be approved, approved conditionally, or denied within five (5) business days after the application has been accepted by the Community and Economic Development Director or designee.
- (2) Within ten (10) business days after acceptance of a complete application and after notification to the City departments listed above, the Community and Economic Development Director or designee shall approve, approve with conditions, deny such home occupation permit.
- (3) If there is recommendation for denial, the Community and Economic Development Director or designee shall reject such home occupation permit in writing to the applicant stating the reasons for denial.

(e) **Permit not transferable.** The home occupation permit shall not be transferred to any individual, firm or another address, nor shall the permit authorize any person, other than the person named therein, to commence or carry on the home occupation for which the permit was issued.

(f) **Violations; penalty.** Failure to comply with the approved or conditionally approved home occupation permit or the provisions of this chapter, or failure to obtain a home occupation permit shall be a violation of this section. Administration and enforcement shall be as prescribed in §23-69 of this chapter.

(g) **General regulations.** All home occupations shall comply with the following standards:

- (1) **Location.** A home occupation shall be clearly incidental and subordinate to the use of the premises as a dwelling, and shall be conducted entirely within the residential dwelling unit or entirely within either the attached or detached garage, but not both by a member of the family residing on the premises.

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(2) **Square footage of the home occupation.**

- a. **When located within the dwelling.** The total area used for the home occupation within the dwelling shall not be more than three hundred (300) square feet or thirty percent (30%) of the habitable dwelling area, whichever is less.
- b. **When located within a detached or attached garage.** The total area used for the home occupation shall take up no more than three hundred (300) square feet or thirty percent (30%) of the gross floor area of the attached or detached garage, whichever is less.

(3) **No change to the character of the dwelling unit or garage.** No internal or external alterations or construction of the premises are involved, including the creation of a separate or exclusive business entrance, and there shall be no other exterior indication that a home occupation exists, except as provided in this section.

(4) **Nuisances.** No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-rays or electrical disturbance to radio or television transmission in the area that would exceed what is normally associated with a residential use.

(5) **Vehicle restrictions.** Only one (1) vehicle shall be permitted to be located at the residence in conjunction with the home occupation. The home occupation vehicle must be of a type ordinarily used for conventional passenger transportation (i.e., passenger automobile or vans and pickup trucks not exceeding a payload capacity of one (1) ton).

(6) **Outdoor display or storage.** No outdoor display or storage of materials, goods, supplies or equipment shall be allowed at the residence in conjunction with the home occupation.

(7) **Sign restrictions.** A home occupation use shall be limited to one (1) non-illuminated wall sign that does not exceed two (2) square feet in area.

(8) **On-premise sales/rental.** Sale and/or rental of products is permitted on an appointment basis only.

(9) **Employee restrictions.** Only one (1) person may be employed on the site in connection with the home occupation who is not an actual resident of the dwelling unit.

(10) **Client visitation restrictions.** There shall be no business visits and/or nonresident worker arrivals or departures allowed before 8:00 a.m. or after 8:00 p.m. Clients in conjunction with the home occupation will be limited to no more than ten (10) per day. No more than two (2) clients may visit at one (1) time.

(11) **Off-Street parking requirements.**

- a. Off-street parking spaces shall be available for clients and employees.
- b. Off-street parking spaces for the dwelling shall be maintained as required by this chapter.

(12) **Deliveries.** Deliveries to the home occupation shall be made by passenger vehicles, mail carriers, or step vans (UPS, Federal Express).

(13) **Garage operation restrictions.** All doors and windows of the attached or detached garage shall be kept closed at all times during the hours of operation of the home occupation, except when entering and exiting.

(h) **Permitted home occupations.** A home occupation may include or include similar uses such as the following, provided that the provisions of this chapter are met: professional office uses such as accountant, appraiser, architect, attorney, broker or agent (real estate, insurance, etc.) counselor, market research service, engineer, interior decorator, home crafts such as tailoring, sewing, dressmaking, quilting, making of jewelry or arts and crafts, artists and sculpting, blade sharpening of household hand and power tools such as mower blades, saw blades, drill bits, axes, chain saws, scissors, kitchen knives, or hedge clippers, office for contractor, handyperson, landscape contractor, tutoring of individuals, music instruction, direct sale product distribution (Avon, Tupperware, etc.), internet consulting and/or sales or writers.

(i) **Prohibited home occupations.** A home occupation shall not include or include similar uses such as the following: barbershops, beauty shops, service, repair, or painting of automobiles, trailers, recreational vehicles, boats, and snowmobiles, paint shops, welding, antique shops, landscaping businesses, medical clinics, retail food or wholesale food establishments requiring a state license, small engine repair, appliance repair or resale, palm reading, nail salon, pet grooming, kennels, hair wrapping, acupuncture, tattoo and body piercing, fitness center, aerobic exercise studios, restaurants or massage therapy. This list is illustrative, not exhaustive of all prohibited uses. (Ord 61-94, §5, 5-18-94; Ord 121-05, §1, 10-25-05; Ord 29-11, §1, 1-25-11)

Sec. 23-46. Outdoor storage and display in non-residential districts.

The following regulations shall apply to outdoor storage or displays in non-residential districts:

(a) The outdoor display of goods including items such as firewood and mulch shall be controlled by the following regulations:

- (1) The outdoor display of merchandise shall not interfere with off-street parking spaces or the safe and unobstructed use of vehicular, emergency, or pedestrian access ways or walkways.
- (2) The outdoor display of merchandise outside of the adjacent building shall not be located in any required setback on the lot.
- (3) Outdoor display of merchandise shall not be displayed at a height greater than seven (7) feet from the surface on which the merchandise is being displayed, except when the outdoor display of merchandise is displayed on a shelving or storage rack system.
- (4) All permitted outdoor display shall be maintained in a neat and orderly fashion.

(b) The outdoor storage of business property, goods, wares or merchandise that is not located in a specific area for customer viewing or immediate sale shall be controlled by the following regulations:

- (1) The outdoor storage areas shall not interfere with off-street parking spaces or the safe and unobstructed use of vehicular, emergency, or pedestrian access ways or walkways.
- (2) Outdoor storage areas shall not be located in any established front yard, required side or rear setback area on the lot. However, in the case of a double frontage lot, outdoor storage may be located in the established front yard opposite the front yard from which the principal structure is addressed.
- (3) Outdoor storage areas shall be required to be screened with an alternating board on board fence, chain link fence with tubular PDS slats or a wall. Such PDS slats or wall shall complement the exterior color of the principal building.
- (4) All permitted outdoor storage shall be maintained in a neat and orderly fashion.

Sec. 23-47. Refuse container and dumpster enclosure standards.

The following standards shall apply to refuse container and dumpster enclosures:

(a) Refuse containers of appropriate size are required for all non-residential and multifamily properties. Refuse containers and dumpster enclosures are exempt from Section 23-43(d)(5) and Section 23-50(d)(4).

(b) Refuse containers shall be screened from public view, unless otherwise specified in this chapter, and located in accordance with the standards outlined in this section.

(c) Refuse containers and dumpster enclosures located on an AG, R-3, P-I, NC, C-O, C-1, C-2, CBD, P, M-1 or M-2 zoned lot shall comply with the following location and setback requirements:

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(1) Location:

- a. Side and rear yard, unless otherwise specified in this chapter.
- b. Refuse containers and dumpster enclosures are allowed to be placed within the front yard adjacent to a public alley.
- c. Refuse containers and dumpster enclosures can be placed on a parking lot, even if it is a separate parcel, that is associated with, or adjacent to, the principal use.
- d. Refuse containers and dumpster enclosures may be shared between adjacent properties.
- e. Refuse containers and dumpster enclosures are not permitted on vacant properties that do not have an established principal use.
- f. On corner lots and double frontage lots, if it is demonstrated that it is impractical to place the dumpster enclosure in the side or rear yard, the Community & Economic Development Director can approve the enclosure to be located in the front yard. The dumpster enclosure shall meet the front yard setback requirement of the principal structure.

(2) Setbacks:

- a. AG, R-3, P-I, NC, C-O, C-1, C-2, P, M-1 or M-2 zoning districts: minimum five (5) foot setback from the side and rear lot lines.
- b. CBD zoning district: none
- c. Dumpster enclosures placed within the yard facing a public alley shall have a minimum five (5) foot setback from the public right-of-way.
- d. Dumpster enclosures attached to the principal structure shall meet the setback requirements for the principal structure.

(3) Refuse containers and/or dumpsters shall be screened accordingly:

- a. Materials used for screening the refuse containers and/or dumpsters shall be alternating board on board fence, chain link fence with slats, brick, masonry, staggered evergreens or equivalent material to sufficiently screen the refuse containers and/or dumpster(s).
- b. The height of the screening materials must be sufficient to screen the refuse containers and/or dumpsters.
- c. Refuse containers and/or dumpsters located adjacent to public alleys are not required to be screened.
- d. Refuse containers and/or dumpsters shall be placed on a paved surface.

(Ord 119-23, §1, 10-10-23)

Sec. 23-48. Bed and breakfast establishments.

Bed and breakfast establishments shall only be located within and accessory to an owner occupied single-family detached home.

- (a) Bed and breakfast establishments shall comply with all local, county and state fire and health regulations.
- (b) The bed and breakfast establishment shall be owner occupied at the time of rental.
- (c) The operation of a bed and breakfast establishment shall not be considered or classified as a home occupation.
- (d) A bed and breakfast establishment with four (4) or less guestrooms for rent is permitted.

(e) A bed and breakfast establishment with five (5) to a maximum of eight (8) guestrooms can be permitted with a Special Use Permit per §23-66.

(f) No ancillary commercial use shall be operated in connection with an approved bed and breakfast establishment. (Ord 110-07, §1, 6-26-07)

Sec. 23-49. Drive through facility.

(a) ***Site Design.***

- (1) ***Stacking and drive through lanes identified.*** All stacking and drive through lanes shall be identified by asphalt or concrete curbing and/or paint striping.
- (2) The design of maneuvering and stacking aisles for the drive through shall not interfere with circulation or visibility for traffic either on or off site.
- (3) ***Landscaping of stacking spaces.*** When stacking spaces abut a residential zoning district, the entire length of the stacking spaces shall be fully screened. Screening materials shall consist of at least one row of staggered evergreen trees or shrubs, at least two (2) to three (3) feet high at the time of planting.
- (4) ***Pedestrian traffic.*** Stacking spaces and stacking lanes should avoid conflicts with on-site pedestrian traffic between the parking lot and the building(s) entrances. When impractical to avoid, a marked crosswalk shall be provided. These crosswalks shall be delineated by paint striping, raised walkways, or alternative materials as approved by the City.

(b) ***Stacking spaces.*** Stacking spaces shall be a minimum of nine (9) feet wide by nineteen (19) feet in length. Uses that include drive through service shall provide the following minimum number of stacking spaces:

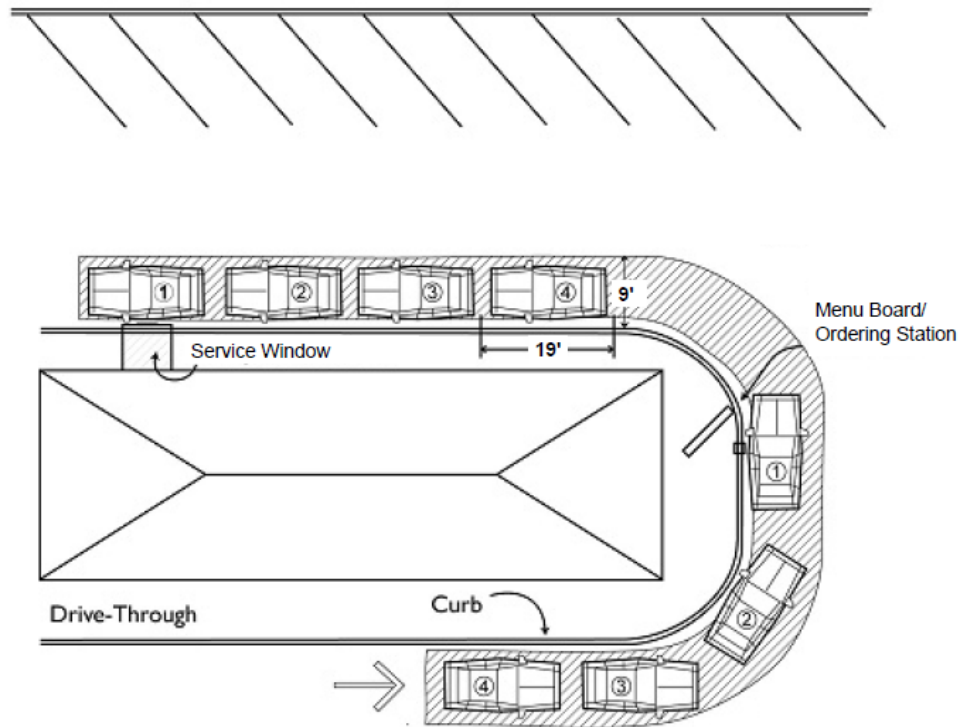
- (1) Financial institutions, drive-through convenience retail, pharmacies or other similar drive through uses: 3 (three) stacking spaces per drive through service window.
- (2) Drive through restaurants with ordering stations and service windows:
 - a. Four (4) stacking spaces for each ordering station.
 - b. Four (4) stacking spaces between the furthest service window and the ordering station.
- (3) Car wash:
 - a. Self-service – Three (3) stacking spaces for each washing bay.
 - b. Drive-in automatic – Six (6) stacking spaces for each washing bay, located behind the car wash entrance.

(Ord 131-23, §1, 10-10-23)

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ZONING

Drive through graphic



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Sec. 23-50. Dimensional exceptions and modifications.

(a) **Purpose.** Height, area exceptions and modifications set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(b) **General area exceptions and modifications.** The area and setback requirements heretofore established shall be adjusted in the following cases:

- (1) Every part of a required yard shall be open to the sky, unobstructed by a building, except for accessory structures in a side or rear yard, and except for ordinary projection of sills, belt courses, cornices and ornamental features, roof overhangs, eaves, bay windows, chimneys, and gutters not to exceed twenty-four (24) inches.
- (2) Open or lattice enclosed fire escapes, required by law, and handicap access ramps may project into a required setback. The ordinary projection of chimneys and pilasters shall be permitted by the Inspections Supervisor, when placed so as not to obstruct light and ventilation.
- (3) Terraces, uncovered porches, uncovered stairs, decks and ornamental features no greater than forty (40) square feet may project into a required yard, provided these projections do not extend more than three (3) feet above the floor level of the ground (first) story and are at least four (4) feet from the adjacent side lot line.
- (4) Where a single building on a lot or tract is converted to condominium ownership, area and setback standards will apply to the original conforming lot or tract and not to individual ownership.
- (5) Where an earthen berm is constructed separately or against a structure, the height of the berm relative to surrounding elevations cannot exceed three (3) feet at any point on the property unless such berm is first approved as part of a site plan submitted for §23-570, Site plan review and approval.

(c) **Height.** The height required heretofore shall be adjusted in the following cases:

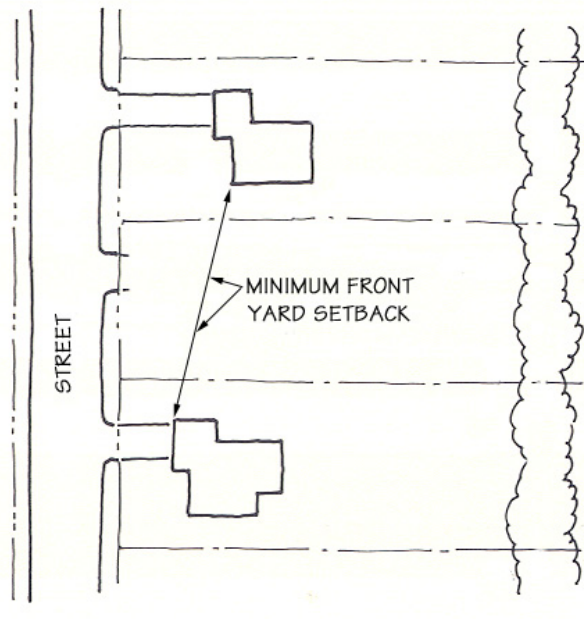
- (1) Educational institutions, public facilities, places of worship and other similar type institutions may be erected to a height not exceeding eighty-five (85) feet in any district in which they are permitted, provided:
 - a. In the P-I District, the regulations of §23-100(h)(4) – (6) shall be followed.
 - b. In all other districts, front and rear yards shall be increased in depth, and side yards shall be increased in width one (1) foot for each foot of height that the building exceeds the height regulations of the district in which it is located.
- (2) The height regulations prescribed heretofore shall not apply to grain elevators, place of worship spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smoke stacks, conveyors, radio towers and flag poles.

(d) **Front yards.** The front yards heretofore established, with the exception of front yards in corner lots, shall be adjusted in the following cases:

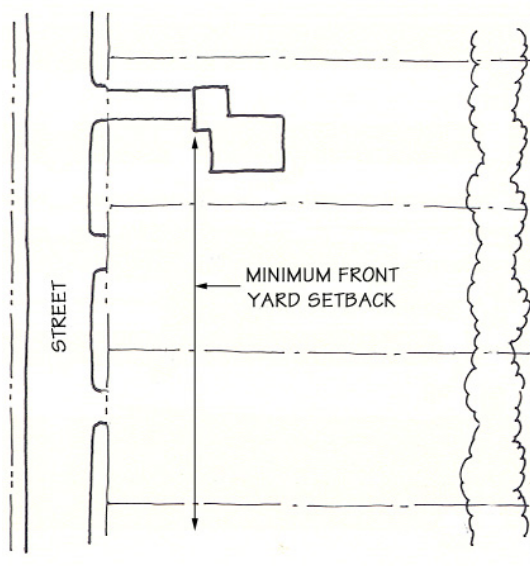
- (1) If a lot is within one hundred (100) feet of existing buildings on both sides of the lot, the minimum front yard setback shall be a straight line drawn from the two (2) closest front corners of the adjacent building on each side; or
- (2) If a lot is within one hundred (100) feet of an existing building on one (1) side only, the setback shall be the same as the adjacent building; or
- (3) If a lot is more than one hundred (100) feet from an existing building on either side, then no reduction may be applied to the front yard setback.

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Example: Lot within 100 feet of two buildings.



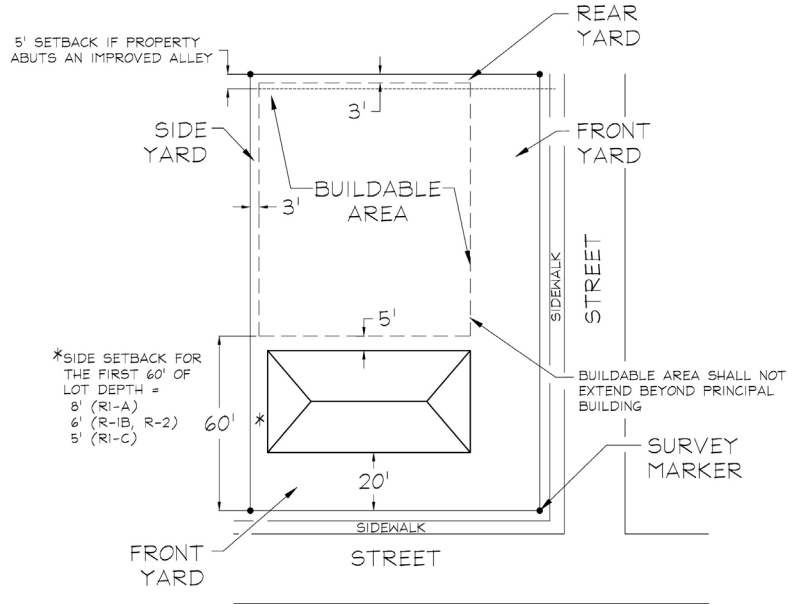
Example: Lot within 100 feet of one building.



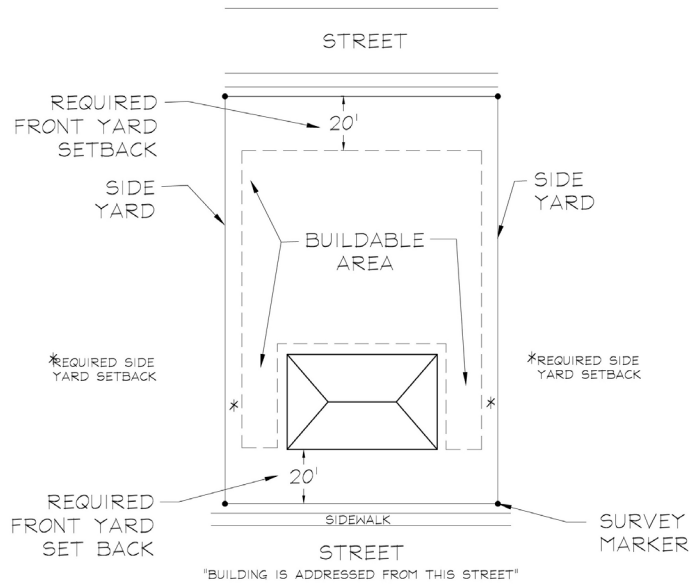
- (4) Where a lot is a double frontage lot, any detached accessory structure may be permitted in the yard opposite the front yard from which the principal structure is addressed. Furthermore, the accessory structure shall meet the front yard and side yard setback requirement of the principal structure.

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BUILDABLE AREA FOR ACCESSORY STRUCTURES ON A TYPICAL CORNER LOT - RESIDENTIAL DISTRICTS



BUILDABLE AREA FOR ACCESSORY STRUCTURES ON A LOT WITH FRONTAGE ON TWO STREETS



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(e) **Side yards.** The side yards heretofore established, may be adjusted in the following cases:

- (1) For the purpose of the side yard regulations, a two- (2-) family dwelling shall be considered as one (1) building occupying one (1) lot.
- (2) Side yard setbacks are not required on the connected sides of a unified building development such as a multi-tenant building.

(f) **Rear yards, corner lots of record.** If a corner lot of record is less than one hundred (100) feet in depth, the required rear yard setback may be reduced, not to exceed fifty percent (50%) of the total minimum required rear yard setback.

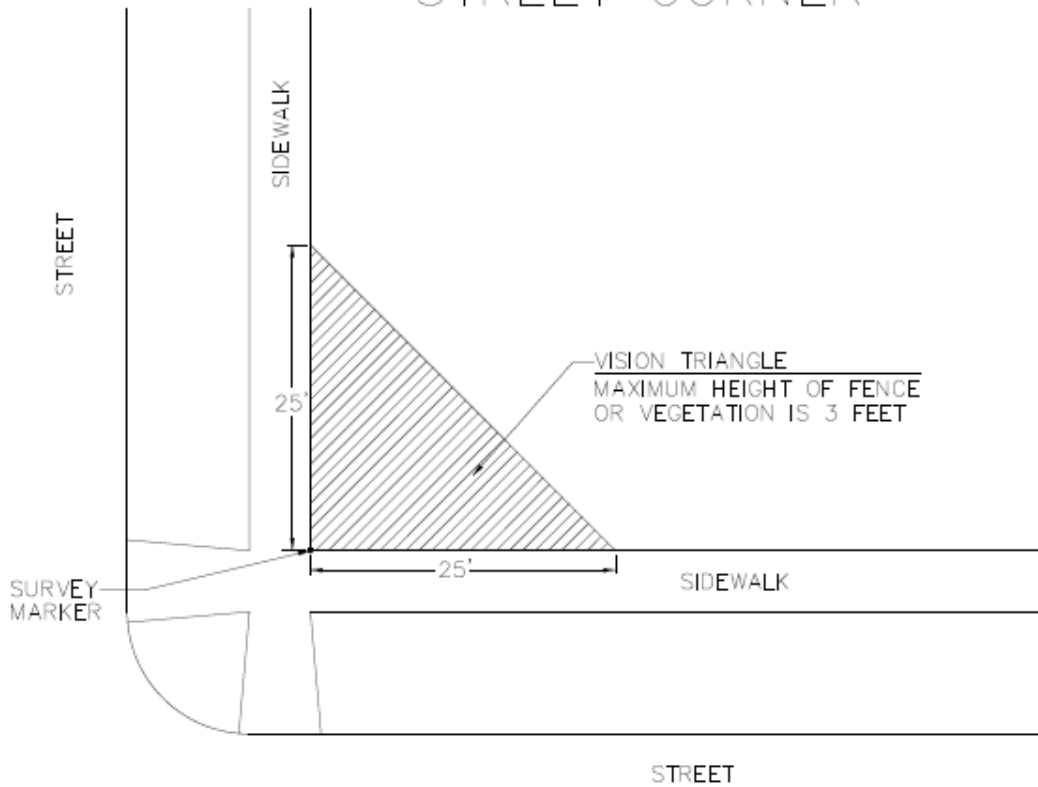
(g) **Vision corner.** Vegetation or structures on private property (as per requirements of City Traffic Code, Chapter 19):

- (1) **Street corner.** No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the street at its intersection with another street or public thoroughfare. There shall be a vision corner on all corner lots located in zoning districts that require a minimum twenty (20) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty-five (25) feet from the intersection of the right-of-way lines. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent property line elevation to ten (10) feet above the adjacent property line elevation.
- (2) **Private Driveway.** No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the driveway, street, or public thoroughfare. There shall be vision triangles on all driveways located in zoning districts that require a minimum ten (10) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting the point ten (10) feet from the intersection of the street-right-of-way and private driveway. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent property line elevation to ten (10) feet above the adjacent property line elevation.
- (3) The provisions above also apply to those corner lots located in zoning districts that require a ten (10) foot setback from street property lines, except in those cases the vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty (20) feet from the intersection of the street right-of-way.

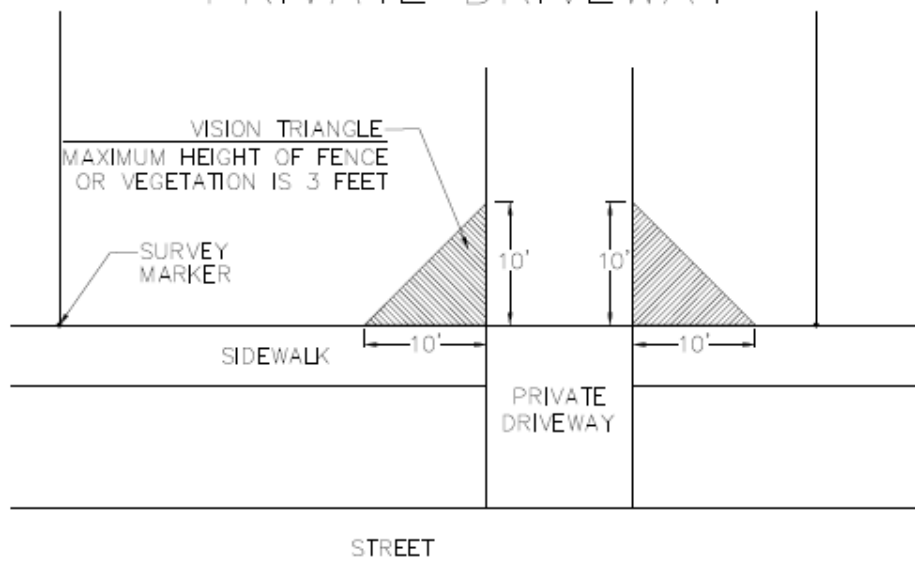
(Ord 29-20, §1, 3-25-20)

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VISION TRIANGLE AT STREET CORNER



VISION TRIANGLE AT PRIVATE DRIVEWAY



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Sec. 23-51. Zoning with design requirements.

(a) No single-family or two- (2-) family dwelling shall be erected or installed in any zoning district within the City of Appleton unless the structure is set on a full basement or other permanent enclosed foundation which meets the standards set forth in subchapters III, IV and V of Ch. ILHR 21, Wis. Adm. Code and all site construction is in compliance with Chapters ILHR 21-25, Wis. Adm. Code, the Uniform Dwelling Code.

(b) In addition to (a) above, residential structures must conform to the following:

- (1) A one (1) story structure shall have a minimum living area of at least nine hundred (900) square feet and a two (2) story structure shall have a minimum first floor living area of at least seven hundred (700) square feet;
- (2) Minimum width (i.e., the short side) of every dwelling shall be at least twenty-five (25) feet. Attached garages, carports and open decks shall not be included in the measurement of the width of the dwelling;
- (3) The structure shall have a minimum of 4/12 pitched roof on a minimum of seventy-five percent (75%) of the structure;
- (4) All dwellings shall be placed on an enclosed permanent foundation that does not extend more than twelve (12) inches of exposed concrete foundation above the exterior finished grade of the lot. An exception is when the grade of the lot slopes, in which case only that portion of the foundation which is on the highest point of the lot must meet the requirements of this paragraph.

(c) The Board of Appeals may not grant any variance from the requirements of (a). The Board of Appeals may grant a variance from the requirements of (b) only if the Board of Appeals specifically finds that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with other dwellings in the vicinity.

(d) Single-family and two- (2-) family dwellings that do not meet the above requirements as of November 19, 1995, are considered to be in conformity.
(Ord 118-95, §1, 11-15-95)

Sec. 23-52. Community living arrangements (CLA) and other living arrangements.

(a) **Purpose.** This section is intended to ensure that:

- (1) All community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance provide a living environment for their residents which is as homelike as possible and is the least restrictive of each resident's freedom as is compatible with the resident's need for care and services;
- (2) The care and services a resident needs are provided to the resident;
- (3) Care and services are provided in such a manner that the resident is encouraged to move toward functional independence in daily living or to continue functioning independently to the extent possible; and
- (4) Community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance are dispersed throughout the community to assure the most appropriate environment for each facility and the neighborhood in which the facility exists.

(b) **General requirements.** The following requirements shall be reviewed by the Community and Economic Development Director and the Inspections Supervisor and shall regulate community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance within the City limits:

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- (1) Prior to the issuance of a Certificate of Occupancy, the operator of the community living arrangement, adult family home (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance shall provide evidence to the Inspections Supervisor that a valid license has been or will be issued from the State of Wisconsin and/or another appropriate governmental unit.
- (2) For the purpose of this section, the location of a community living arrangement, an adult family home (B) operated by corporations, child welfare agencies, churches, associations or public agencies or an adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance shall be subject to the following requirements:
 - a. The total capacity of all community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies within any aldermanic district may not exceed one percent (1%) of the total population of that aldermanic district. Exception to this requirement may be granted at the discretion of the City by a special use permit pursuant to §23-66 of this ordinance.
 - b. The total capacity of all community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies within the City may not exceed one percent (1%) of the total City population. Exception to this requirement may be granted at the discretion of the City by a special use permit pursuant to §23-66 of this ordinance.
- (3) All community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies must be reviewed by the Division of Inspections and the Fire Department and receive the necessary permits from those departments.
- (4) The exterior of the community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies shall conform to the character of the residential dwellings in the neighborhood in which it is located. Furthermore, all new structures proposed shall be compatible with the surrounding neighborhood.

(Ord 121-05, §1, 10-25-05; Ord 82-07, §1, 5-8-07)

Sec. 23-53. Outdoor lighting.

(a) **Purpose.** All areas containing outdoor lighting, including, but not limited to, floodlighting, security lighting, event lighting or the lighting of off-street parking and loading areas shall comply with the requirements of this section.

Furthermore, it is the intent of the regulations of this section to establish lighting levels for various permitted uses that promote visual surveillance, reduce the potential for criminal activity and prevent the unnecessary glare of light on adjacent properties.

(b) **Lighting definitions.** The following terms are defined for this section:

- (1) **Foot-candle.** A unit of measure for illumination. A unit of illumination on a surface that is one (1) foot from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot.
- (2) **Full cut-off fixture.** A light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a ninety degree (90°) horizontal plane from the base of the fixture.
- (3) **Horizontal foot-candle or luminance.** The measurement of brightness from a light source, usually measured in foot-candles or lumens, which is taken through a light meter's sensor at a horizontal position.

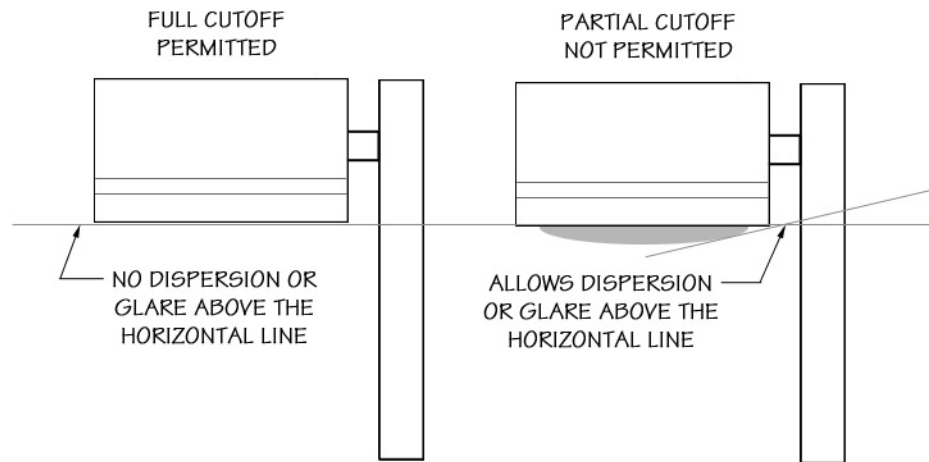
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- (4) **Light trespass.** Light from an artificial light source that is intruding into an area where it is not wanted or does not belong.
- (5) **Lumens.** A unit of illumination, being the amount of illumination of a unit area of spherical surface, due to a light of unit intensity placed at the center of the sphere.
- (6) **Uplighting.** Any light source that distributes illumination above a ninety-degree (90°) horizontal plane.
- (7) **Security lighting.** Any light source used to illuminate a building, structure or property during evening hours that seeks to deter criminal activity.

(c) **Lighting standards, configuration and timing.**

- (1) All exterior lighting shall be of full cutoff design and directed downward and away from adjoining property, with luminaries shielded to prevent unnecessary glare as identified in the graphic on the next page.

Example of cutoff light fixtures



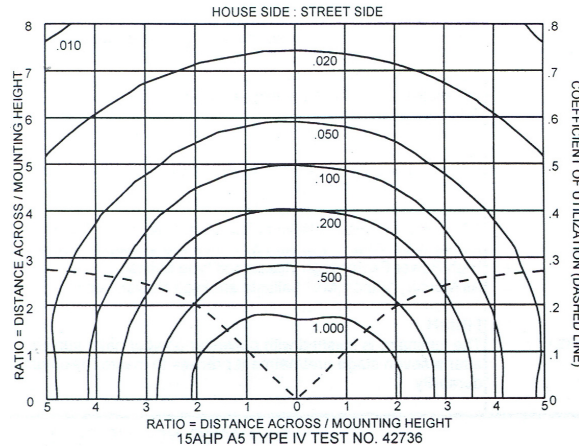
- (2) Trees and shrubs shall not interfere with the distribution of exterior lighting necessary for security purposes as required by this section.
- (3) Security lighting above building entrances, parking lots, off-street loading areas and service entrances shall be metal halide, LED, or another source, unless permitted otherwise during plan review, and incorporated in exterior areas going to and from the building(s) or use(s) within the site. (Ord 70-12, §1, 7-24-12)
- (4) All exterior fixtures, when used for security purposes, except for parking lot lighting, shall be illuminated from dusk until dawn, unless otherwise specifically designated on the site plan and as approved through the site plan process. All other exterior lighting that is not necessary for security purposes shall be turned off one (1) hour after the close of business.
- (5) Any exterior lighting device designed for security lighting shall be protected by weather and vandal-resistant covering, a managed light source for controlling the times of illumination and fully shielded and directed down to minimize glare and intrusiveness on adjacent properties or rights-of-way.
- (6) Lighting in multi-level parking ramps shall be evaluated on a case-by-case basis to maximize safety and to minimize unnecessary glare to adjacent or nearby residential areas.

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(d) **Lighting plan.** A lighting plan is required by this code. Such plan shall become an integral part of any site plan review application. No building permit shall be issued without first obtaining approval of a required lighting plan.

Details of exterior lighting shall be provided on a site plan as identified in §23-570, Site plan review and approval. Photometric calculations shall be detailed on an exterior lighting plan unless waived by the Community and Economic Development Director. Photometric calculations shall be based on the “mean” light output per the manufacturer’s values of the specified lamp and luminaire photometry data formatted on Illumination Engineering Society (I.E.S.) file compiled by an approved testing laboratory. The details provided for exterior lighting shall include point-to-point photometric calculations at intervals of not more than ten (10) feet, at ground level, and may also be required at six (6) feet above ground level, depending on the applicable risk factors.

Example: Photometric Calculation



(e) **Minimum illumination guidelines for security purposes.** All minimum illumination guidelines for security lighting listed in this section shall be maintained from ground level to a height of six (6) feet. The minimum to maximum uniformity ratio may range up to 6:1 in acceptable layouts. In some circumstances, customer convenience, closed-circuit surveillance, and commercial entertainment uses may require a higher level of lighting.

(f) **Outdoor lighting intensity standards.** When outdoor lighting is proposed or required, the following standards in the table on the following page shall apply and the “activities” as described in the table shall be assigned and evaluated by the Appleton Police Department and Community and Economic Development Department based on the type of use, the hours of operation and the area in which the use is located.

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Outdoor Lighting Intensity and Uniformity Standards.

Light Use	Minimum Horizontal Foot-candles	Maximum Horizontal Foot-candles	Additional Regulations
Parking lot	0.5	5	(1) Areas used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking lot lighting. (2) Parking lot lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Outdoor display and sales	-	5	-
Walkways, sidewalks, bike paths	-	5.0	(1) Lighting fixtures shall be designed to direct light downward, and the initial output of light sources shall not exceed one thousand (1,000) lumens. (2) Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Parks and playgrounds	-	0.5	Lighting fixtures shall be designed to direct light downward, and the initial output of light sources shall not exceed one thousand (1,000) lumens.
Canopies and drive through facilities	5.0	20.0	(1) Light fixtures mounted on or under canopy ceilings shall be full cutoff, unless indirect lighting is used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the structure. (2) Lights shall not be mounted on the top or sides of a canopy and the sides of a canopy shall not be illuminated. (3) Lighting for drive-through facilities must be fully shielded. (4) Canopy and bay lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Outdoor activity facility	All outdoor entertainment or recreational/sports facility lighting will be reviewed for compliance with minimum site lighting criteria and light trespass criteria and with regard to the intent of these exterior lighting standards to minimize the impact of light trespass and glare on all surrounding properties and public rights-of-way.		
High risk activity (e.g., bank deposit night drop or ATM)	4.0	5.0	Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Medium risk activity (e.g., convenience store open 24 hours)	2.0	4.0	Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Low risk activity (e.g., place of worship, office)	0.50	2.0	Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.

(Ord 71-12, §1, 7-24-12)

(g) **Light trespass.** All areas containing outdoor lighting (except public street lighting) shall limit light trespass onto adjacent property, when measured at any point along a property line, to the requirements set forth below. Compliance shall be achieved by utilizing fixture shielding, directional control designed into fixtures, fixture location, height, or aim or a combination of these or other factors.

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<i>District Adjoining Subject Property</i>	<i>Maximum Light Spillage to Adjoining Lots Measured in Foot-candles</i>
AG, R-1A, R-1B, R-1C, R-2, R-3, P-I, NC, C-O, TND	0.20
C-1, C-2, CBD, P, M-1, M-2	0.50

(h) **Exterior illumination of buildings and other vertical structures.** When buildings or other structures are illuminated, the design for the illumination shall be in accordance with the following:

- (1) The illumination of buildings shall be limited to security lighting or highlighting unique architectural features.
- (2) Lighting fixtures shall be located and/or aimed such that light is directed only onto the building surface. All fixtures used to illuminate buildings shall be fully shielded.
- (3) For statues, monuments, fountains, or other objects for which it may not be possible to illuminate with downward lighting, upward lighting may be used only in the form of spotlights that confine the illumination to the object of interest.
- (4) If upward lighting is used to illuminate flags, only spotlights shall be used; floodlights directed above the horizontal shall not be used to illuminate a flag.

(i) **Neon lighting.** Light sources consisting of glass tubes filled with neon, argon, krypton, or other similar gas (hereafter referred to as “neon lighting”) are excluded from shielding and line-of-sight requirements. However such lighting shall be included in the light trespass requirements of §23-53(f). Furthermore, neon lighting shall not be considered as security lighting.

(j) **Other outdoor lighting.**

- (1) Outdoor lighting not otherwise specified in this code emitting more than one thousand two hundred (1,200) lumens (except motion detector activated lighting) shall be full cutoff and fully shielded. Bulbs in outdoor light fixtures emitting from six hundred (600) to one thousand two hundred (1,200) lumens may be installed in fixtures that are not full cutoff and may be visible from the property line provided, however, such bulbs shall be frosted glass or covered by frosted glass or other similarly translucent material.
- (2) A spotlight or floodlight of less than one thousand eight hundred (1,800) lumens need not be full cutoff or fully shielded if its center beam is aimed at a point not beyond any property lines and no less than forty-five degrees (45°) below horizontal, is used for security lighting purposes only, and is motion detector activated and cycles off within five (5) minutes after the cessation of motion within its field of view.
- (3) Tower or antenna lighting shall not be permitted unless required by the Federal Aviation Administration (FAA).

(k) **Enforcement.** Failure to adhere to the requirements of this section or an approved lighting plan shall be deemed a violation of this code.

(l) **Exceptions.**

- (1) The temporary use of low wattage or low voltage lighting for approved festivals, celebrations, and the observance of holidays are exempt from this section except where they create a hazard or nuisance from glare.
- (2) Consideration to light trespass requirements shall be demonstrated prior to commencing the use of the temporary lighting.
- (3) Emergency lighting and traffic control lighting shall be exempt from the requirements of this section.

(m) **Lights not conforming to this chapter.**

- (1) **Authority to continue.** Any lawful lighting fixtures located within the City at the effective date of this section or which shall come to be located in City as a result of annexation after the effective date of this code, which

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does not conform to the provisions of this section, may continue provided the lighting remains in conformance with the provisions of this subsection.

- (2) **Ordinary maintenance and repair.** Nothing in this subsection shall relieve the owner or beneficial user of legal nonconforming lighting, or the owner of the property on which the legal nonconforming lighting is located, from the provisions of this section regarding safety, maintenance and repair. Normal maintenance, including replacing light bulbs, cleaning, or routine repair of legal nonconforming light fixtures, shall not be deemed to be a condition that triggers a loss of lawful status described below, unless such maintenance increases the nonconforming aspects of the lighting.
- (3) **Loss of lawful status.**
 - a. Legal nonconforming status shall terminate under the following conditions:
 1. If a light fixture is no longer used for a period of twelve (12) months or longer it shall be deemed abandoned and shall not thereafter be reestablished; or
 2. If a lighting fixture is structurally altered such that its nonconforming aspects increase; or
 3. If a lighting fixture is relocated, replaced, or moved in any way; or the lighting fixture is damaged and the cost of repair exceeds fifty percent (50%) of its replacement value.
 - b. Upon the event of any of the aforementioned, the lighting fixture(s) shall be immediately brought into compliance with this section, or the lighting fixture(s) shall be removed.
- (4) **Removal pursuant to public order.** Lighting found by a governmental agency to create public hazard can be ordered removed or altered at any time.

Sec. 23-54. Temporary uses and structures.

(a) **Purpose.** This section is intended to provide for the regulation and control of temporary uses and temporary structures that occur on private property on an intermittent basis or for a specific period of time, not intended to become a permanent use or structure. This administrative procedure will assure that standards are addressed and that the temporary use or temporary structure will not have a negative impact on adjacent properties and neighborhoods.

(b) **Permit required.** All temporary uses and structures shall obtain a temporary use permit pursuant to the procedures set forth in this section prior to the establishment of a temporary use or structure, unless otherwise stated in this section.

(c) **Permit applications and fees.** Application for a temporary use or structure shall be filed with the Community and Economic Development Director on forms available in the Community and Economic Development Department. Each application shall be accompanied by:

- (1) A site plan drawing, drawn to scale, showing the property lines and dimensions, location of all existing and proposed structures/buildings, parking lot landscaping areas, on-street/off-street parking spaces and drive aisles, driveways, location, size and setback dimensions to property lines of the proposed temporary use and/or structure.
- (2) Other information and plans as may be required by the Community and Economic Development Director to determine whether a temporary use/structure permit application should be approved, conditionally approved, or denied. The Community and Economic Development Director may also authorize omission of any information or plans if he or she finds they are not necessary.
- (3) Permit fee. The fee for a temporary use/structure permit shall be established by the Common Council and is on file in the Office of the City Clerk.

(d) **Action upon acceptance of a permit application.**

- (1) After acceptance of a complete application, the Community and Economic Development Director shall

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forward each application for a temporary use or temporary structure to the City Clerk's Office, Inspections Division, Fire Department, Health Department, Police Department, and Public Works Department-Engineering Division. An authorized representative from each department shall review each application for a temporary use or temporary structure, insofar as the application relates to their respective department's duties based upon the City of Appleton Municipal Code, to determine whether the application for a temporary use or temporary structure complies with the ordinances and laws applicable thereto. These representatives shall furnish the Community and Economic Development Director, in writing, their recommendation as to whether an application for a temporary use or temporary structure should be approved, approved conditionally, or denied within five (5) business days after the application has been accepted by the Community and Economic Development Director.

- (2) Within ten (10) business days after acceptance of a complete application and after notification to the City departments listed above, the Community and Economic Development Director shall approve, approve with conditions, deny such temporary use, or temporary structure permit.
- (3) If there is recommendation for denial, the Community and Economic Development Director shall reject such temporary use or temporary structure permit in writing to the applicant stating the reasons for denial.

(e) **Time limits on permit applications.** All temporary uses and structures shall be confined to the dates specified by the Community and Economic Development Director, on the temporary use permit.

(f) **Violations; penalty.** Failure to comply with the approved or conditionally approved temporary use permit or the provisions of this chapter, or failure to obtain a temporary use permit shall be a violation of this section. Administration and enforcement shall be as prescribed in §23-69 of this chapter.

(g) **General standards.** All temporary uses and structures shall meet the following requirements:

(1) **Lot and setback requirements.**

- a. A temporary use and/or temporary structure shall not occur or be placed on a vacant lot, unless otherwise stated in this section.
- b. A temporary use and/or temporary structure shall comply with the minimum front, rear and side yard setback requirements for the principal structure (development standards) of the zoning district in which the temporary use or temporary structure is located, unless otherwise stated in this section.
- c. A temporary use and/or temporary structure shall not be placed in an area intended for emergency service vehicles.
- d. A temporary use and/or temporary structure that is located in a parking lot shall not occupy more than forty percent (40%) of the available parking spaces for the principal use(s).
- e. A temporary use and/or temporary structure shall not impede the vehicular traffic circulation or the movement of emergency vehicles on the lot.
- f. A temporary use and/or temporary structure shall not be placed in the required interior or perimeter parking lot landscaping areas.

(2) **Outdoor lighting.** The minimum regulations of §23-53, Outdoor lighting shall be complied with.

(3) **Parking spaces.** All required parking spaces shall be provided on the same lot with the temporary use, unless otherwise stated in this section. The number of parking spaces required for the temporary use is based on parking requirements for the most similar use type listed under §23-172 of this chapter, unless otherwise stated in this section. However, due to the primary pedestrian orientation of the Central Business District (CBD), the off-street parking requirements are not required for temporary uses located in the CBD.

(4) **Food sales.** Food sales shall be licensed and operated under valid City of Appleton Health Department permits pursuant to the Municipal Code and state laws.

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- (5) **Sanitary facilities.** Sanitary facilities, either portable or permanent, shall be made available to all employees, attendants and participants of the temporary use or temporary structure during its operation hours, as determined and required by the Inspections Supervisor.
 - (6) **Other code requirements.** The applicant shall apply for and receive all applicable permits and licenses pursuant to the Municipal Code prior to establishing a temporary use and/or temporary structure on a lot.
 - (7) **Cleanup.** The site shall be completely cleaned of unsold merchandise, debris and temporary structures including, but not limited to: trash receptacles, signs, stands, poles, electrical wiring or any other fixtures and accessories or equipment connected therewith, after the termination of the temporary use or temporary structure.
- (h) **Temporary uses.** The following temporary uses may be permitted as specified:
- (1) **Outdoor sale of seasonal agricultural products.**
 - a. Permitted zoning districts: AG, P-I, C-1, C-2 or CBD.
 - b. Outdoor sales of seasonal agricultural products may be allowed on a lot for no more than one hundred twenty (120) total days per calendar year.
 - c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).
 - d. Outdoor sale of seasonal agricultural products are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor sale of seasonal agricultural products, shall be located within the vision corner, pursuant to §23-50, of this chapter.
 - e. Temporary structures associated with the temporary use shall comply with the standards of this section.
 - (2) **Outdoor Christmas tree sales lot (including incidental sale of Christmas related items).**
 - a. Permitted zoning districts: AG, R-1A, R-1B, R-1C, R-2, R-3, P-I, C-1, C-2, or CBD.
 - b. Outdoor Christmas tree sales lot (including incidental sale of Christmas related items) may be allowed on a lot for no more than forty-five (45) total days per calendar year.
 - c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).
 - d. Hours of operation for an outdoor Christmas tree sales lot (including incidental sale of Christmas related items) shall be limited to 8:00 a.m. to 8:00 p.m. when placed on a residential zoned lot or associated with a residence.
 - e. Outdoor Christmas tree sales lot (including incidental sale of Christmas related items) are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor Christmas tree sales lot (including incidental sale of Christmas related items) shall be located within the vision corner, pursuant to §23-50, of this chapter.
 - f. Temporary structures associated with the temporary use shall comply with the standards of this section.
 - (3) **Outdoor fireworks sales.**
 - a. Permitted zoning districts: C-1, C-2 or CBD.

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- b. Outdoor fireworks sales may be allowed on a lot for no more than sixty (60) total days per calendar year.
 - c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).
 - d. Outdoor fireworks sales are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor fireworks sales shall be located within the vision corner, pursuant to §23-50, of this chapter.
 - e. Temporary structures associated with the temporary use shall comply with the specific regulations of this section.
- (4) ***Rummage sales.***
- a. Permitted zoning districts: Any district when incidental to a residential dwelling.
 - b. No temporary use permit is required pursuant to §23-54(b). Provision for parking spaces is not required for rummage sales.
 - c. Rummage sales may be allowed on a lot for no more than three (3) consecutive days and that no lot shall be used for more than three (3) such sales in one (1) calendar year.
 - d. The display of rummage sale items are exempt from the setback requirements of §23-54(g)(1)b, except that no rummage sale items shall be displayed and/or sold within the vision corner, pursuant to §23-50, of this chapter.
 - e. Temporary structures associated with the temporary use shall comply with the standards of this section.
- (5) ***Outdoor temporary merchandise sales other than outdoor seasonal agricultural products, outdoor Christmas tree sales, outdoor firework sales/stands, rummage sales and outdoor farmers markets.***
- a. Permitted zoning districts: C-2 or CBD.
 - b. No more than four (4) temporary use permits per lot shall be issued per calendar year.
 - c. The maximum time limit per temporary use permit shall be five (5) days.
 - d. The provision for parking spaces shall be provided on the same lot with the temporary use, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).
 - e. Outdoor temporary merchandise sales are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor temporary merchandise sales shall be displayed and/or sold within the vision corner, pursuant to §23-50, of this chapter.
 - f. Temporary structures associated with the temporary use shall comply with the standards of this section.
- (6) ***Outdoor farmers market.***
- a. Permitted zoning districts: AG, P-I, C-2 or CBD.
 - b. Outdoor farmers market may be allowed on a lot for no more than one hundred twenty (120) total days per calendar year.
 - c. The provision for parking spaces shall be provided on the same lot with the temporary use, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

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- d. Outdoor farmers markets are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor farmers market shall be located within the vision corner, pursuant to §23-50, of this chapter.
- e. Temporary structures associated with the temporary use shall comply with the specific regulations of this section.

(7) *Temporary model home sales office.*

- a. Permitted zoning districts: R-1A, R-1B, R-1C, R-2 or R-3.
- b. No temporary use permit is required pursuant to §23-54(b).
- c. Temporary model home sales offices may be allowed on a lot for the purpose of promoting the sale, or rental of dwellings and/or lots, which are located only within the same residential development or subdivision for a period of three (3) years.
- d. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).
- e. There is no more than one (1) temporary model home sales office in the residential development or subdivision.
- f. The temporary model home sales office shall be designed as a permanent dwelling that meets all relevant requirements of the Municipal Code.
- g. The temporary model home sales office will be converted to residential use after it is used as a temporary model home sales office.

(i) *Temporary structures.* The following temporary structures may be permitted as specified:

(1) *Temporary contractor's offices.*

- a. Permitted zoning districts: Any district when associated with a construction project.
- b. No temporary use permit is required pursuant to §23-54(b). Provision for parking spaces is not required for temporary contractor's offices.
- c. Temporary contractor's offices may be located on a lot or vacant lot where there is a valid building permit issued for a permanent structure.
- d. Temporary contractor's offices shall be removed from the site upon issuance of a certificate of occupancy permit or upon occupancy of the permanent structure.
- e. Temporary contractor's offices shall be setback at least ten (10) feet from any property line.
- f. Temporary contractor's offices shall not be located within the vision corner, pursuant to §23-50, of this chapter.

(2) *Tents or canopies.*

- a. Permitted zoning districts: Any district when associated with any permitted temporary use not including temporary model home sales office.
 - 1. No temporary use permit is required pursuant to §23-54(b).
 - 2. The maximum time limit shall be equal to the allowable time period for the temporary use, where such tent is incidental to the temporary use.

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3. Tents or canopies shall not be located within the vision corner, pursuant to §23-50, of this chapter.
 - b. Permitted zoning districts: C-1, C-2, CBD, or M-2 district when associated with an outdoor display.
 1. No temporary use permit is required pursuant to §23-54(b).
 2. The maximum time limit shall be equal to the allowable time period for the outdoor display, where such tent is incidental to the outdoor display.
 3. Tents or canopies shall not be located within the vision corner, pursuant to §23-50, of this chapter.
- (3) ***Portable storage units.***
- a. Permitted zoning districts: Any district when incidental to a residential dwelling.
 1. No temporary use permit is required pursuant to §23-54(b).
 2. A maximum of four (4) portable storage units not exceeding a cumulative gross floor area of two hundred (200) square feet shall be permitted on a lot for no more than sixty (60) total days per calendar year.
 3. The portable storage unit shall be placed on an impervious surface.
 4. The portable storage unit shall not be located within the vision corner, pursuant to §23-50, of this chapter.
 5. Portable storage units shall not be used for the purposes of a garage or shed.
 - b. Permitted zoning districts: P-I, C-O, C-1, C-2, CBD, M-1 or M-2.
 1. No more the three (3) temporary use permits per business shall be issued per calendar year.
 2. Two (2) portable storage units shall be the maximum allowed per temporary use permit.
 3. The maximum time limit per temporary use permit shall be thirty (30) days.
 4. Portable storage units shall be placed on an impervious surface.
 5. Portable storage units may be placed on a lot within a designated loading space or shall be placed on a lot pursuant to §23-54(g), of this chapter.
- (4) ***Temporary structures other than tents, canopies, temporary contractor's offices, or portable storage units.***
- a. Permitted zoning districts: Any district.
 - b. Temporary structures may be located on a lot provided the use occupying a temporary structure is listed as a principal permitted use or special use in the underlying zoning district.
 - c. The maximum time limit of the permit shall be equal to the allowable time period for the temporary use, where such temporary structure is associated with a temporary use.
 - d. Except as set forth in §23-54(i)(4)c, the maximum time limit of the permit for a temporary structure may be approved for a period not to exceed six (6) months per calendar year.
 - e. Temporary structures shall not be placed or located on pervious surfaces.
 - f. Temporary structures shall not be located within the vision corner, pursuant to §23-50 of this chapter.

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(j) **Other temporary uses or temporary structures.** The Community and Economic Development Director may determine that an unlisted temporary use or temporary structure may be allowed if it is similar in character to other temporary uses or temporary structures listed in this section and meets the intent of this ordinance.

Table 3. Permitted Temporary Uses and Structures by Type and Zoning District.

Temporary Use Type	AG	R-1A R-1B R-1C R-2 R-3	NC	P-I	C-O	C-1	C-2	CBD	M-1	M-2	P
Outdoor sales of Seasonal Agricultural Products	P	*	*	P	*	P	P	P	*	*	*
Outdoor Farmers Market	P	*	*	P	*	*	P	P	*	*	*
Outdoor Temporary Merchandise Sales	*	*	*	*	*	*	P	P	*	*	*
Circus and Carnival	*	*	*	S	*	*	S	*	*	*	*
Rummage sales, when incidental to a residential dwelling	A	A	A	A	A	A	A	A	A	A	A
Outdoor Christmas tree sales lot	P	P	*	P	*	P	P	P	*	*	*
Outdoor Fireworks sales	*	*	*	*	*	P	P	P	*	*	*
Temporary Model Home sales office	*	A	*	*	*	*	*	*	*	*	*
Temporary structures	P	P	P	P	P	P	P	P	P	P	P
Temporary Construction Trailers	A	A	A	A	A	A	A	A	A	A	A
Portable storage unit when incidental to a residential dwelling	A	A	A	A	A	A	A	A	A	A	A
Portable storage unit	*	*	*	P	P	P	P	P	P	P	*
Tents/canopies when associated with temporary use	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹
Tents/canopies when associated with outdoor display	*	*	*	*	*	A ¹	A ¹	A ¹	*	A ¹	*

* = Temporary use type not allowed

A = Allowed without a temporary use permit.

A¹ = Allowed without a temporary use permit. **However, Tents greater than 200 square feet and Canopies greater than 400 square feet require a permit from the Appleton Fire Department.**

P = Temporary use permit required

S = Special Use Permit Required

(Ord 145-08, §1, 10-7-08 (repealed and recreated entire §23-54))

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Sec. 23-55. Accessory dwelling units (attached and detached).

(a) **Purpose.**

- (1) The accessory dwelling unit regulations of this section are intended to help promote the benefits of accessory dwelling units, while also preserving neighborhood character and promoting stability for established neighborhoods.
- (2) Accessory dwelling units help advance the City’s housing and land use goals and policies by:
 - a. Accommodating additional housing units while preserving the character of existing neighborhoods.
 - b. Allowing efficient use of the City’s existing housing stock and infrastructure.
 - c. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs.
 - d. Providing a means for residents to remain in their homes and neighborhoods.
 - e. Promoting a range of housing styles that meet the needs and appeal to all segments of the community and allows residents to age in place.

(b) **Definitions.** The definitions identified in this section shall apply to this section and shall prevail in the event any inconsistency exists between these definitions and the definitions set forth in Article II of this chapter.

- (1) **Accessory dwelling unit (ADU)** means an attached or a detached dwelling unit, which provides complete independent living facilities for one or more individuals and is located on a lot with a proposed or existing principal residential dwelling. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same lot and in conjunction with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling.
- (2) **Attached accessory dwelling unit** means a dwelling unit connected to (by a minimum of one shared wall), contained within or a combination of connected to and contained within the existing footprint of an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling, including an attached garage.
- (3) **Detached accessory dwelling unit** means a freestanding building and where all sides of the building are not connected to an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling, including the conversion of or addition to any portion of an existing built or proposed to be built detached accessory building for the purpose of creating an accessory dwelling unit.
- (4) **Junior accessory dwelling unit (JADU)** means a dwelling unit that is no more than 500 square feet in size, which provides complete independent living facilities for one or more individuals and is contained within or a combination of connected to and contained within an existing footprint of an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling. It shall include permanent provisions for living, sleeping, eating, and cooking. However, a junior accessory dwelling unit may include bathing and sanitation facilities or may share bathing and sanitation facilities with the principal residential dwelling unit.
- (5) **Independent living facilities** means a dwelling unit having permanent provisions of all of the following features: living, sleeping, eating, cooking, bathing and sanitation facilities.
- (6) **Established front yard** means the closest distance measured from the principal building to the front lot line(s).
- (7) **Convey, conveyed or conveyance** refers to the act of transferring property from one party to another by a written deed or an equivalent document, including condominium declarations documents. This is completed by recording the document with the County Register of Deeds.

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- (8) **Gross floor area** means the sum of the horizontal areas of all floors of a building measured from the exterior face of the exterior walls or from the centerline of a wall separating two (2) dwelling units, but not including finished and unfinished basement areas, attached and detached garages, and any space where the floor-to-ceiling height is less than six (6) feet.
- (9) **Cooking appliances** means including, but not limited to: ovens, convection ovens, stoves, stove top, hot plates, microwave ovens, built in grills or similar appliances.

(c) **Permitted zoning districts.** Accessory dwelling units may be permitted in the R-1A, R-1B, R-1C, R-2 and R-3 Districts in conjunction with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling.

(d) **Location.** Accessory dwelling units shall be located on the same lot as the single-family detached dwelling or two-family-zero lot line dwelling.

(e) **Accessory dwelling unit number and type.**

- (1) Lots with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling are permitted to have a maximum of one (1) accessory dwelling unit and one (1) junior accessory dwelling unit per lot under the following options:
- Option 1 (attached ADU and JADU):** A single-family detached dwelling and a two-family-zero lot line dwelling is permitted to have one (1) attached accessory dwelling unit and one (1) junior accessory dwelling which meets the standards set forth in Section 23-56 of this Chapter; or
 - Option 2 (detached ADU and JADU):** A single-family detached dwelling and a two-family-zero lot line dwelling is permitted to have one (1) detached accessory dwelling unit and one (1) junior accessory dwelling which meets the standards set forth in Section 23-56 of this Chapter.
 - Lots with an existing built or proposed to be built single-family detached dwelling or a two-family-zero lot line dwelling shall not be permitted to have both an attached accessory dwelling unit and a detached accessory dwelling unit.

(f) **Use regulations.**

- (1) **Timing of construction.** Accessory dwelling units shall not be constructed or established on a lot in the R-1A, R-1B, R-1C, R-2 or R-3 Districts prior to the single-family detached dwelling or two-family-zero lot line dwelling being present or under construction.
- (2) **Sale of property and tax parcel number.** The accessory dwelling unit or junior accessory dwelling unit must be in the same ownership as the principal single-family detached dwelling or two-family zero lot line dwelling and shall not be sold separately or otherwise conveyed separate from the principal single-family detached dwelling or two-family-zero lot line dwelling. A separate tax parcel number shall not be assigned to the accessory dwelling unit.
- (3) **Detached accessory building conversion.** Adding on vertically or horizontally to or converting all or a portion of an existing detached accessory building for the purpose of creating a detached or an attached accessory dwelling unit may be permitted, provided all of the provisions of this section are all complied with.
- (4) **Maximum size of accessory dwelling units.** The total combined gross floor area of the accessory dwelling unit and junior accessory dwelling unit shall not exceed the total gross floor area (as defined in subsection (b)(8) above) of the principal dwelling unit.
- (5) **Off-street parking.** No additional off-street parking is required for an attached or detached accessory dwelling unit beyond what is required for the principal dwelling unit. The existing required amount of off-street parking spaces for the principal dwelling unit shall be maintained on the lot. Any displaced off-street parking spaces required for the principal dwelling unit shall be replaced, and additional parking spaces shall be provided on the lot pursuant to Section 23-172.

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(g) **Design requirements for attached and detached accessory dwelling units.** Attached and detached accessory dwelling units shall comply with the following design requirements, unless otherwise indicated:

- (1) **Compliance with applicable regulations.** Attached and detached accessory dwelling units, including adding on to or converting an existing detached accessory building for the purpose of creating a detached or an attached accessory dwelling unit shall comply with all applicable Municipal Code regulations, including but not limited to, City Policies, Zoning, Local Building, State of Wisconsin Uniform Dwelling Code, Fire, Drainage, Water Utility, Sewer and Wastewater Disposal regulations, and all applicable State and Federal Laws, unless otherwise stated in this section.
- (2) **Exterior finish materials.** Exterior finish materials for attached accessory dwelling units must visually be similar to the exterior finish materials of the principal dwelling unit.
 - a. For the purpose of this subsection, the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.
- (3) **Orientation of exterior entry doors and stairways.**
 - a. **New (ADU) exterior entry door.** All new exterior entry doors constructed exclusively to serve the accessory dwelling unit are permitted to face the side and rear yard, except only one (1) new entry door is permitted to face the front yard that exclusively serves the accessory dwelling unit.
 - b. **Shared use of an existing or proposed (primary dwelling unit or detached garage) exterior entry door.** Exterior entry doors located on the exterior façade of the existing or proposed to be built principal dwelling unit or detached garage may be used to serve the accessory dwelling unit, provided all applicable Building and Fire Codes are satisfied.
 - c. **Stairways (interior and corner lots).** All new stairways constructed to serve an accessory dwelling unit located above the first story shall be built on the exterior façade facing the side yard and rear yard only for interior and corner lots.
 - d. **Stairways (double frontage lots).** A new stairway constructed to serve an accessory dwelling unit located above the first story is allowed to be built on the exterior façade facing the front yard that is opposite the front yard from which the principal dwelling unit is addressed and/or the side yard for double frontage lots.
- (4) **Foundation design.** Accessory dwelling units shall be supported by a permanent frost free foundation conforming to the construction standards pursuant to Chapter 4 of the Municipal Code.
- (5) **Water meter and service connection.** A new separate water meter and service connection to the public water main is not required for accessory dwelling units, unless requested and paid for by the property owner. The new separate water meter service shall be connected directly to the public water main.
- (6) **Separate electrical service.**
 - a. **Detached accessory dwelling units.** Detached accessory dwelling units shall have a separate electric meter and electrical panel independent from the principal dwelling unit.
 - b. **Attached accessory dwelling units.** A new separate electric meter and electrical panel independent from the principal dwelling unit is not required for an attached accessory dwelling unit, unless installed and paid for by the property owner. If a new separate electrical meter and electrical panel is not installed,

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access to the electrical panel located inside the principal dwelling unit shall be accessible to occupant(s) of the attached accessory dwelling unit.

(h) **Setbacks.**

(1) Attached accessory dwelling units shall comply with the following setback requirements:

- a. **Minimum front lot line setback (street and alley):** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- b. **Minimum side lot line setback:** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- c. **Minimum rear lot line setback:** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- d. **Minimum separation between all buildings:** Ten (10) feet.
- e. The minimum front, side and rear lot line setbacks for accessory dwelling units constructed or established on nonconforming lots of record may be modified pursuant to Section 23-42(f)(1), (2), (3) and (4) of this Chapter.

(2) Detached accessory dwelling units shall comply with the following setback requirements:

- a. **Minimum front lot line setback (street and alley):** Shall not be located in the established front yard, except for double frontage lots.
- b. **Minimum front lot line setback (double frontage lots):** The minimum setback shall be what is required in the underlying zoning district for the principal dwelling unit for the yard opposite the front yard from which the principal dwelling unit is addressed.
- c. **Minimum side lot line setback:** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- d. **Minimum rear lot line setback:** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- e. **Minimum separation between all buildings:** Ten (10) feet.
- f. The minimum side and rear lot setbacks for detached accessory dwelling units constructed or established on nonconforming lots of record may be modified pursuant to Section 23-42(f)(1), (2) and (4) of this Chapter.

(i) **Maximum lot coverage.** Attached and detached accessory dwelling units shall be included in the calculation of maximum lot coverage that is required in the underlying zoning district that it is located in. The maximum lot coverage percentage as established for the underlying zoning district shall not be exceeded.

(j) **Building height.**

- (1) Attached accessory dwelling units shall not exceed the maximum building height limit is required in the underlying zoning district for the principal dwelling unit.
- (2) Detached accessory dwelling units shall not exceed the height of the principal dwelling unit.

(k) **Exceptions.**

- (1) Accessory dwelling units are exempt from the requirements of Section 23-43 (d)(4) and (f) of this Chapter.

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- (2) Accessory dwelling units are exempt from the requirements of Section 23-51, Zoning with design standards of this Chapter.

(l) **Building permit application process.** Application, review, and approval of an accessory dwelling unit shall be pursuant to Chapter 4 of the Municipal Code.

- (1) Prior to issuance of a building permit for the accessory dwelling unit, the owner shall record a deed restriction in a form approved by the City that: includes a prohibition on the sale of the accessory dwelling unit separate from the sale of the single-family residence.
- (2) Addressing. Accessory dwelling units shall be assigned a building unit number in accordance with the Building Address Policy which is on file in the Inspections Division at the time when the building permit is issued.

Editor's Note: Sec. 23-55 was created by Ord No 25-21, adopted July 7, 2021, published July 12, 2021, becoming effective July 13, 2021.

Sec. 23-56. Junior accessory dwelling units (JADU).

(a) **Purpose.** This section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit and shall not be considered a separate dwelling unit.

- (1) Junior accessory dwelling units help advance the City's housing and land use goals and policies by:
 - a. Accommodating additional housing units while preserving the character of existing neighborhoods.
 - b. Allowing efficient use of the City's existing housing stock and infrastructure.
 - c. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs.
 - d. Providing a means for residents to remain in their homes and neighborhoods, and
 - e. Promoting a range of housing styles that meet the needs and appeal to all segments of the community and allows residents to age in place.

(b) **Definitions.** See Section 23-55(b).

(c) **Permitted zoning districts.** Junior accessory dwelling units may be permitted in the R-1A, R-1B, R-1C, R-2 and R-3 Districts in conjunction with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling.

(d) **Maximum number.** A maximum of one (1) junior accessory dwelling unit shall be permitted per residential lot in conjunction with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling.

(e) **Use regulations.**

- (1) **Timing of construction.** Accessory dwelling units shall not be constructed or established on a lot in the R-1A, R-1B, R-1C, R-2 or R-3 District prior to the single-family detached dwelling or two-family-zero lot line dwelling being present or under construction.
- (2) **Sale of property and tax parcel number.** The junior accessory dwelling unit must be in the same ownership as the principal single-family detached dwelling or two-family zero lot line dwelling and shall not be sold separately or otherwise conveyed separate from the principal single-family detached dwelling or two-family-zero lot line dwelling. A separate tax parcel number shall not be assigned to the junior accessory dwelling unit.

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- (3) **Maximum size.** A junior accessory dwelling unit shall not exceed five hundred (500) square feet in size. In addition, the total combined gross floor area of the accessory dwelling unit and junior accessory dwelling unit shall not exceed the total gross floor area (as defined in subsection (b)(8) above) of the principal dwelling unit.
- (4) **Off-street parking.** No additional off-street parking is required for a junior accessory dwelling unit beyond what is required for the principal dwelling unit. The existing required amount of off-street parking spaces for the principal dwelling unit shall be maintained on the lot. Any displaced off-street parking spaces required for the principal dwelling unit shall be replaced and additional parking spaces shall be provided on the lot pursuant to Section 23-172.

(f) **Design requirements for a junior accessory dwelling unit.** Junior accessory dwelling units shall comply with the following design requirements, unless otherwise indicated:

- (1) **Compliance with applicable regulations.** Junior accessory dwelling units shall be considered to be a part of the principal dwelling unit on the lot and shall comply with all applicable Municipal Code regulations, including but not limited to, City Policies, Zoning, Local Building, State of Wisconsin Uniform Dwelling Code, Fire, Engineering, Water Utility, Sewer and Wastewater Disposal regulations, and all applicable State and Federal Laws.
- (2) **Location of junior accessory dwelling unit.** A junior accessory dwelling unit shall be attached to a single-family detached dwelling or two-family zero lot line dwelling, may be created in any part of an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling, and may be created in an addition to a single-family detached dwelling.
- (3) **Orientation of exterior entry doors and stairways.**
 - a. **New (JADU) exterior entry door.** All new exterior entry doors constructed exclusively to serve the junior accessory dwelling unit are permitted to face the side and rear yard, except only one (1) new entry door is permitted to face the front yard that exclusively serves the junior accessory dwelling unit.
 - b. **Shared use of an existing or proposed (primary dwelling unit or detached garage) exterior entry door.** Exterior entry doors located on the exterior façade of the existing or proposed to be built principal dwelling unit or detached garage may be used to serve the junior accessory dwelling unit, provided all applicable Building and Fire Codes are satisfied.
 - c. **Stairways (interior and corner lots).** All new stairways constructed to serve a junior accessory dwelling unit located above the first story shall be built on the exterior façade facing the side yard and rear yard only for interior and corner lots.
 - d. **Stairways (double frontage lots).** A new stairway constructed to serve a junior accessory dwelling unit located above the first story is allowed to be built on the exterior façade facing the front yard that is opposite the front yard from which the principal dwelling unit is addressed and/or the side yard for double frontage lots.
- (4) **Entry connections.**
 - a. Junior accessory dwelling units that contain all the required features of an independent living facility (as defined in Section 23-55(b)(5)) will not be required to maintain an interior connection between the junior accessory dwelling unit and the principal dwelling unit. Junior accessory dwelling units that do not contain all the required features of an independent living facility (as defined in Section 23-55(b)(5)) will be required to maintain an interior connection between the junior accessory dwelling unit and the principal dwelling unit. Two (2) interior doors may be installed within one (1) frame for noise reduction.
- (5) **Foundation design.** Accessory dwelling units shall be supported by a permanent frost free foundation conforming to the construction standards pursuant to Chapter 4 of the Municipal Code.

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- (6) **Water meter and service connection.** A new separate water meter and service connection to the public water main is not required for a junior accessory dwelling unit, unless requested and paid for by the property owner. The new separate water meter service shall be connected directly to the public water main.
- (7) **Separate electrical service.**
 - a. A new separate electric meter and electrical panel independent from the principal dwelling unit is not required for a junior accessory dwelling unit, unless installed and paid for by the property owner. If a new separate electrical meter and electrical panel is not installed, access to the electrical panel located inside the principal dwelling unit shall be accessible to occupant(s) of the junior accessory dwelling unit.
- (8) **Kitchen area.** A junior accessory dwelling shall contain a kitchen area which includes a sink, cooking appliance, any size refrigerator, counter surface, and storage cabinets.
- (9) **Bathing and sanitation.** Junior accessory dwelling units may include bathing and sanitation facilities, or may share bathing and sanitation facilities with the principal dwelling unit.
- (10) **Setback and other zoning regulations.** For purposes of setbacks and other zoning regulations, the junior accessory dwelling unit shall be considered to be a part of the principal dwelling unit of subject site and shall be subject to the requirements of the underlying zoning district.
 - a. The minimum front, side and rear lot line setbacks for junior accessory dwelling units constructed or established on nonconforming lots of record, may be modified pursuant to Section 23-42(f)(1), (2), (3) and (4) of this Chapter.

(g) **Exceptions.**

- (1) Junior accessory dwelling units are exempt from the requirements of Section 23-43(d)(4) and (f) of this Chapter.
- (2) Junior accessory dwelling units are exempt from the requirements of Section 23-51, Zoning with design standards of this Chapter.

(h) **Building permit application process.** Application, review, and approval of a junior accessory dwelling unit shall be pursuant to Chapter 4 of the Municipal Code.

- (1) Prior to issuance of a building permit for the junior accessory dwelling unit, the owner shall record a deed restriction in a form approved by the City that includes a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence.
- (2) **Addressing.** Junior accessory dwelling units shall be assigned a building unit number in accordance with the Building Address Policy which is on file in the Inspections Division at the time when the building permit is issued.

Editor's Note: Sec. 23-56 was created by Ord No 26-21, adopted July 7, 2021, published July 12, 2021, becoming effective July 13, 2021.

Sec. 23-57 – Sec. 23-59. Reserved.

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ARTICLE IV. ADMINISTRATION

Sec. 23-60. Purpose.

Administrative procedures and authority for administering, interpreting and enforcing this ordinance are herein established in order to achieve the following purposes:

- (a) To provide for the review of site and development plans before obtaining a Certificate of Occupancy;
- (b) To provide for the inclusion of necessary facilities, services and additional uses through special use permits;
- (c) To provide for the inclusion of uses which are not specified in this ordinance, but which have characteristics and a land use impact similar to permitted uses;
- (d) To assure that no work shall be started on relocation, construction, reconstruction, or structural alteration of a building, structure or use, until the building or use is found to comply with all provisions of this zoning ordinance;
- (e) To assure, before construction of new buildings or the commencement of a use or occupancy, or before occupancy is continued after alterations or changes in use have been made, that all regulations of the City have been met by requiring a Certificate of Use and Occupancy; and
- (f) To provide for the enforcement by issuance of orders by the Community and Economic Development Director or the Inspections Supervisor.

Sec. 23-61. Common Council.

(a) **Purpose.** The Common Council, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter.

(b) **Powers and duties.** The Common Council, in general, performs the following functions:

- (1) Approves or disapproves any application for an amendment to this chapter, including applications for amendment to the Official Zoning Map.
 - (2) Approves or disapproves any application for a special use permit.
 - (3) Approves or disapproves any application for a PD and TND.
 - (4) Approves or disapproves proposed amendments to the City's adopted land use policies.
 - (5) Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this chapter.
- (Ord 61-94, §5, 5-18-94)

Sec. 23-62. Plan Commission.

(a) **Purpose.** The Plan Commission, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter as set forth in this section.

(b) **Powers and duties.** There is created a Plan Commission with the powers and duties and qualifications as set forth in this section and in Wisconsin Statutes §62.23. Such powers and duties generally include:

- (1) To initiate, hear, review and offer its recommendations to the Common Council on applications for amendments to this chapter, including applications for amendment to the Official Zoning Map.
- (2) To hear, review and offer its recommendations to the Common Council on applications for special use permits, subdivisions, annexations, PD, TND, official map actions, street vacations and name changes and other matters.

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- (3) To prepare and recommend to the Common Council for adoption a comprehensive plan for the City, and from time to time to recommend to the Council such amendments as it may deem appropriate.
- (4) To aid and assist the Common Council and the departments of the City in implementing the City's adopted land use policies and in planning, developing and completing specific projects.
- (5) To review and report on any matters referred to it by the Common Council.
- (6) Review of any site plan upon disapproval by the Community and Economic Development Director.
- (7) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.
- (8) To review any similar use not specifically permitted, as denied by the Community and Economic Development Director, under §23-37(c). In no case shall this interpretation be construed as a process for a use variance.
- (9) To review and offer its recommendation to the Common Council on requests for modifications or waivers to screening and landscaping requirements as set forth in §23-66(h)18.b.vii.5.a. thru c.

(c) **Structure.** The structure of the Plan Commission shall comply with City Municipal Code Charter Ordinance §3-100, et seq.

(d) **Organization.** The Plan Commission shall organize by the election of a vice-chairman and such other officers as may, in their judgment, be necessary.

(1) The Plan Commission shall keep a written record of its proceedings to include all actions taken.

(2) Four (4) members shall constitute a quorum.

(Ord 61-94, §5, 5-18-94; Ord 82-06, §1, 7-11-06; Ord 69-13, §1, 8-13-13)

Sec. 23-63. Board of Appeals.

(a) **Purpose.** The Board of Appeals, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter as set forth in this section.

(b) **Powers and duties.** There is created a Board of Appeals with the powers and duties and qualifications as set forth in this chapter and in Wisconsin Statutes §62.23. Such powers and duties include:

- (1) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Community and Economic Development Director or the Inspections Supervisor in the enforcement of this chapter.
- (2) To hear and decide upon applications for variances from the requirements of this chapter.
- (3) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.

(c) **Structure.** The Board of Appeals shall consist of five (5) members appointed by the Mayor and subject to approval by the Common Council as vacancies occur.

- (1) One (1) member shall be an architect, engineer or contractor; one (1) member shall be a real estate broker; and three (3) members shall be selected for their knowledge of and interest in matters pertaining to this chapter.

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- (2) Members shall serve staggered five (5) year terms; one (1) expiring each year. Terms shall expire May 1 of each year.
- (3) The Board shall reorganize in June of each year by electing a chairman, vice-chairman and secretary. All meetings of the Board shall be held at the call of the chairman or at such times as the Board determines.

(d) **Procedures.** The Board of Appeals shall hold meetings and make decisions in accordance with the following procedures:

- (1) All hearings conducted by said Board shall be open to the public. Any person may appear and testify at a hearing, either in person, or by duly authorized agent or attorney.
- (2) The Board of Appeals may call on any City department for assistance in the performance of its duties as may be reasonably required.
- (3) All decisions made by the Board shall be made without unreasonable delay.
- (4) The Board shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact, and shall also keep records of its hearing and other official actions.
- (5) Findings of fact shall be included in the minutes of each case.
- (6) Every rule or regulation, amendment, decision or determination of the Board shall be filed promptly in the office of the board, and shall be a public record.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1c, 11-6-96; Ord 30-20, §1, 3-24-20)

Sec. 23-64. Administration.

(a) **Purpose.** The primary administration of this chapter is by the Community and Economic Development Director and Inspections Supervisor as noted below and cited throughout the chapter.

(b) The Community and Economic Development Director is responsible for performing the following duties:

- (1) Review and administer all site plans required by this chapter;
- (2) Review and approve or deny all applications for permitted use status under all zoning districts;
- (3) Conduct preapplication conferences with petitioners for zoning map amendments;
- (4) Receive, certify for completeness and forward to the Plan Commission all applications as prescribed by this chapter;
- (5) Have possession of permanent and current records of this chapter, including the City's Official Zoning Map and amendments to the Official Zoning Map, special use permits and ordinance amendments.
- (6) Review and approve or deny requests for modifications or waivers to screening and landscaping requirements as set forth in §23-66(h)18.b.vii.5.a. thru c.

(c) The Inspections Supervisor is responsible for performing the following duties:

- (1) Issue and maintain records of all building and sign permits;
- (2) Issue and maintain records of all Certificates of Occupancy;
- (3) Conduct inspections of buildings, structures and uses of land to determine compliance with the terms of this chapter;

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- (4) Make investigations with respect to matters referred to in this chapter;
 - (5) Issue violation notices requiring compliance, to advise suspected violators of their right to appeal and to issue citations for violations of this chapter;
 - (6) Require that all construction or work of any type be stopped when such work is not in compliance with this chapter and revoke any permit that was unlawfully issued without full compliance of the requirements of this chapter or under fraudulent conditions;
 - (7) Have possession of permanent and current records of this chapter, including Board of Appeals cases;
 - (8) Review, process and report findings and recommendations and forward appeal and variance requests to the Board of Appeals on those applications upon which the Board of Appeals is required to act;
 - (9) Enforce all orders of the Board of Appeals.
- (Ord 107-96, §1, 11-6-96; Ord 83-06, §1, 7-11-06; Ord 70-13, §1, 8-13-13)

Sec. 23-65. Zoning amendments.

- (a) **Purpose.** The amendment process provides a method for making changes in the zoning text and zoning map.
- (b) **Initiation.**
 - (1) Proposed text amendments may be initiated by: Common Council, Plan Commission, the property owner or a resident of the City.
 - (2) Proposed map amendments may be initiated by: Common Council, Plan Commission, the owner of, or owner's designated agent of the particular property to be rezoned.
- (c) **Text amendments.**
 - (1) **Proposal by Common Council or Plan Commission.** Text amendments may be proposed by resolution of an alderperson submitted to the City Clerk to be forwarded to the Plan Commission or by direct initiation by the Plan Commission. If the Plan Commission determines an amendment proposed by an alderperson is primarily intended to serve an individual or narrow interest rather than the general public interest, it shall report such resolution with a recommendation that the benefiting party submit an application with appropriate fees.
 - (2) **Application by property owner or resident.** A property owner or resident wishing to amend the text of this chapter shall meet with the Community and Economic Development Director to discuss the proposed amendment. If the owner or resident wishes to pursue an amendment, they shall file an application form with the City Clerk accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review.
 - (3) **Informal hearing.** Within thirty (30) days of filing, the Community and Economic Development Director shall establish a date, time and place to hold an informal hearing before the Plan Commission. The Director will be responsible for analyzing the facts regarding the petition and prepare a staff review and recommendation for consideration by the Plan Commission.
 - (4) **Action by Plan Commission.** Within forty-five (45) days following the conclusion of the informal hearing, the Plan Commission shall transmit to the Common Council its recommendation. Failure of the Plan Commission to act within forty-five (45) days following the conclusion of such hearing shall be deemed a recommendation for the approval of the petitioned amendment as submitted.
 - (5) **Public hearing.** Within thirty (30) days of the receipt of the Plan Commission report, or its failure to act as above provided, (unless such time shall be extended by agreement with the petitioner) the Common Council shall hold a public hearing, advertised by a Class 2 notice.

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- (6) **Action by Common Council.** Within forty-five (45) days of the public hearing the Common Council shall either approve or deny the proposed amendment. Council action to approve the amendment shall be done by ordinance.

(d) **Map amendments.**

- (1) **Proposal by Common Council or Plan Commission.** Amendments may be proposed by resolution of an alderperson submitted to the City Clerk to be forwarded to the Plan Commission or by direct initiation by the Plan Commission. If the Plan Commission determines an amendment proposed by an alderperson is primarily intended to serve an individual or narrow interest rather than the general public interest, it shall report such resolution with a recommendation that the benefiting party submit an application with appropriate fees. A resolution to initiate rezoning must be accompanied by the information required in subsection (2) that follows and shall be processed in accordance with the provisions of this section.
- (2) **Application by owner or owner's designated agent.** An owner or owner's designated agent wishing to rezone his property shall meet with the Community and Economic Development Director to discuss the proposed rezoning. If the owner or owner's designated agent wishes to pursue a rezoning, they shall obtain, complete and file a rezoning application form with the City Clerk accompanied by a nonrefundable fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review. The application form shall contain, at a minimum, the following information:
- a. Applicant and property owner's name, address and telephone number.
 - b. Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use.
 - c. Present zoning district and use of the property.
 - d. Proposed zoning district and description of proposed land use and/or structures.
 - e. Justification for rezoning.
 - f. Map of area, drawn to scale, outlining the parcel(s) requested for rezoning, identifying all adjacent streets, properties, existing zoning and present uses on all adjacent properties.
- (3) **Standards for map amendments.** All recommendations for Official Zoning Map amendments shall be consistent with the adopted plans, goals and policies of the City and with the intent of this zoning ordinance.
- a. Prior to making a recommendation on a proposed rezoning, the Plan Commission shall make a finding to determine if the following conditions exist. No rezoning of land shall be approved prior to finding at least one (1) of the following:
 1. The request for a zone change is in conformance with the VISION 20/20: Comprehensive Plan for the City of Appleton.
 2. A study submitted by the applicant that indicates that there has been an increase in the demand for land in the requested zoning district, and as a result, the supply of land within the City mapped as such on the Official Zoning Map, is inadequate to meet the demands for such development.
 3. Proposed amendments cannot be accommodated by sites already zoned in the City due to lack of transportation, utilities or other development constraints, or the market to be served by the proposed use cannot be effectively served by the location of the existing zoning district(s).
 4. There is an error in the code text or zoning map as enacted.
 - b. In addition to the findings required to be made by subsection (a), findings shall be made by the Plan Commission on each of the following matters based on the evidence presented:

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1. The adequacy of public facilities such as transportation, utilities and other required public services to serve the proposed site.
 2. The effect of the proposed rezoning on surrounding uses.
- (4) **Informal hearing.** Within thirty (30) days of filing, the Community and Economic Development Director establish a date, time and place to hold an informal hearing before the Plan Commission. The Director will be responsible for analyzing the facts regarding the petition and prepare a staff review and recommendation for consideration by the Plan Commission.
- (5) **Action by Plan Commission.** Within forty-five (45) days following the conclusion of the informal hearing, the Plan Commission shall transmit to the Common Council its recommendation. Failure of the commission to act within forty-five (45) days following the conclusion of such hearing shall be deemed a recommendation for the approval of the petitioned amendment as submitted.
- (6) **Public hearing.** Within thirty (30) days of the receipt of the Plan Commission report, or its failure to act as above provided, (unless such time shall be extended by agreement with the petitioner) the Common Council shall hold a public hearing, advertised by a Class 2 notice.
- (7) **Action by Common Council.** Within forty-five (45) days of the public hearing, the Common Council shall either approve or deny the petition unless the applicant requests an extension. If Council action is to approve the change, it shall further act to formally amend the Official Zoning Map by adopting an ordinance. In the case where the Plan Commission, excluding the chairman, unanimously denies the change, a three-fourths (¾) vote of the members of the Common Council is required for approval of the amendment to this chapter.
- (8) **Reapplication time period.** No application of a property owner or owner's designated agent for an amendment to the zoning map shall be considered by the Plan Commission within a one (1) year period following a denial of the same request by the Common Council, except that the Plan Commission may permit a new application if the request is for a different zoning district or for amended property boundaries.
- (9) **Concurrent actions for zoning amendment, planned development (PD) overlay and special use permit:**
- a. Applicants may submit a single petition to amend the Official Zoning Map to change a base zoning district and designate the same map area as a PD overlay district.
 - b. Applicants may submit a single petition to amend the Official Zoning Map to change a base zoning district, designate the same map area as a PD overlay district and obtain approval for special uses within the PD overlay district. The procedure for considering such a request shall be the same as for a zoning map amendment. The Common Council may, at the request of the petitioner, consider the amendments and special uses as a single vote or separate votes. Any Common Council action which includes approval of a special use shall require a two-thirds (2/3) vote for approval.

(c) **Zoning of annexed areas.** All territory that is annexed to the City shall be assigned zoning classifications as recommended by the Plan Commission during review of the annexation petition. The Plan Commission shall consider the following criteria in selection of an appropriate zoning district for the annexed land:

- (1) The existing land uses within the territory to be annexed;
- (2) The surrounding land uses that exist on adjacent properties regardless of municipal boundary lines;
- (3) The comprehensive plan of the City.

A temporary zoning classification of AG agricultural zoning classification shall be assigned to newly annexed territory with no hearing required. However, if the Plan Commission recommends a temporary zoning classification other than AG Agricultural, the Common Council shall hold a public hearing on the assigned zoning classifications in accordance with §23-65(d), Zoning amendments. If time allows, said zoning shall be

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included in the annexation ordinance; otherwise a temporary zoning classification shall be assigned with permanent zoning taking place following the annexation process.

The temporary zoning classification must be made permanent in accordance with §23-65(d), Map amendments, within ninety (90) days or the zoning will revert to AG agricultural zoning. A building permit shall not be granted until there is a permanent zoning classification.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 46-00, §1, 6-10-00; Ord 121-05, §1, 10-25-05; Ord 31-20, §1, 3-24-20)

Sec. 23-66. Special use permits and special regulations.

(a) **Authority.** The Common Council, by an affirmative two-thirds (2/3) vote of the entire Council, may by resolution, approve, approve with conditions, deny, or revoke a special use permit for uses listed as special uses in this Chapter. The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.

(b) **Purpose.** The purpose of this section is to provide regulations which govern the procedure and requirements to review and approve, approve with conditions, deny, or revoke a special use permit. Special uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design, business process, and hours of operation to determine against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the community and neighborhood impact and effect as well as consistency to the comprehensive plan.

(c) **Procedure.**

- (1) **Application.** An owner or owner's designated agent wishing to obtain a special use permit for his property shall meet with the Community and Economic Development Director to discuss the proposal. If the owner or owner's designated agent desires to pursue the special use permit, they shall obtain, complete and file a special use permit application form with the Community and Economic Development Department accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review. One (1) electronic document and one (1) paper copy of the application materials (completed application form, plan of operation and development plans) shall be submitted with the fee to the Director. After submittal and acceptance of a complete application through initial review by the Director, the complete application and supporting materials are then filed with the City Clerk. The special use permit application and supporting materials shall be referred to the Plan Commission.
- (2) **Public hearing.** The Plan Commission shall hold a public hearing advertised by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
- (3) **Authority of the Plan Commission.** The Plan Commission shall within forty-five (45) days of the public hearing make a report and recommendation of approval or denial of the resolution which functions as the special use permit to the Common Council pursuant to Section 23-66(c)(5). In making its decision, the Commission shall keep a written record of findings relative to the standards for considering special use permit applications as listed in Sections 23-66(c)(5) and (e).
- (4) **Authority of the Common Council.** The Common Council shall within forty-five (45) days of Plan Commission action act to approve, approve with conditions or deny the special use permit by resolution pursuant to Section 23-66(c)(5) and (e). The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.
- (5) **Approval or denial by Plan Commission and Common Council.**
 - a. **Definition of Substantial Evidence.** "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a special use permit and that reasonable persons would accept in support of a conclusion.

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- b. If a property owner or owner's designated agent for a special use permit meets or agrees to meet all of the requirements and conditions specified in the City of Appleton Municipal Code or those imposed by the Plan Commission and/or Common Council, the City shall grant the special use permit. Any condition imposed must be related to the purpose of the City of Appleton Municipal Code and be based on substantial evidence.
- c. Any requirements and conditions for approval must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The property owner or owner's designated agent must demonstrate that the application and all requirements and conditions established by the city relating to the special use are or shall be satisfied, both of which must be supported by substantial evidence. The City's decision to approve or deny the permit must be supported by substantial evidence.
- d. Once granted, a special use permit shall remain in effect as long as the conditions upon which the permit in the form of a resolution was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the Plan Commission and/or Common Council.
- e. If a special use permit application is denied, the property owner or owner's designated agent may appeal the decision to the circuit court under the procedures contained in Wisconsin Statute §62.23(7)(e)(10) or as amended.

(d) ***Application requirements.*** The applicant shall provide the following information on the special use permit application form:

- (1) Applicant and property owner's name, address and telephone number.
- (2) Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.
- (3) Completed Plan of Operation form.
- (4) Written justification for the special use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for special uses listed in subsection (e), Standards for granting special use permits, below.
- (5) Development plan of property being proposed for a special use permit which shall supply the information as identified below:
 - a. North arrows, date of preparation, and scale on 8½" x 11" size paper.
 - b. Name(s) of all adjacent or surrounding streets and right-of-way width(s).
 - c. Recorded property lines and their dimensions.
 - d. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel.
 - e. Dimensions of existing and proposed yard setbacks for buildings and structures.
 - f. Dimensions of existing and proposed parking, loading, and unloading areas, sidewalks and interior and perimeter landscaping areas. Identify proposed and existing surface material(s).
 - g. The location of existing and proposed trees, shrubs and grass.
 - h. The location and details of proposed and existing refuse containers and their enclosures.
 - i. The location and type of all proposed and existing exterior lighting fixtures.

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- j. The location, height and materials of all proposed and existing fences or retaining walls.
- k. The location and size of existing and proposed driveways.
- l. The location and use of buildings and structures on adjoining land.
- m. Show the general landscaping concept for the site.
- n. Submit preliminary architectural plans for the existing and proposed buildings that show sufficient detail to permit an understanding of the style of the development and the design of the building(s).
- o. Submit floor plan of the building(s), including room dimensions.
- p. Other additional information that may be deemed appropriate by the Community and Economic Development Director.

(e) **Standards for granting special use permits.** No special use permit shall be recommended by the Plan Commission, or approved by the Common Council, unless all of the following standards are found in the affirmative:

- (1) **Proper zoning district.** The proposed special use is designated by this Chapter as a possible special use in the zoning district in which the property in question is located.
- (2) **District regulations.** The proposed special use will comply with all applicable development standards in the zoning district in which the property in question is located.
- (3) **Special regulations.** The proposed use will comply with all special regulations established by this chapter for such special use.
- (4) **Comprehensive Plan or other plans.** The proposed special use is consistent with the Comprehensive Plan or other plan officially adopted by Common Council.
- (5) **Traffic.** Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) **Landscaping and screening.** Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed special use as established in §23-172(g), Perimeter parking lot and loading space landscaping and §23-601, Landscaping and screening standards.
- (7) **Neighborhood compatibility.** The proposed use is compatible with the predominant or prevailing land use of the neighborhood surrounding the proposed development. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height of buildings, walls and fences, landscaping, screening, and exterior lighting.
- (8) **Impact on services.** The proposed special use will not substantially increase congestion in the public streets; will not place an undue burden on any other public utilities; or will not increase the danger of fire or endanger the public health or safety.

(f) **Guarantees, validity period and revocation.**

- (1) **Expiration of special use permits.**
 - a. A special use permit shall expire if the use is abandoned for a period of twelve (12) consecutive months.
 - b. A special use permit shall expire if a building permit and/or occupancy permit has not been obtained within twelve (12) months of the issuance of the special use permit.

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c. A special use permit shall expire if the use has not been established within twelve (12) months of the issuance of the special use permit.

- (2) **Time extension of special use permits.** Any party who has been issued a special use permit by the City shall notify the Community and Economic Development Director, in writing, that they are seeking a continuance or extension of any special use permit that has an expiration date as established by Common Council or this section. Such notification shall be submitted to the Community and Economic Development Director thirty (30) days prior to the special use permit expiration. The Community Development Director may grant one extension not to exceed 12 months.
- (3) **Effective date and filing of special use permits.** A special use permit shall become effective upon approval of the resolution by the Common Council. A record of the special use permit shall be kept in the City Clerk and Community and Economic Development Department's files.
- (4) **Continuation of a special use permit.** Once approved, a special use permit shall be allowed to continue and may be transferred to any entity, unless specified otherwise as a condition of approval, as long as all conditions placed on the special use are followed.
- (5) **Revocation of special use permits.** Upon inspection by the Inspections Supervisor of any complaint against any condition upon which the special use permit was approved, such permit may be subject to revocation if the violation is not corrected with 30 days of written notice to the owner of the use by the Inspections Supervisor. Such written notice shall specify the violation and the means necessary to correct it. If the violation is not corrected within the specified time, the Common Council shall have the authority to revoke the special use permit upon recommendation of the Plan Commission after holding a public hearing by advertising a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

(g) **Major and minor changes to special uses.** When an applicant requests a change in special use, the City shall review such change or modification to assure compatibility and compliance with the purpose of this section.

- (1) **Minor change.** Minor changes shall be submitted to and be reviewed and approved by the Plan Commission amending the previously approved resolution (special use permit) or adopting a new resolution (special use permit) to those special uses that were not approved by a resolution. Minor changes include:
 - a. Expansions of special uses of less than ten percent (10%).
 - b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.
- (2) **Major change.** All other changes not identified as a "minor change" shall be deemed a major change in a special use and shall be submitted to Common Council for review per §23-66(c), Special use permits, procedure.

(h) **Special regulations.** The following special regulations shall apply to uses listed below, whether listed a principal permitted use, special use or accessory use in this chapter. This subsection shall not be construed to conflict with or modify the provisions contained in Wisconsin Statutes §§66.0404 and 66.0406 (2021-22), as amended from time to time.

- (1) **Electronic towers.** Radio, television, broadcasting tower or station, microwave and other electronic transmission or receiving tower in excess of sixty (60) feet (from ground level) in height in any zone shall be subject to the following standards as illustrated on a site plan submitted with the application for special use permit. Electronic towers shall not include Mobile Service Support Structures and Facilities pursuant to Sec. 23-66(h)(22).
 - a. Distance of each freestanding electronic tower base footing from any residentially zoned lot line shall have a horizontal distance equal to at least fifty percent (50%) of the height of the electronic tower, or fifty (50) feet, whichever is greater.

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- b. Distance of any guyed tower anchor shall be twenty-five (25) feet from an adjoining lot line, public property or street right-of-way line.
- c. The applicant shall demonstrate that the location of the electronic tower will not cause electrical interference or health hazards to adjoining properties. If electrical interference occurs after the electronic tower begins operation or if interference is anticipated, the applicant shall provide appropriate steps to eliminate said interference.
- d. All electronic towers and associated ground equipment shall be enclosed with a fence at least eight (8) feet in height with a locked gate to discourage trespass. No fence and gate including any anti-climbing fence shall exceed twelve (12) feet in height. The anti-climbing fence and gate may be equipped with barbed wire or some other appropriate anti-climbing product to keep people from climbing over the fence. Guy anchors of guyed towers shall be similarly protected with anti-climbing fence.
- e. All electronic towers and associated ground equipment shall be landscaped with plantings being placed outside and along the perimeter of the ground equipment compound fencing and shall consist of the following:
 - 1. The landscaping buffer shall include a staggered row of mature landscaping to minimize the visual impact of adjacent properties and from public streets. For purposes of this subsection, "mature landscaping" shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet at the time of planting, which are spaced not more than eight (8) feet apart that will provide the appropriate level of visual screening immediately upon installation.
 - 2. The landscaping buffer shall consist of a landscaped strip at least ten (10) feet wide outside and along the perimeter of equipment compound fencing.
- f. The plans submitted for a building permit for tower construction shall be certified by a structural engineer licensed in Wisconsin.
- g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(Ord 91-23, §1, 10-10-23)

- (2) ***Utility substations and other utility structures.*** Utility substations or other utility structures in any zone shall be subject to the following additional standards:
- a. All buildings and structures shall be screened from view from any adjacent property; the screening shall include a minimum five (5) foot high staggered row of evergreen vegetation which provides an effective year-round screening in addition to any fencing which may be deemed appropriate to provide additional screening from any adjacent property.
 - b. All such uses shall be enclosed with a minimum six (6) foot high fence where any hazard to the safety of human life is anticipated.
 - c. No service or storage yard for such facility shall be permitted, unless screened in accordance with the outdoor storage requirements to this chapter.
 - d. All buildings and structures shall comply with the minimum principal building front, side and rear yard standards of the underlying zoning district.
 - e. The level of noise emanating from such use shall not exceed sixty (60) decibels measured at any lot line of the subject property.
 - f. No special use permit is required if the utility substation is proposed to be located fully inside an existing building and is accessory to the primary use of the building.

(3) ***Sexually-oriented establishment.***

Sexually-oriented establishments shall be as regulated in Article XII, Sexually-oriented establishments, of this zoning ordinance.

(4) ***Body repair and/or paint shop.***

- a. All repair, painting and service of vehicles shall occur within a completely enclosed building.
- b. All vehicles awaiting repair shall be located within the side and rear yard and shall be completely screened from view from any public street, alley and adjacent property.
- c. All outdoor storage areas shall comply with the outdoor storage area requirements identified in this chapter.
- d. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

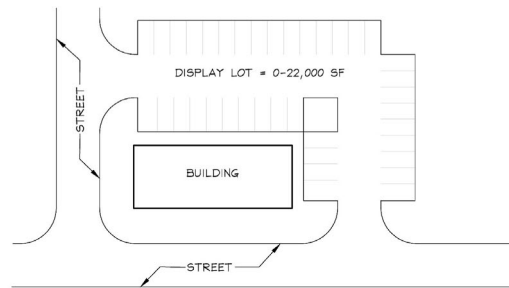
(5) ***New and used automobile, RV, truck, cycle, boat sales and display lot.***

- a. All outdoor lighting shall comply with the standards in §23-53, Outdoor lighting.
- b. The minimum landscaping for display lots shall consist of the following landscaping standards:
 1. Perimeter setbacks.
 - i. Side and rear yards shall be a minimum of a five (5) foot wide buffer except when abutting a residential or public-institutional district, then ten (10) feet.
 - ii. Front yards shall be a minimum of a five (5) foot wide buffer.
 2. Perimeter landscape material.
 - i. Side and rear yards shall have a minimum six (6) foot high, staggered row of evergreens when abutting a residential or public-institutional zoned district. The property owner may request a waiver from the Community and Economic Development Director to reduce the setback and provide a six (6) foot high alternating board on board fence with landscaping.
 - ii. Perimeters adjacent to the right-of-way (front yards) shall have a minimum one (1) foot high, staggered row of evergreen and deciduous shrubs across eighty percent (80%) of the lot frontage, excluding driveway openings. Furthermore, one (1) shade tree shall be provided at approximately every forty (40) feet on center when the site abuts a dedicated public street.
 3. Interior landscaping.
 - i. Display lots 0-22,000 square feet in area – No interior planting islands required.
 - ii. Display lots 22,001 square feet in area or greater – Not less than two percent (2%) of the display lot area shall be devoted to interior planting islands. The planting islands may be centrally located within the display lot and contain a minimum of one hundred sixty (160) square feet and be a minimum of seven (7) feet in width.

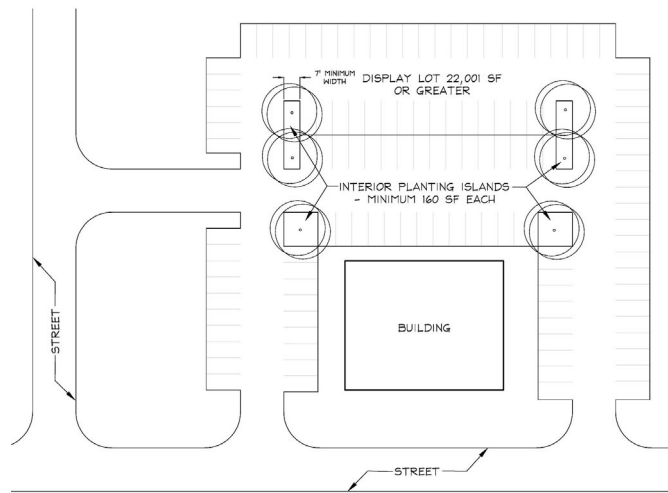
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NO INTERIOR PLANTING ISLAND REQUIRED DISPLAY LOT = 0-22,000 SF



NOT LESS THAN 2 PERCENT OF DISPLAY LOT DEVOTED TO INTERIOR PLANTING ISLANDS DISPLAY LOT = 22,001 SF OR GREATER



4. Interior landscape material.

The primary plant materials shall be deciduous trees with at least one (1) deciduous tree for every one hundred sixty (160) square feet of interior planting island area.

- c. The outdoor display of merchandise and vehicles for sale shall not be located in areas intended for traffic circulation according to the site plan and development plan.
 - d. No outdoor loudspeakers shall be in use between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.
- (6) ***Bars, taverns, painting/craft studios and restaurants with alcohol sales.***
- a. Such establishments shall conform to the standards established in Chapter 9, Article III, Alcoholic beverages, of the Appleton Municipal Code.
 - b. The site shall be kept free of litter and debris.
 - c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

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(7) ***Circus or carnivals.***

- a. In no case shall carnival rides or midways be within three hundred (300) feet of any residential zoning district or residence.
- b. All other approved temporary structures associated with the circus or carnival shall comply with the standards of §23-54.

(8) ***Gasoline sales.***

- a. A minimum lot area of eighteen thousand (18,000) square feet shall be required. Lot frontage shall be a minimum of one hundred twenty (120) feet if located on a designated arterial street.
- b. A canopy constructed over gas pumps islands shall architecturally match the design of the main building and shall not exceed twenty-two (22) feet in height.
- c. All canopy lighting must project downward and shall be of full cutoff design unless indirect lighting is to be used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the canopy and shall comply with the standards in §23-53, Outdoor lighting.
- d. All gas pumps and canopies constructed over gas pumps shall be setback a minimum of forty (40) feet from any adjacent residentially zoned district.
- e. All outdoor storage and outdoor sales display areas shall comply with §23-46, Outdoor storage and display in non-residential districts, of this chapter.
- f. All gas pumps and canopies shall comply with the minimum principal building front, side and rear yard standards of the underlying zoning district.
- g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(Ord 30-11, §1, 1-25-11)

(9) ***Helicopter landing pad.***

- a. Setbacks, landscaping and fencing appropriate to the specific nature of the use proposed shall be established during the special use permit review process.
- b. All areas for active use, including above ground fuel storage tanks shall be fully screened with a fence or evergreen shrubs.
- c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- d. Unless necessary for medical or emergency purposes, the hours for operation shall be between 7:00 a.m. – 8:00 p.m.

(10) ***Mobile home parks.*** Mobile home parks shall meet the standards and requirements of the City of Appleton's Manufactured and Mobile Homes and Manufactured and Mobile Home Communities Ordinance (Ch. 11).

(11) ***Outdoor commercial entertainment.***

- a. All buildings, structures, viewing areas or seating areas shall be setback at least two hundred (200) feet from any residentially zoned district.

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- b. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.
- c. The hours of operation shall be identified by the applicant and approved by the Common Council as part of the special use permit process.

(12)Outdoor kennels.

Such uses shall conform to the standards established in Chapter 3, Animals, of the Appleton Municipal Code and as established below:

- a. All outdoor areas for dogs shall be fully enclosed with a six (6) foot high opaque fence.
- b. All outdoor areas for dogs shall be located in the rear yard only and be setback from a minimum of twenty (20) feet from the lot lines.
- c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(13)Recycling and waste recovery center.

- a. All processing operations shall occur within a completely enclosed structure or building.
- b. Outdoor storage shall be limited to drop-off recycling bins and shall comply with the applicable outdoor storage requirements of this chapter.

(14)Recycling collection point.

- a. Recycling collection points shall not be located in areas intended for pedestrian and motor vehicle traffic and emergency service vehicle circulation on the premises.
- b. No processing of materials shall occur on premises.
- c. Collection points shall not be located on a vacant lot.

(15)Towing business.

- a. No servicing or maintenance of vehicles shall occur within the designated impound area.
- b. All designated impound areas located outside of an enclosed building shall be fully screened by an opaque fence, hedge or similar evergreen planting.
- c. No vehicles shall be located outside of the designated impound area.
- d. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.

(16)Custom manufacturing.

- a. All custom manufacturing processes shall occur within a completely enclosed building.
- b. No off-site impacts including noise, odor, heat generation, glare or vibration shall occur on adjacent properties.
- c. The products or goods manufactured on premise shall be displayed or sold on premises.

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- d. The on-site production area and materials storage area for the products or goods manufactured on premises shall not occupy more than thirty percent (30%) of the gross floor area of the space occupied by the custom manufacturing use.

(17) *Urban farm.*

- a. **Use of produce and sales.** Retail sales of plants and produce grown on-site and other public use of the urban farm may occur between the hours of 8:00 a.m. and 8:00 p.m. every day of the week unless otherwise adjusted and stipulated by the Special Use Permit.
- b. **Mechanical equipment.** The operating of mechanical equipment or motor vehicle, including but not limited to lawn mowers, rototillers, garden tractors, motorized weed trimmers, “farm tractor”, “all terrain vehicle” or any similar device, necessary for the maintenance of property shall only take place between the hours of 7:00 a.m. and 10:00 p.m. standard time or daylight savings time when in effect with the exception of snow removal equipment.
- c. **Signs.** One identification sign is permitted not exceeding eight (8) feet in height or forty-eight (48) square feet per sign face, and shall be subject to other applicable provisions of ARTICLE XIV. SIGNS including, but not limited to, setback and clearance standards.
- d. **Agricultural chemicals and seeds.** All seed and fertilizer shall be stored in a secured, rodent-proof container and housed within an enclosed structure.
- e. **Accessibility.** The urban farm must comply with Americans with Disabilities Act design standards for accessible entrance routes and accessible routes between its different components and must follow universal design principles whenever possible.
- f. **Planting area and principal building setbacks.** Development Standards. (See applicable zoning district for principal building/structure development standards).
- g. **Size of buildings/structures.** All buildings, including but not limited to, tool sheds, rest-room facilities, composting toilets, and planting preparation houses, hoophouses and greenhouses may have a combined area of all buildings and structures not to exceed twenty-five percent (25%) percent of the lot area. Roof top gardens on buildings are exempt from this standard.
- h. **Fences.** Fences are permitted as regulated in the underlying district unless otherwise authorized and stipulated by the Special Use Permit.
- i. **Compost and waste management.** Composting and waste management must be managed according to the farm management plan. Compost material is limited only to the materials generated on-site and must be maintained on-site. Compost materials from the garden or gardeners shall be stored in a manner that is not visible from adjacent property (shielded from view by shrubbery or an enclosure). Composting shall be conducted in a manner that controls odor, prevents infestation, and minimizes runoff into waterways and onto adjacent properties. No compost material generated off site shall be composted at an urban farm unless specifically approved by the City.
- j. **Site design.** The site must be designed so that water and fertilizers will not drain onto adjacent property or into the City’s waste water system.
- k. **Management plan.** Urban farms must prepare a management plan, to be reviewed as part of the special use process, to address how activities will be managed to avoid impacts on surrounding land uses and natural systems and includes any proposed mitigation measures. The management plan must include:
 - i. A description of the type of equipment and vehicles necessary or intended for use in each season and the frequency and duration of anticipated use.
 - ii. Disclosure of any intent to spray or otherwise apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes they are intended for.

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- iii. Disclosure of the spreading of manure or any other waste generated by the agricultural use.
 - iv. Disclosure of parking impacts related to the number of staff on-site during work hours, and the number of potential visitors regularly associated with the site.
 - v. Disclosure of whether the operation of the urban farm would involve two thousand (2,000) square feet or more of land-disturbing activity, or would otherwise require drainage and/or erosion control approval under Chapter 24 of the Municipal Code.
 - vi. A composting and waste management plan.
 - vii. Disclosure of any intent to invite the public to a program of events on the site.
 - viii. Site Plan contains, but is not limited to, the following:
 - Parking facilities;
 - Planting area including plant types;
 - Location and number of rest room/sanitary facilities;
 - Fence type, height and location;
 - Sign size and location;
 - Area to be utilized for produce cleaning and preparation;
 - Area to be utilized for sales;
 - Equipment, materials and fuel storage area;
 - Composting location.
 - ix. Identification of water source.
 - x. Any additional information that may be deemed appropriate by the Director of Community and Economic Development or designee.
 - xi. Lighting.
 - xii. Security.
1. **Standard conditions of approval.** In addition to complying with Section 23-66 Special use permits of this ordinance and in determining whether to approve, approve with conditions or deny the application, the City shall consider the potential impacts, including:
- i. **Water quality and soils.** Impacts of irrigation run-off on adjacent properties, water bodies and environmentally critical areas, and proposed sediment and erosion control measures.
 - ii. **Traffic and parking.** Impacts related to the number of staff onsite during work hours, and the number of potential visitors regularly associated with the site.
 - iii. **Visual impacts and screening.** Visual impacts relating to the proposed nature, location, design, and size of proposed buildings, structures and activities, including the location of composting activities and planting areas, and any existing or proposed screening.

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- iv. **Noise and odor.** Impacts related to the location on the lot of the proposed urban farm, any trash or compost storage areas, any farm stand or additional accessory structure, and any other noise-generating or odor-generating equipment and practices.
- v. **Agricultural chemicals.** Impacts related to the use of chemicals, including any fertilizer and pesticide.
- vi. **Mechanical equipment.** Impacts related to the operation of equipment, including noise, odors, and vibration.
- m. **Compliance with laws.** All urban farms and their owners, lessees, employees, volunteers, and visitors must comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the farm premises. Site users may not use materials such as inappropriate fill that introduce heavy metals or other harmful contaminants to garden or farm sites. Site users may use pesticides only to the extent permitted by law.

These Urban Farm standards and requirements are intended to work in concert with other applicable Municipal Codes including, but not limited to, Chapter 3 Animals, Chapter 4 Building, Chapter 7 Health, Chapter 9, Licenses, Permits, and Chapter 21 Vegetation and any other applicable Appleton Municipal Code Chapter. These and any other applicable local, state and federal regulations shall also apply.

(18)Outdoor storage area for recreational vehicles.

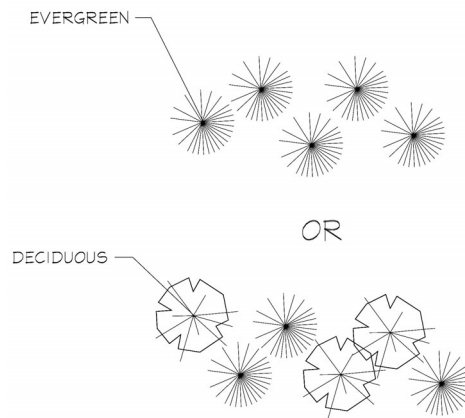
- a. **Purpose.** The purpose of these regulations is to provide adequate and convenient areas for such outdoor storage of recreational vehicles while minimizing the visual, noise and environmental impacts to adjacent properties and public and private streets.
- b. **Requirements.** Outdoor storage areas for recreational vehicles are accessory uses to personal storage facilities (self-storage/mini-warehouses) and shall be a permitted accessory use in the M-2 District. No outdoor storage areas for recreational vehicles shall be constructed or established on a lot unless a personal storage (self-storage/mini-warehouse) facility has already been constructed on the same lot. In addition, all of the following requirements shall apply to outdoor storage areas for recreational vehicles:
 - i. **Applicable Outdoor Storage.** Outdoor storage shall be limited only to the following recreational vehicles: “camping trailer”, “fifth-wheel trailer”, or “motor home” as those terms are defined by §340.01, Wis. Stats., as well as boat trailers and boats, trailered snowmobiles, trailered jet-ski(s). All other vehicles, equipment and other items are prohibited from being stored within such outdoor storage area and on the lot.
 - ii. **Location.** No outdoor storage area shall be located between the principal building(s) and a front lot line.
 - iii. **Outdoor lighting.** All outdoor lighting used to illuminate such outdoor storage area shall comply with the outdoor lighting requirements of this chapter.
 - iv. **Surface material.** The surface material of the outdoor storage area and driveway leading from the lot line to such outdoor storage area shall be concrete or asphalt.
 - v. **Setbacks requirements.** The surface material of the outdoor storage area shall be located a minimum of fifteen (15) feet from a side and/or rear lot line.
 - vi. **Security requirements.** The perimeter (outer boundary) of the outdoor storage areas shall be secured with a continuous (with no break points) minimum eight (8) foot high fence or with continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to outdoor storage area, unless otherwise specified in this subsection.

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vii. Screening requirements.

1. The perimeter (outer boundary) of the outdoor storage areas shall be screened with a continuous (with no break points) minimum eight (8) foot high opaque fence or continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high opaque fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to the outdoor storage area and minimize visual impact of recreational vehicles stored in such area, unless otherwise specified in this subsection.
2. Where outdoor storage areas for recreational vehicles are proposed on parcels which abut a residential zoning district, a continuous staggered row of evergreens plantings shall be installed between the entire length of the opaque fencing and the lot line which abuts a residential zoning district but not including a gate, to soften the visual effect of the fencing. Evergreens shall be a minimum of six (6) feet high at the time of planting. The number of evergreens shall be determined and installed in accordance with the requirements with the species spacing and care requirements.
3. The following shall apply to opaque fences abutting a street:
 - a. **Front lot line setback:** Eight (8) feet minimum.
 - b. **Fence height:** Eight (8) feet minimum.
 - c. **Vision corner:** Fences shall comply with vision corner requirements of this chapter.
 - d. **Design:** Chain-link or cyclone fences constructed of woven wire are not allowed.
 - e. **Landscaping:** A continuous staggered row of evergreens and deciduous plantings shall be installed between the entire length of the opaque fence and the front lot line but not including a gate, to soften the visual effect of the fencing and use. Evergreens and deciduous plantings shall be a minimum of four (4) to five (5) feet high at the time of planting. The number of evergreens and deciduous plantings shall be determined and installed in accordance with the requirements with the species spacing and care requirements.

STAGGERED PLANTINGS



4. **Exceptions to perimeter fence and landscaping location.** Any request or necessity for locating a fence, opaque fence and/or evergreens and deciduous plantings other than along perimeter of the outdoor storage area, shall require review and approval of an alternate location as part of the

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site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action of alternate fence, opaque fence and/or evergreen and deciduous planting locations, shall be based upon the following criteria:

- a. The ability of the fence or opaque fence to maintain a continuous flow (with no break points) beyond the perimeter of the outdoor storage area.
 - b. Effectiveness of the opaque fence and/or landscape plantings to effectively screen the outdoor storage area in an alternate location; and
 - c. Effectiveness of the fence and/or opaque fence to effectively secure the outdoor storage area in an alternate location;
 - d. Impact an alternative location may have on overall site appearance, vehicular traffic circulation and the functional well-being of the development proposed for the parcel.
5. **Modifications or waivers to screening and landscaping requirements.** Any request for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall require review and approval of such modification or waiver as part of the site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall be based upon one (1) or more of the following conditions exist:
- a. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to topography or the location of the outdoor storage area on the lot.
 - b. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening, opaque fencing and/or landscaping on the lot.
 - c. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening, opaque fencing and/or landscaping on adjacent developed property and/or the presence of existing street trees located within the adjacent street right-of-way.
- c. **General Conditions.** The following general conditions shall apply to outdoor storage areas for recreational vehicles:
- i. Recreational vehicles shall not be parked outside of the designated outdoor storage area.
 - ii. Recreational vehicles shall not be used for business, living, sleeping or human habitation purposes.
 - iii. Recreational vehicles shall not be permanently connected to sewer lines, water lines, or electricity.
 - iv. No recreational vehicles are allowed to be stored within the designated outdoor storage area which is not currently licensed or operable.
 - v. The area between the property line and the opaque security fence shall be landscaped and suitable ground cover, such as grass, bark, ornamental gravel or combination thereof.
 - vi. The total combined square foot area of the outdoor storage area but not including the drive aisles within the perimeter of the outdoor storage area shall not exceed the total combined gross floor area of all personal storage (self-storage/mini-warehouse) buildings on the site or parcel.

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(19) *Microbrewery/Brewpubs and Craft-Distilleries.*

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. A total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- c. A total of not more than 100,000 proof gallons of intoxicating liquor shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- d. Tasting rooms require a Special Use Permit in the C-1, C-2 and CBD Zoning District.
- e. Tasting rooms are accessory uses to a Microbrewery/Brewpubs and Craft-Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
- f. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(20) *Brewery and Distilleries.*

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Brewery and Distilleries located in the M-1 and M-2 Zoning District and requires a Special Use Permit.
- c. Retail sales of business merchandise on the brewery and distillery premises shall be an accessory use to the brewery and distillery manufacturing operations or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(20)b.
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(21) *Winery.*

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Winery located in the Ag, M-2 and M-1 Zoning District and requires a Special Use Permit.
- c. Retail sales of business merchandise on the winery premises shall be an accessory use to the winery manufacturing operations or an accessory use to an use approved off-premises by Special Use Permit pursuant to Section 23-66(h)(21)b.
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(22) *Mobile Service Support Structures and Facilities.*

- a. **Purpose.** The purpose of this subsection is to:
 1. Regulate by Site Plan Review pursuant to Section 23-570 of this chapter, Building/Electrical Permits and Certificate of Occupancy for: (1) The siting and construction of any new mobile service support structure (cell towers) and facilities; (2) Class 1 collocation which involves the placement of a new mobile service facility on an existing support structure without constructing a free standing support structure for the facility but does need to engage in substantial modification.

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Substantial modification includes any of the following:

- i. For structures with an overall height of 200 feet or less, increases the overall height of the structure more than 20 feet.
 - ii. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by 10 percent or more.
 - iii. Measured of the appurtenance add the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless the increase is necessary for collocation.
 - iv. Increases the square footage of an existing equipment compound to a total area by more than 2,500 square feet.
2. Regulate by Building/Electrical Permits and Certificate of Occupancy for: (1) Class 2 collocation which involves the placement of a new mobile service facility on an existing support structure which does not require the need to construct a free standing support structure or engage is a substantial modification of an existing support structure and mobile service facilities.
- b. **Intent.** The intent of this subsection is to:
1. Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high-quality telecommunications infrastructure, consistent with the Federal Telecommunications Act of 1996 and Wisconsin State Statutes §66.0404 is provided to serve the community, as well as serve as an important and effective part of the City's law enforcement, fire, rescue and emergency response network.
 2. Provide a process for obtaining necessary permits for mobile service support structures and facilities while protecting the interests of City citizens.
- c. **Definitions.** All definitions identified in Wisconsin Statutes §66.0404(1) and §66.0406(1) (2021-22), as amended from time to time, are hereby incorporated by reference.
- d. **Exemptions.** The following are exempt from the provisions of this subsection. However, exemptions under this subsection are subject to all other applicable provisions of the Municipal Code.
1. Amateur radio antennas and towers licensed by the Federal Communications Commission (FCC).
 2. Electronic towers, broadcast towers and broadcasting or receiving antennas and satellite dishes that are an accessory use to agricultural, residential, railroad, temporary, public institutional, commercial, or industrial uses.
 3. Electronic towers, broadcast towers and broadcasting or receiving antennas and satellite dishes including the placement of equipment buildings, shelters or cabinets that are associated with a broadcast station.
 4. Mobile services providing public information coverage of news events of a temporary or emergency nature.
- e. **Additional procedures and special regulations for siting and construction of any New Mobile Service Support Structure (cell tower) and facilities and Class 1 collocations.**
1. Application Requirements. Applications for Site Plan Review (New Mobile Service Support Structures (cell tower) and Class 1 Collocation) must be completed by any applicant and submitted to the Community and Economic Development Department along with the application fee. The application materials must contain all of the following information:

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- i. The name and business address of, and the contact individual for, the property owner and applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. The location of the proposed mobile service facility.
 - iv. All information contained on the application form(s) for Site Plan Review (New Mobile Service Support Structures (cell tower) and Class 1 Collocation) as prescribed by the City. The Community and Economic Development Director or their designee may require additional information in writing which is necessary for effective review of the application(s). Such required additional information may be issued at a pre-submittal meeting or at any time during the review process.
 - v. Construction of a new mobile service support structure (cell tower). If the application is to construct a new mobile service support structure (cell tower), a construction plan which describes the proposed mobile service support structure (cell tower) and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the new mobile service support structure (cell tower).
 - vi. Construction of a new mobile service support structure (cell tower). If the application is to construct a new mobile service support structure (cell tower), an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure (cell tower) attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
 - vii. Substantial modification (Class 1 Collocation). If the application is to substantially modify an existing mobile service support structure (cell tower), a construction plan which describes the proposed modifications 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.
2. Response Required. Determination of completeness within ten (10) days of submittal date of the Site Plan Review Application.
- i. The Community and Economic Development Director or their designee shall review the Site Plan Review application materials and determine whether the application is complete. If the application includes all of the information required under this subsection, the application shall be considered complete. If the Community and Economic Development Director or their designee finds the application is incomplete, the Community and Economic Development Director or their designee shall notify the applicant in writing, within 10 days from the date of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.
3. Authority of the Community and Economic Development Director or their designee.
- i. Limitations upon authority. The City review and action for siting and construction of any new mobile service support structure (cell tower) and facilities and Class 1 collocations shall be subject to the limitations imposed by Wisconsin Statutes §66.0404(4).
 - ii. Within 90 days of its receipt of a complete application, the Community and Economic Development Director or their designee shall complete all of the following or the applicant may consider the site plan application materials approved, except that the applicant and the

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Community and Economic Development Director or their designee may agree in writing to an extension of the 90 day period:

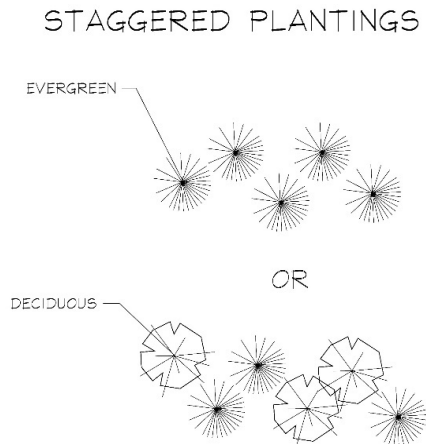
1. Make a final decision whether to approve, approve with conditions or deny the site plan application materials pursuant to the applicable regulations contained in the Municipal Code and this subsection.
2. Review of Collocation Statement. The Community and Economic Development Director or their designee may deny site plan application materials if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described below:

If an application is to construct a new mobile service support structure (cell tower), an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure (cell tower) attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

3. Review of Height and Setbacks. The Community and Economic Development Director or their designee shall not approve the site plan application materials unless the mobile service support structure (cell tower), including *substantial modifications (Class 1 Collocations)* complies with the following setback requirements:
 - a. Any mobile service support structure (cell tower) that is constructed on to or substantially modified on a parcel of land that *allows* a single-family detached dwelling as a permitted principal use shall be setback from the lot line(s) a distance that equals or exceeds the height of the cell tower;
 - b. Any mobile service support structure (cell tower) that is constructed or substantially modified on a parcel of land that is *adjacent* to a parcel of land that allows a single-family detached dwelling as permitted principal use shall be setback from the lot line(s) a distance that equals or exceeds the height of the cell tower;
 - c. Any mobile service support structure (cell tower) that is constructed on to or substantially modified on a parcel of land that *does not allow* a single-family detached dwelling as permitted principal shall be setback from lot lines a distance equal to the setback(s) of a principal building/structure pursuant to the underlying zoning district development standards;
 - d. Setback modification. Setbacks may be *reduced* to a lesser specified distance if the applicant submits a report stamped by a Wisconsin Registered Professional Engineer that certifies that the mobile service support structure (cell tower) is designed and engineered to collapse upon failure within the lesser specified distance unless the City has and provides the applicant with substantial evidence that the engineering certification is flawed.
4. Notify the applicant, in writing, of the final decision.
5. If the site plan materials are approved, provide the applicant with the approved site plan application materials.
6. If the decision is to deny the site plan materials, include with the written notification substantial evidence which supports the decision.

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- iii. The City may hire expert consultants to review any technical information submitted with the application. Costs incurred by the City will be billed to the applicant, except that applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.
4. Appeal. A party who is aggrieved by the final decision of the Community and Economic Development Director or their designee may bring an action in the circuit court of the county in which the proposed development project is to be located.
5. Special regulations. The following special regulations shall apply to all mobile service support structures (cell towers) and mobile service facilities, including substantial modifications (Class 1 Collocations) and Class 2 Collocations:
 - i. *Federal Requirements*. Each mobile service support structure (cell tower) and mobile service facility must meet or exceed all applicable regulations and standards of the Federal Aviation Administration, Federal Communications Commission, and any other federal agency with authority over the structure and facility that are in effect at the time the structure or facility is placed in service.
 - ii. *Fence Requirements*. All mobile service support structures (cell tower) and mobile service facilities shall be enclosed with a fence at least eight (8) feet in height with a locked gate to discourage trespass on the equipment compound. No fence and gate including any anti-climbing fence shall exceed twelve (12) feet in height. The anti-climbing fence and gate may be equipped with barbed wire or some other appropriate anti-climbing product to keep people from climbing over the fence. Guy anchors of guyed towers shall be similarly protected with anti-climbing fence.
 - iii. *Landscaping Buffer Requirements*. All mobile service support structures (cell towers) and mobile service facilities shall be landscaped with plantings being placed outside and along the perimeter of the equipment compound fencing and shall consist of the following:
 1. The landscaping buffer shall include a staggered row of mature landscaping to minimize the visual impact on adjacent properties and from public streets. For purposes of this subsection, "mature landscaping" shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet at the time of planting, which are spaced not more than eight (8) feet apart that will provide the appropriate level of visual screening immediately upon installation.
 2. The landscaping buffer shall consist of a landscaped strip at least ten (10) feet wide outside and along the perimeter of equipment compound fencing.



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- iv. *Identification.* Mobile service support structures (cell towers) and mobile service facilities may only display identifying information, such as call letters, frequencies, or Federal Communications Commission registration numbers, if required by federal or state law, regulation, rule, or order.
 - v. *Generators.* Back-up generators shall not be used as a primary electrical power source. Back-up generators shall only be operated during power outages or for testing and maintenance purposes.
 - vi. *Off-street parking and driveway access.* Service vehicle parking areas for one (1) vehicle and driveway shall be concrete, asphalt, or another permeable hard surface.
 - vii. *Non-Interference.* Mobile service facilities shall comply with all relevant Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) standards and shall not interfere with or obstruct existing or proposed public safety, fire protection and other city and private telecommunication operations and facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the City.
 - viii. *Other requirements.* Mobile service support structures (cell towers) and mobile service facilities shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
 - ix. *Abandonment and Removal.* A mobile service facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the following shall apply:
 - 1. The owner of such mobile service facility or owner(s) of the property where the mobile service facility is located shall remove such structure(s) and foundations and restore the site to its original condition or a condition approved by the Zoning Administrator within ninety (90) days of receipt of an abandonment notice from the Inspections Division. If removal to the satisfaction of the Zoning Administrator does not occur within the ninety (90) days, the City may remove and salvage the mobile service facility at the property owner's expense. If there are two (2) or more users of a single mobile service support structure (cell tower), then this provision shall not become effective until all users cease using the mobile service support structure (cell tower) and mobile service facility.
 - 2. The recipient of a permit allowing a mobile service support structure (cell tower) and mobile service facility under this subsection, or current owner or operator, shall notify the Inspections Division and the Community and Economic Development Department within 45 days of the date when the mobile service facility is no longer in operation.
 - x. *Enforcement and Violations; penalty.* Any person, partnership, corporation or other legal entity that fails to comply with the provisions of this subsection shall be subject to penalty provisions as prescribed in §23-69 of this chapter. Enforcement of this subsection is prescribed in §23-69 of this chapter.
- f. **Procedures and special regulations for a Class 2 Collocation on existing support structure and other modifications.**
- 1. Applicability. A building and/or electrical permit is required for the placement and construction of the following:
 - i. A Class 2 collocation which includes, the placement of a new equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and associated equipment on an existing support structure.
 - ii. Any other modification to a mobile service facility not classified as a substantial modification which includes any of the following:

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1. For structures with an overall height of 200 feet or less, increases the overall height of the structure up to 20 feet.
 2. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by less than 10 percent.
 3. Measured of the appurtenance add the structure as a result of the modification, increases the width of the support structure by less than 20 feet.
 4. Increases the square footage of an existing equipment compound to a total area by 2,500 square feet or less.
2. Application Requirements. A building and/or electrical permit must be completed by the applicant and be submitted to the Inspections Division. In addition to the information required to be submitted for a building and/or electrical permit pursuant the Chapter 4 of the Municipal Code, the applications must contain the following information:
- i. The name and business address of, and the contact individual for, the property owner and applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. Construction and site plan drawing set pursuant to Chapter 4 of the Municipal Code. The site plan drawing set shall show the applicable information listed for Sheet 1. on the Site Plan Application. Site Plan Layout and elevations drawings showing the applicable information listed for Sheet 2. on the Site Plan Application. Exterior Elevation pursuant to the Application for Site Plan Review (New Mobile Service Support Structures (cell towers) and Class 1 Collocation).
3. Response Required. Determination of completeness within five (5) days of submittal.
- i. The Inspections Supervisor or their designee shall review the application for a building and/or electrical permit and determine whether the application is complete. If the application includes all of the information required under this subsection, the application shall be consider complete. If the Inspection Supervisor or their designee finds the application is incomplete, the Inspection Supervisor or their designee shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.
4. Authority of the Inspections Supervisor or their designee.
- i. Limitations upon authority. The City review and action for Class 2 collocations shall be subject to the limitations imposed by Wisconsin Statutes §66.0404(4).
 - ii. Within 45 days of its receipt of a complete application, the Inspections Supervisor or their designee shall complete all of the following or the applicant may consider the building and/or electrical permit approved, except that the applicant and the Inspections Supervisor or their designee may agree in writing to an extension of the 45 day period:
 1. Make a final decision whether to approve, approve with conditions or deny the application pursuant to the applicable regulations contained in the Municipal Code and Section 23-66(h)(22).
 2. Notify the applicant, in writing, of the final decision.
 3. If the application is approved, provide the applicant with the approved relevant building and/or electrical permit(s) and materials.

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4. If the decision is to deny the application(s), include with the written notification substantial evidence which supports the decision.

iii. The City may hire expert consultants to review any technical information submitted with the application. Costs incurred by the City will be billed to the applicant, except that applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.

5. Appeal. A party who is aggrieved by the final decision of the Inspections Supervisor or their designee may bring an action in the circuit court of the county in which the proposed development project is to be located.

(Ord 61-94, §5, 5-18-94; Ord 162-94, §1, 12-21-94; Ord 40-97, §1, 4-16-97; Ord 67-97, §1, 7-17-97; Ord 77-97, §1, 9-17-97; Ord 26-98, §1, 3-18-98; Ord 121-05, §1, 10-25-05; Ord 146-08, §1, 10-7-08; Ord 204-11, §1, 9-27-11; Ord 47-12, §1, 6-6-12; Ord 71-13, §1, 8-13-13; Ord 32-20, §1, 3-24-20; Ord 91-23, §1, 10-10-23; Ord 92-23, §1, 10-10-23)

Sec. 23-67. Variances.

(a) **Purpose.** The purpose of a variance is to allow relief from the strict application of this zoning ordinance as will not be contrary to the public interest and, where owing to special characteristics of the property or use, the literal enforcement of this ordinance would result in unnecessary hardship or in a practical difficulty for the property owner.

(b) **Definitions of variance type.**

(1) Area variance – In this section, an “area variance” means a modification to a development standard, dimensional, physical, or locational requirement including be not limited to setbacks, lot coverage, area, building height, or density restriction for a use, building and/or structure that is granted by the Board of Appeals under this paragraph.

(2) Use variance – In this section, a “use variance” means an authorization by the Board of Appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

(c) **Initiation of request for approval of a variance.** A variance request may be taken to the Board of Appeals by any person, firm, corporation, by any officer, department, board, bureau or commission with a legal or equitable interest in the property for which the variance is requested.

(d) **Standards for granting a variance.**

(1) Area variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.

(2) Use variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for a use variance by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance.

(3) In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

(e) **Procedure.**

(1) **Application.** Application for a variance shall be filed with the Inspections Supervisor accompanied by a non-refundable application fee that may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review.

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- (2) **Public hearing.** After receiving an application, the Board of Appeals shall hold a public hearing on the application for variance which:
 - a. The Board of Appeals shall advertise the request by a Class 2 notice for public hearing;
 - b. The Board of Appeals shall notify all property owners located within one hundred (100) feet of the subject site a minimum of ten (10) days prior to the public hearing.

(f) **Review by the Board of Appeals.** The requested variance shall be reviewed by the Board of Appeals with the standards below:

- (1) **(Area variances) unique physical property limitations standard:** What exceptional or extraordinary circumstances or special factors or unique property limitations including but not limited to an irregular shape of the lot, topography, soil conditions, wetlands, flood plain, environmental contamination or other conditions that are present which apply only to the subject property? In what manner do the factors listed prohibit the development of the subject property?
- (2) **(Area variances) no harm to public interests standard:** Would granting of the proposed variance result in a substantial or undue adverse impact on the public or character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property, or other matters affecting the public health, safety, or general welfare?
- (3) **(Area variances) self-created hardships standard:** Have factors which present the reason for the proposed variance been created by the act of the applicant or previous property owner or their agent?
- (4) **(Area variances) unnecessary hardships standard:** Would compliance with this Chapter unreasonably prevent the owner from using the property for a permitted purpose or would conformity with this Chapter create an unnecessary burden on the property owner?
- (5) **(Area variances) undue off-street parking and loading hardships standard:** Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unnecessary hardship upon the use of a lot, as contrasted with merely granting an advantage or a convenience and there is an acceptable parking alternative available.
- (6) **(Use variances) no reasonable use standard:** Has the applicant or owner demonstrated that they have “no reasonable use of the property” in absence of a variance?

(g) **Review and determination by Board of Appeals.**

- (1) The Board of Appeals must determine whether a variance request is seeking an area variance or seeking a use variance.
- (2) The Board of Appeals must determine the standard that applies for the grant of the variance.
- (3) The Board of Appeals must require the property owner bear the burden of proof.
- (4) Any variance granted must be due to conditions unique to the property rather than considerations personal to the property owner.
- (5) The variance cannot be granted if the hardship was created by the property owner.
- (6) The concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. A variance granted under this section runs with the land.

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(h) **Relief.** Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, shall have recourse to such relief as is provided by Wisconsin Statutes §62.23(7)(e)(10) or as amended.
(Ord 146-07, §1, 10-9-07; Ord 33-20, §1, 3-24-20)

Sec. 23-68. Administrative appeals.

(a) **Purpose.** The Board of Appeals shall hear and decide cases where it is alleged there is error of law in any order, requirement, decision or determination made by the Community and Economic Development Director or Inspections Supervisor in the enforcement of this zoning ordinance.

(b) **Initiation.** An appeal may be filed with the Board of Appeals by any person, firm or corporation, or by any office, department, board, bureau or commission affected by an administrative order, requirement, decision or determination of the Community and Economic Development Director or Inspections Supervisor.

(c) **Process.**

- (1) Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed was taken.
- (2) The Board of Appeals shall hold a public hearing on the application for appeal advertised by a Class 2 notice for public hearing.

(d) **Decisions.**

- (1) The Board of Appeals shall hear testimony and evidence concerning appeals, and prepare findings of fact and shall render a final decision on all appeals.
- (2) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Community and Economic Development Director or Inspections Supervisor, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1c, 11-6-96)

Sec. 23-69. Enforcement.

(a) **Enforcing officer.** The Inspections Supervisor shall be responsible for enforcing the provisions of this chapter.

(b) **Penalty.** Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §1-16 of the Municipal Code.
(Ord 61-94, §5, 5-18-94; Ord 106-96, §1b, 11-6-96)

Secs. 23-70 – 23-90. Reserved.

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ARTICLE V. RESIDENTIAL DISTRICTS

Sec. 23-91. AG Agricultural district.

(a) **Purpose.** The AG district is intended for areas of active agricultural use that are subject to future urban or suburban development. Permitted land uses include relatively low density uses such as agriculture and uses which require large sites and relatively limited investment in fixed structures. This zoning district serves as a holding district for land that may be subject to rezoning for purposes other than agricultural uses.

(b) **Principal permitted uses.** The following uses are permitted as of right in the AG district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> Dwelling, single family, detached 	<ul style="list-style-type: none"> Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52 Governmental facilities Public parks or playgrounds 	<ul style="list-style-type: none"> Agriculture Community garden Greenhouse or greenhouse nursery. Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) Nursery, orchards or tree farm Urban farm pursuant to §23-66(h)(17) Winery pursuant to §23-66(h)(21)

(Ord 93-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the AG district may include:

- The accessory uses, buildings and structures specified in §23-43 are permitted as of right in the AG District.
- Bed and breakfast establishments pursuant to §23-48.
- Home occupation pursuant to §23-45.
- Fences and walls pursuant to §23-44.
- Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 120-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the AG District.

(e) **Special uses.** Special uses in the AG district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Essential services 	<ul style="list-style-type: none"> Electronic towers pursuant to §23-66(h)(1) Outdoor commercial entertainment pursuant to §23-66(h)(11) Indoor kennel or outdoor kennel; pursuant to §23-66(h)(12)

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the AG district are as follows:

- Minimum lot area.** Ten (10) acres.
- Minimum lot width.** One hundred fifty (150) feet.
- Minimum front yard.** Thirty (30) feet.

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- (4) **Minimum rear yard.** Forty (40) feet.
- (5) **Minimum side yard.** Forty (40) feet
- (6) **Maximum building height.** One hundred (100) feet for non-residential uses. Thirty-five (35) feet for residential uses.
- (7) **Maximum lot coverage.** Twenty percent (20%).

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 83-07, §1, 5-8-07; Ord 90-08, §1, 5-27-08; Ord 147-08, §1, 10-7-08; Ord 48-12, §1, 6-6-12; Ord 49-12, §1, 6-6-12; Ord 34-20, §1, 3-24-20; Ord 93-23, §1, 10-10-23; 120-23, §1, 10-10-23)

Sec. 23-92. R-1A single-family district.

(a) **Purpose.** The R-1A district is intended to provide for, and maintain, residential areas characterized predominately by single family detached dwellings on larger sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential land uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-1A district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Dwelling, single family, detached 	<ul style="list-style-type: none"> • Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52 • Day care, adult; serving five (5) or fewer persons • Day care, family • Family home, adult (A) and (D), pursuant to §23-22 • Family home, adult (B) and (C), pursuant to §23-52 • Governmental facilities 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 94-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the R-1A district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1A district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Accessory dwelling units pursuant to §23-55.
- (6) Junior accessory dwelling units pursuant to §23-56.

(Ord 28-21, §1, 7-7-21)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-1A District.

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(e) **Special uses.** Special uses in the R-1A district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery • Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52 • Day care, group, when located and operated in an educational institution, place of worship or semi-public building. • Educational institution; business, technical or vocational school • Educational institution; college or university. • Educational institution; elementary school, junior high school, or high school • Essential services • Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure • Marina and/or boat landing. • Place of worship • Public parks or playgrounds • Recreation facility, non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Recycling collection point; pursuant to §23-66(h)(14) • Urban farm pursuant to §23-66(h)(17)

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-1A district are as follows:

- (1) **Minimum lot area.** Eight thousand (8,000) square feet.
- (2) **Maximum lot coverage.** Forty percent (40%).
- (3) **Minimum lot width.** Seventy (70) feet.
- (4) **Minimum front yard.** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- (5) **Minimum rear yard.** Twenty-five (25) feet.
- (6) **Minimum side yard.** Eight (8) feet.
- (7) **Maximum building height.** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 84-07, §1, 5-8-07; Ord 91-08, §1, 5-27-08; Ord 148-08, §1, 10-7-08; Ord 35-20, §1, 3-24-20; Ord 94-23, §1, 10-10-23)

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Sec. 23-93. R-1B single-family district.

(a) **Purpose.** The R-1B district is intended to provide for and maintain residential areas characterized predominately by single-family, detached dwellings on medium sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-1B district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> Dwelling, single-family, detached 	<ul style="list-style-type: none"> Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52 Day care, adult; serving five (5) or fewer persons Day care, family Family home, adult (A) and (D), pursuant to §23-22 Family home, adult (B) and (C), pursuant to §23-22 and §23-52 Governmental facilities 	<ul style="list-style-type: none"> Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 95-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the R-1B district may include:

- The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1B district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- Bed and breakfast establishments pursuant to §23-48.
- Home occupation pursuant to §23-45.
- Fences and walls pursuant to §23-44.
- Accessory dwelling units pursuant to §23-55.
- Junior accessory dwelling units pursuant to §23-56.

(Ord 29-21, §1, 7-7-21)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-1B District.

(e) **Special uses.** Special uses in the R-1B district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52 Day care, group, when located and operated in an educational institution, place of worship or semi-public building Educational institution; business, technical or vocational school Educational institution; college or university. Educational institution; elementary school, junior high school or high school 	<ul style="list-style-type: none"> Electronic towers pursuant to §23-66(h)(1) Recycling collection point pursuant to §23-66(h)(14) Urban farm pursuant to §23-66(h)(17)

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Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<ul style="list-style-type: none"> • Essential services • Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure. • Marina and/or boat landing. • Place of worship • Public parks or playgrounds • Recreation facility, non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-1B district are as follows:

- (1) **Minimum lot area.** Six thousand (6,000) square feet.
- (2) **Maximum lot coverage.** Fifty percent (50%).
- (3) **Minimum lot width.** Fifty (50) feet.
- (4) **Minimum front yard.** Twenty (20) feet (twenty-five (25) foot minimum on arterial street).
- (5) **Minimum rear yard.** Twenty-five (25) feet.
- (6) **Minimum side yard.** Six (6) feet.
- (7) **Maximum building height.** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.
 (Ord 121-05, §1, 10-25-05; Ord 85-07, §1, 5-8-07; Ord 118-07, §1, 7-24-07; Ord 92-08, §1, 5-27-08; Ord 149-08, §1, 10-7-08; Ord 51-12, §1, 6-6-12; Ord 36-20, §1, 3-24-20; Ord 95-23, §1, 10-10-23)

Sec. 23-94. R-1C central city residential district.

(a) **Purpose.** The R-1C district is intended to provide for the conservation and revitalization of residential areas located in the oldest parts of the City characterized predominately by single-family, detached dwellings on small sized lots of record while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-1C district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Dwelling, single-family, detached 	<ul style="list-style-type: none"> • Community living arrangements service eight (8) or fewer persons, pursuant to §23-22 and §23-52 • Day care, adult; serving five (5) or fewer persons • Day care, family • Family home, adult (A) and (D), pursuant to §23-22 • Family home, adult (B) and (C), pursuant to §23-22 and §23-52 • Governmental facilities 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

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(Ord 96-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the R-1C district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1C district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Accessory dwelling units pursuant to §23-55.
- (6) Junior accessory dwelling units pursuant to §23-56.

(Ord 30-21, §1, 7-7-21)

(d) **Temporary uses and structures.** Temporary uses and structures specified in Section 23-54 may be permitted in the R-1C District.

(e) **Special uses.** Special uses in the R-1C district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<ul style="list-style-type: none"> • Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52 • Day care, group, when located and operated in an educational institution, place of worship or semi-public building • Essential services • Place of worship • Public parks or playgrounds • Recreation facility, non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Recycling collection point pursuant to §23-66(h)(14) • Urban farm pursuant to §23-66(h)(17)

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-1C district are as follows:

- (1) **Minimum lot area:**
 - a. Four thousand (4,000) square feet for single-family detached dwellings.
 - b. Six thousand (6,000) square feet for all other uses.
- (2) **Maximum lot coverage.** Seventy-five percent (75%).
- (3) **Minimum lot width.**
 - a. Forty (40) feet for single-family detached dwellings.
 - b. Fifty (50) feet for all other uses.

ZONING

(4) **Minimum front yard.**

- a. Ten (10) feet.
- b. Twenty (20) feet on an arterial street.

(5) **Minimum rear yard.** Twenty-five (25) feet.

(6) **Minimum side yard.**

- a. Five (5) feet for single-family dwellings.
- b. Six (6) feet for all other uses.

(7) **Maximum building height.** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 86-07, §1, 5-8-07; Ord 19-07, §1, 7-24-07; Ord 93-08, §1, 5-27-08; Ord 150-08, §1, 10-7-08; Ord 52-12, §1, 6-6-12; Ord 37-20, §1, 3-24-20; Ord 96-23, §1, 10-10-23)

Sec. 23-95. R-2 two-family district.

(a) **Purpose.** The R-2 district is intended to provide for and maintain residential areas characterized by single-family detached and two- (2-) family dwelling units. Increased densities and the introduction of two- (2-) family housing types are intended to provide for greater housing options for owners and renters while maintaining the basic qualities of a moderately dense residential neighborhood.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Dwelling, single-family, detached • Dwelling, two-family (duplex) • Dwelling, zero lot line two-family 	<ul style="list-style-type: none"> • Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52 • Day care, adult; serving five (5) or fewer persons • Day care, family • Family home, adult (A) and (D), pursuant to §23-22 • Family home, adult (B) and (C), pursuant to §23-22 and §23-52 • Governmental facilities 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 97-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the R-2 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-2 district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Accessory dwelling units pursuant to §23-55.
- (6) Junior accessory dwelling units pursuant to §23-56.

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(Ord 31-21, §1, 7-7-21)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-2 District.

(e) **Special uses.** Special uses in the R-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery • Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52 • Day care, group, when located and operated in an educational institution, place of worship or semi-public building. • Educational institution; business, technical or vocational school • Educational institution; college or university. • Educational institution; elementary school, junior high school, or high school. • Essential services • Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure • Marina and/or boat landing • Place of worship • Public parks or playgrounds • Recreation facility, non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Recycling collection point pursuant to §23-66(h)(14) • Urban farms pursuant to §23-66(h)(17)

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.**

(1) **Two-family dwellings (duplex) and other uses.**

- a. **Minimum lot area, Single-family dwelling (detached):** Six thousand (6,000) square feet.
- b. **Minimum lot area, Two-family dwellings (two-story duplex):** Seven thousand (7,000) square feet.
- c. **Minimum lot area, Two-family dwellings (single story duplex):** Nine thousand (9,000) square feet.
- d. **Minimum lot area, All other uses:** Seven thousand (7,000) square feet.
- e. **Minimum lot width, Single-family dwelling:** Fifty (50) feet.
- f. **Minimum lot width, All other uses:** (70 feet).
- g. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- h. **Minimum rear lot line setback:** Twenty-five (25) feet.

ZONING

- i. **Minimum side lot line setback:** Six (6) feet.
 - j. **Maximum lot coverage:** Sixty percent (60%).
 - k. **Maximum building height:** Thirty-five (35) feet.
- (2) **Zero lot line Two-family dwellings.**
- a. **Minimum lot area:** Three thousand (3,000) square feet per dwelling.
 - b. **Minimum lot width:** Thirty (30) feet per dwelling.
 - c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
 - d. **Minimum rear lot line setback:** Twenty-five (25) feet.
 - e. **Minimum side lot line setback:** Zero (0) feet on one (1) side with a common wall provided that:
 - i. The opposite side yard being a minimum of six (6) feet.
 - ii. Patios and decks may have a zero setback from the zero lot line side yard setback.
 - iii. Driveways may be separate or shared.
 - iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.
 - v. Every zero lot line two-family dwelling constructed after March 24, 2020 shall be constructed with identical materials.
 - vi. For the purpose of this subsection the term “identical materials” means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.
 - vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.
 - viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.
 - 1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.
 - 2. Include a note that reads, *“The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.”*

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3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.
4. Said covenants shall specifically state the City of Appleton and all approving authorities shall not be held responsible for same, and that said covenants shall insure to all heirs and assigns.
5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community and Economic Development Department.
- ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.
- x. Easements shall be provided upon each lot as may be necessary for ingress and egress, water, sewer and all other utility services.
- xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.
 1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, *“When zero lot line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same.”*
 2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. **Maximum building height:** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.
 (Ord 121-05, §1, 10-25-05; Ord 87-07, §1, 5-8-07; Ord 94-08, §1, 5-27-08; Ord 151-08, §1, 10-7-08; Ord 53-12, §1, 6-6-12; Ord 38-20, §1, 3-24-20; Ord 97-23, §1, 10-10-23)

Sec. 23-96. R-3 multifamily district.

(a) **Purpose.** The R-3 district is intended to provide for and maintain residential areas characterized by multiple family dwellings, while maintaining the basic qualities of a dense residential neighborhood, which may include other housing types and institutional and limited non-residential uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-3 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Assisted living facility or retirement home • Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse • Dwelling, single-family, detached • Dwelling, two-family (duplex) • Dwelling, zero lot line two-family • Nursing or convalescent home • Residential care apartment complex 	<ul style="list-style-type: none"> • Community living arrangements serving fifteen (15) or fewer persons, pursuant to §23-22 and §23-52 • Day care, adult; serving five (5) or fewer persons • Day care, family • Family home, adult (A) and (D), pursuant to §23-22 • Family home, adult (B) and (C), pursuant to §23-22 and §23-52 • Governmental facilities 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 98-23, §1, 10-10-23)

ZONING

(c) **Accessory uses.** Accessory uses in the R-3 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-3 district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Accessory dwelling units pursuant to §23-55.
- (6) Junior accessory dwelling units pursuant to §23-56.
- (7) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 32-21, §1, 7-7-21; Ord 121-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-3 District.

(e) **Special uses.** Special uses in the R-3 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Manufactured and mobile home communities; pursuant to §23-66(h)(10) and Chapter 11 of the Municipal Code 	<ul style="list-style-type: none"> • Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery • Community living arrangements serving sixteen (16) or more persons, pursuant to §23-22 and §23-52 • Day care, group, when located and operated in an educational institution, place of worship or semi-public building • Educational institution; business, technical or vocational school • Educational institution; college or university • Educational institution; elementary school, junior high school or high school • Essential services • Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure • Group home, adult • Group housing • Marina and/or boat landing • Place of worship • Public parks or playgrounds • Recreation facility, non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Recycling collection point pursuant to §23-66(h)(14) • Shelter facility • Urban farms pursuant to §23-66(h)(17)

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(f) **Site plan.** Prior to obtaining a building permit for any use except for one- (1-) and two- (2-) family dwellings on land in the R-3 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Development standards.**

(1) **Single-Family Dwelling, Detached:**

- a. **Minimum lot area:** Six thousand (6,000) square feet.
- b. **Minimum lot width:** Fifty (50) feet.
- c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- d. **Minimum rear lot line setback:** Twenty-five (25) feet.
- e. **Minimum side lot line setback:** Six (6) feet.
- f. **Maximum lot coverage:** Seventy percent (70%).
- g. **Maximum building height:** Thirty-five (35) feet.

(2) **Two-family Dwellings (duplex):**

- a. **Minimum lot area, Two-family dwellings (two-story duplex):** Seven thousand (7,000) square feet.
- b. **Minimum lot area, Two-family dwellings (single story duplex):** Nine thousand (9,000) square feet.
- c. **Minimum lot width:** Seventy (70) feet.
- d. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- e. **Minimum rear lot line setback:** Twenty-five (25) feet.
- f. **Minimum side lot line setback:** Six (6) feet.
- g. **Maximum lot coverage:** Seventy percent (70%).
- h. **Maximum building height:** Thirty-five (35) feet.

(3) **Multi-family Dwellings and Other Uses:**

- a. **Minimum lot area, Multi-family dwellings:** One thousand five-hundred (1,500) square feet per dwelling unit.
- b. **Minimum lot area, All other uses:** Seven thousand (7,000) square feet.
- c. **Minimum lot width:** Eighty (80) feet.
- d. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- e. **Minimum rear lot line setback:** Thirty-five (35) feet.
- f. **Minimum side lot line setback:** Twenty (20) feet.
- g. **Minimum distance between multi-family buildings:** Twelve (12) feet.
- h. **Maximum lot coverage:** Seventy percent (70%).

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- i. **Maximum height:** Forty-five (45) feet.

(4) **Zero Lot Line Two-family Dwelling:**

- a. **Minimum lot area:** Three thousand (3,000) square feet per dwelling.
- b. **Minimum lot width:** Thirty (30) feet per dwelling.
- c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- d. **Minimum rear lot line setback:** Twenty-five (25) feet.
- e. **Minimum side lot line setback:** Zero (0) feet on one (1) side with a common wall provided that:
 - i. The opposite side yard being a minimum of six (6) feet.
 - ii. Patios and decks may have a zero setback from the zero lot line side yard setback.
 - iii. Driveways may be separate or shared.
 - iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.
 - v. Every zero lot line two-family dwelling constructed after March 24, 2020 shall be constructed with identical materials.
 - vi. For the purpose of this subsection the term “identical materials” means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.
 - vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.
- viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.
 1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.
 2. Include a note that reads, “*The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use at a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.*”
 3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.
 4. Said covenants shall specifically state the City of Appleton and all approving authorities shall

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not be held responsible for same, and that said covenants shall insure to all heirs and assigns.

5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community and Economic Development Department.
- ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.
- x. Easements shall be provided upon each lot as may be necessary for ingress and egress, water, sewer and all other utility services.
- xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.
 1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, "*When zero lot line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same.*"
 2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. **Maximum building height:** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 88-07, §1, 5-8-07; Ord 85-08, §1, 5-27-08; Ord 137-08, §1, 10-7-08; Ord 152-08, §1, 10-7-08; Ord 54-12, §1, 6-6-12; Ord 39-20, §1, 3-24-20; Ord 98-23, §1, 10-10-23; Ord 121-23, §1, 10-10-23)

Secs. 23-97 – 23-99. Reserved.

ZONING

Sec. 23-100. P-I public institutional district.

(a) **Purpose.** The P-I district is intended to provide for public and institutional uses and buildings, utilized by the community, and to provide open space standards where necessary for the protection of adjacent residential properties.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the P-I district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> Assisted living facility or retirement home Nursing or convalescent home 	<ul style="list-style-type: none"> Community living arrangements serving one (1) or more persons, pursuant to §23-22 and §23-52 Educational institution; business, technical or vocational school Educational institution; college or university Educational institution; elementary school, junior high school, or high school Family home, adult (A) and (D), pursuant to §23-22 Family home, adult (B) and (C), pursuant to §23-22 and §23-52 Governmental facility Group housing Hospital Marina and/or boat landing Museum Place of worship Public parks or playgrounds Recreation facility, non-profit Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) Multi-tenant buildings

(Ord 99-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the P-I district may include:

- The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the P-I district.
- Fences and walls pursuant to §23-44.
- Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 122-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the P-I District.

(e) **Special uses.** Special uses in the P-I district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery Day care, group, when located and operated in an educational institution, place of worship or semi-public building Essential services Golf course. However, the clubhouse, practice driving range, practice greens, 	<ul style="list-style-type: none"> Circus or carnival. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7) Community garden Electronic towers pursuant to §23-66(h)(1)

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	<p>or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure</p>	<ul style="list-style-type: none"> • Helicopter landing pads pursuant to §23-66(h)(9) • Parking garage • Recycling collection point pursuant to §23-66(h)(14) • Recycling and waste recovery center pursuant to §23-66(h)(13) • Shelter facility • Urban farms pursuant to §23-66(h)(17)
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(Ord 100-23, §1, 10-10-23)

(f) **Site plan.** Prior to obtaining a building permit on any land in the P-I district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the P-I district are as follows:

- (1) **Minimum lot area.** None.
- (2) **Maximum lot coverage.** Seventy percent (70%).
- (3) **Minimum lot width.** None.
- (4) **Minimum front yard.** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.
- (5) **Minimum rear yard.** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.
- (6) **Minimum side yard.** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.
- (7) **Maximum building height.** Sixty (60) feet.

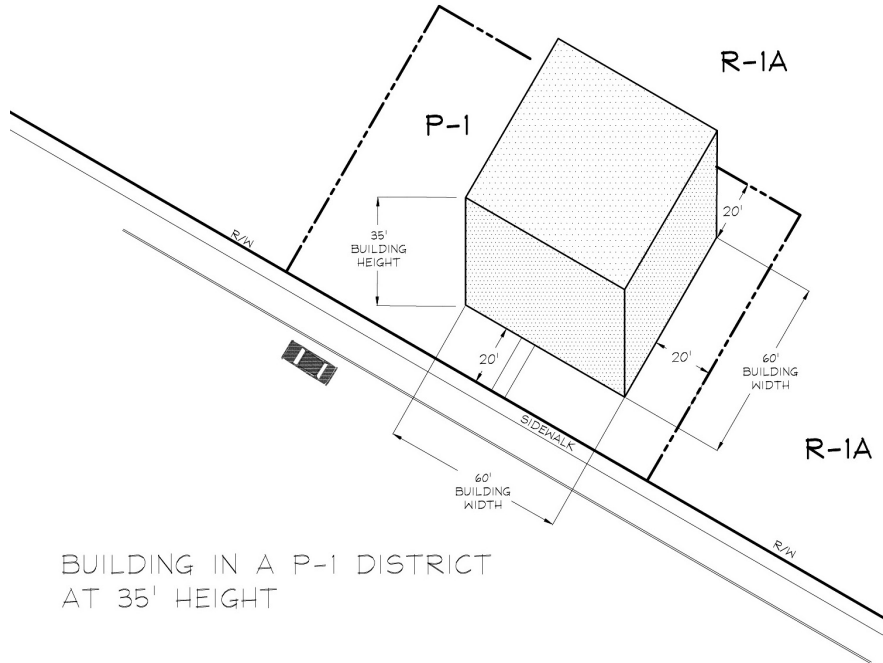
(Ord 121-05, §1, 10-25-05; Ord 89-07, §1, 5-8-07; Ord 96-08, §1, 5-27-08; Ord 138-08, §1, 10-7-08; Ord 153-08, §1, 10-7-08; Ord 55-12, §1, 6-6-12; Ord 56-12, §1, 6-6-12; Ord 99-23, §1, 10-10-23; Ord 100-23, §1, 10-10-23; Ord 122-23, §1, 10-10-23)

The P-I District Setback Example is located on the following page.

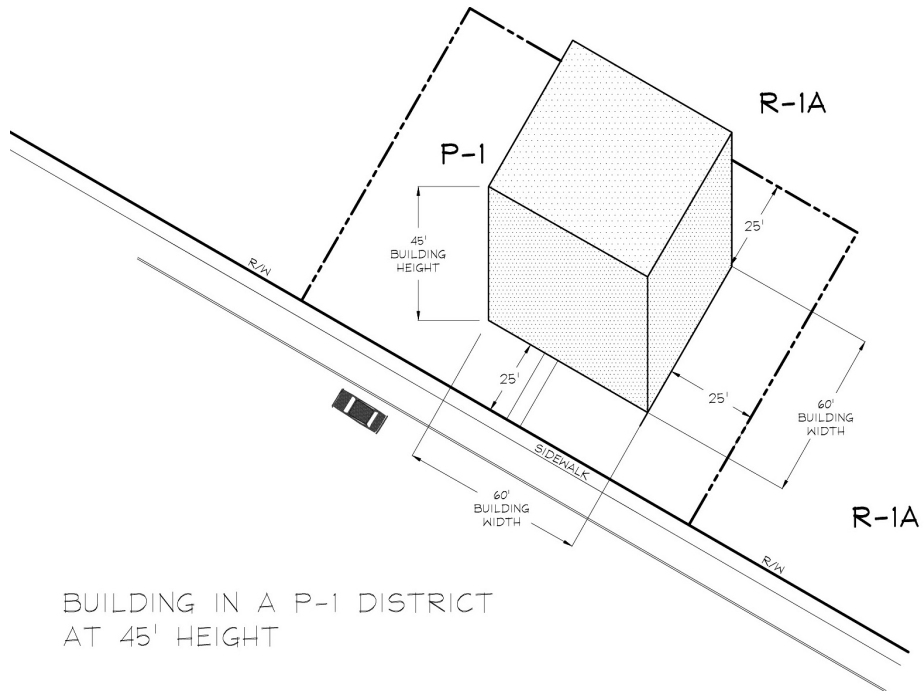
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ZONING

P-1 Setback Example
BUILDING SETBACKS



BUILDING IN A P-1 DISTRICT
AT 35' HEIGHT



BUILDING IN A P-1 DISTRICT
AT 45' HEIGHT

Sec. 23-101. NC nature conservancy district.

(a) **Purpose.** The purpose of the NC nature conservancy district is to:

- (1) Discourage development and disturbance to the natural environment in areas with unique features.
- (2) Give primary consideration to outdoor recreation and forestry pursuits.
- (3) Provide areas where native flora and fauna may prosper in a natural habitat.

(b) **Principal permitted uses.** The following uses are permitted within the NC nature conservancy district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Bicycle or hiking trails • Dams, power stations, transmission lines • Fishing • Harvesting of wild crops such as marsh hay, mushrooms, moss, berries, fruit trees and tree seeds • Management of forestry and fish • Public or private parks which provide passive recreation pursuits • Water pumping and storage facilities 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 101-23, §1, 10-10-23)

(c) **Accessory uses.** The accessory use, buildings and structures set forth in §23-43 may be permitted as of right in the NC district.

- (1) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 123-23, §1, 10-10-23)

(d) **Prohibited uses and activities.** The following uses and activities shall be prohibited within the NC nature conservancy district:

- (1) Structures for human habitation.
- (2) Any placement of fill within the conservancy districts.

(e) **Development standards.** The space limits applicable in the NC nature conservancy district are as follows:

- (1) **Minimum lot area.** None.
- (2) **Minimum lot width.** None.
- (3) **Minimum front yard.** Twenty-five (25) feet.
- (4) **Minimum rear yard.** Twenty-five (25) feet.
- (5) **Minimum side yard.** Twelve (12) feet.
- (6) **Maximum building height.** Twenty-five (25) feet.

(f) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(g) **Tree cutting and shrubbery clearing prohibited.** Parcels lying within the NC nature conservancy district shall not be clear-cut of trees, shrubbery or underbrush. No more than ten percent (10%) of the natural vegetation shall be removed from a parcel in any one (1) given calendar year. Normal pruning, trimming, and shearing of vegetation; removal of dead,

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diseased, insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a forester shall be exempt from this restriction.

(Ord 138-06, §1, 11-21-06; Ord 97-08, §1, 5-27-08; Ord 11-14, §1, 4-8-14; Ord 101-23, §1, 10-10-23; Ord 123-23, §1, 10-10-23)

Secs. 23-102 – 23-110. Reserved.

ARTICLE VI. COMMERCIAL DISTRICTS

Sec. 23-111. C-O commercial office district

(a) **Purpose.** This district is intended to provide a buffer between commercial and residential areas by permitting professional or business offices that serve the general public. Stringent setback and landscaping standards required in this district will create a visual screen for adjacent properties.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-O district.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Clubs • Educational institutions; business, technical or vocational school • Educational institutions; college or university • Governmental facilities • Museums • Places of worship • Public parks or playgrounds • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Multi-tenant building • Offices • Personal services • Professional services • Veterinarian clinics

(Ord 102-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the C-O district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-O district.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (4) Drive through facility pursuant to §23-49.
- (5) Home occupation pursuant to §23-45.
- (6) Fences and walls pursuant to §23-44.
- (7) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 124-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-O District.

(e) **Special uses.** Special uses in the C-O district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Educational institutions; elementary school, junior high school. or high school • Essential services • Golf courses. However the clubhouse, practice driving range, practice greens or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Helicopter landing pads pursuant to §23-66(h)(9) • Parking garages • Recycling collection point pursuant to §23-66(h)(14)

(Ord 103-23, §1, 10-10-23)

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(f) **Site plan.** Prior to obtaining a building permit on any land in the C-O district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the C-O district are as follows:

(1) **Minimum lot area.** Nine thousand (9,000) square feet.

(2) **Maximum lot coverage.** Sixty percent (60%).

(3) **Minimum lot width.** Eighty (80) feet.

(4) **Minimum front yard.** Twenty (20) feet.

(5) **Minimum rear yard:**

a. Twenty-five (25) feet.

b. Forty (40) feet if abutting a residentially-zoned district.

(6) **Minimum side yard:**

a. Ten (10) feet.

b. Forty (40) feet if abutting a residentially-zoned district.

(7) **Maximum building height.** Thirty-five (35) feet.

(Ord 121-05, §1, 10-25-05; Ord 154-08, §1, 10-7-08; Ord 102-23, §1, 10-10-23; Ord 103-23, §1, 10-10-23; Ord 124-23, §1, 10-10-23)

Sec. 23-112. C-1 neighborhood mixed use district.

(a) **Purpose.** The C-1 district is intended to provide for mixed use areas, including a range of commercial and denser residential uses. Development is intended to be pedestrian-oriented, with businesses and services that are part of the fabric of the neighborhood and allow residents to meet daily needs on foot, bicycle, and public transit. Development standards provide added flexibility to encourage redevelopment along commercial corridors, without being detrimental to established residential neighborhoods.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-1 district.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Dwelling, multi-family, or three (3) or more units, apartment building, or townhouse 	<ul style="list-style-type: none"> • Clubs • Day care, group • Governmental facilities • Museums • Places of worship • Public parks or playgrounds • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Commercial entertainment; excluding sexually-oriented establishments • Hotel or motels • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Multi-tenant building • Offices • Painting/Craft studio without alcohol sales • Personal services • Printing • Professional services • Restaurants (without alcohol) • Restaurants, fast foods

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Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> • Retail businesses • Shopping centers • Urban farms pursuant to §23-66(h)(17) • Veterinarian clinics, with all activity within enclosed buildings and with no animals boarded overnight

(Ord 104-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the C-1 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-1 district; however, new or expanded driveways, parking lots, and loading areas shall not be located between the principal building and the front lot line.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Home occupation pursuant to §23-45.
- (4) Outdoor storage and display pursuant to §23-46.
- (5) Fences and walls pursuant to §23-44.
- (6) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 125-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-1 district.

(e) **Special uses.** Special uses in the C-1 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Educational institutions; elementary school, junior high school or high school • Essential services • Recreation facilities, non-profit 	<ul style="list-style-type: none"> • Amusement arcade • Bar or Tavern pursuant to §23-66(h)(6) • Craft-Distillery pursuant to §23-66(h)(19) • Electronic towers pursuant to §23-66(h)(1) • Manufacturing, custom pursuant to §23-66(h)(16) • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Outdoor commercial entertainment pursuant to §23-66(h)(11) • Painting/Craft studio with alcohol pursuant to §23-66(h)(6) • Parking garages • Recycling collection points pursuant to §23-66(h)(14) • Research laboratories or testing facilities • Restaurants with alcohol pursuant to §23-66(h)(6) • Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21) • Winery pursuant to §23-66(h)(21)

(Ord 105-23, §1, 10-10-23)

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(f) **Site plan.** Prior to obtaining a building permit on any land in the C-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards; however, the number of off-street parking and loading spaces required are reduced by fifty percent (50%) for uses in the C-1 district. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(h) **Development standards.** The space limits applicable in the C-1 district are as follows:

(1) **Minimum lot area.** Six thousand (6,000) square feet.

(2) **Maximum lot coverage.** Ninety percent (90%).

(3) **Minimum lot width.** Forty (40) feet.

(4) **Minimum front yard.** None.

(5) **Minimum rear yard:**

a. Twenty (20) feet.

(6) **Minimum side yard:**

a. None.

b. Ten (10) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Sixty (60) feet.

(i) **District location.** The C-1 district shall be utilized in areas identified with a future Mixed Use designation on the Comprehensive Plan Future Land Use Map.

(Ord 121-05, §1, 10-25-05; Ord 99-08, §1, 5-27-08; Ord 155-08, §1, 10-7-08; Ord 205-11, §1, 9-27-11; Ord 57-12, §1, 6-6-12; Ord 40-20, §1, 3-24-20; Ord 104-23, §1, 10-10-23; Ord 105-23, §1, 10-10-23; Ord 125-23, §1, 10-10-23)

Sec. 23-113. C-2 general commercial district.

(a) **Purpose.** This district is intended to provide for businesses which serve city and regional markets; provide goods and services to other businesses, as well as consumers, provide services to automobiles and serve the traveling public.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Assisted living or retirement homes • Nursing or convalescent homes 	<ul style="list-style-type: none"> • Clubs • Day care, group • Educational institutions; business, technical or vocational school • Educational institutions; college or university • Governmental facilities • Hospitals • Marina or boat landings • Museums • Places of worship • Public parks or playground • Recreation facilities; non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of 	<ul style="list-style-type: none"> • Automobile maintenance shops • Commercial entertainment; excluding sexually-oriented establishments • Drive through facilities pursuant to §23-49 • Greenhouses or greenhouse nurseries • Hotel or motels • Manufacturing, custom pursuant to §23-66(h)(16) • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Multi-tenant building • Offices

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	the gross floor area of the building	<ul style="list-style-type: none"> • Painting/Craft studio without alcohol sales • Parking lots • Personal services • Printing • Professional services • Restaurants (without alcohol) • Restaurants, fast food • Retail businesses • Shopping centers • Towing businesses pursuant to §23-66(h)(15) • Urban farms pursuant to 23-66(h)(17) • Veterinarian clinics
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(Ord 106-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the C-2 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-2 district.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Home occupation pursuant to §23-45.
- (4) Outdoor storage and display pursuant to §23-46.
- (5) Fences and walls pursuant to §23-44.
- (6) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 126-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-2 District.

(e) **Special uses.** Special uses in the C-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Educational institutions; elementary school, junior high school or high school • Essential services • Golf courses. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure 	<ul style="list-style-type: none"> • Amusement arcades • Any principal building that exceeds thirty-five (35) feet in height • Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5) • Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5) • Bar or taverns pursuant to §23-66(h)(6) • Body repair and/or paint shops pursuant to §23-66(h)(4) • Bus terminals • Car washes • Circus or carnivals. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7)

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Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<ul style="list-style-type: none"> • Craft-Distillery pursuant to §23-66(h)(19) • Electronic towers pursuant to §23-66(h)(1) • Freight distribution and/or moving centers • Gasoline sales pursuant to §23-66(h)(8) • Helicopter landing pads pursuant to §23-66(h)(9) • Indoor kennels • Landscape business • Manufacturing, light • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Mobile home sales lots • Outdoor commercial entertainment pursuant to §23-66(h)(11) • Painting/Craft studio with alcohol sales pursuant to §23-66(6) • Parking garages • Recycling collection points pursuant to §23-66(h)(14) • Recycling and waste recovery centers pursuant to §23-66(h)(13) • Research laboratories or testing facilities • Restaurants with alcohol pursuant to §23-66(h)(6) • Sexually-oriented establishments pursuant to Article XII • Shelter facility • Tasting rooms pursuant to §23-66(H)(19, 20, 21, or 21) • Wholesale facilities • Winery pursuant to §23-66(h)(21)

(Ord 107-23, §1, 10-10-23)

(f) **Site plan.** Prior to obtaining a building permit on any land in the C-2 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking, loading, and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the C-2 district are as follows:

- (1) **Minimum lot area.** Fourteen thousand (14,000) square feet.
- (2) **Maximum lot coverage.** Seventy-five percent (75%).
- (3) **Minimum lot width.** Sixty (60) feet.
- (4) **Minimum front yard.** Ten (10) feet.
- (5) **Minimum rear yard.** Twenty (20) feet.
- (6) **Minimum side yard.**

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- a. None.
- b. Ten (10) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Thirty-five (35) feet (See §23-113 (e)).
 (Ord 121-05, §1, 10-25-05; Ord 100-08, §1, 5-27-08; Ord 139-08, §1, 10-7-08; Ord 156-08, §1, 10-7-08; Ord 206-11, §1, 9-27-11; Ord 207-11, §1, 9-27-11; Ord 58-12, §1, 6-6-12; Ord 72-13, §1, 8-13-13; Ord 41-20, §1, 3-24-20; Ord 42-20, §1, 3-24-20; Ord 106-23, §1, 10-10-23; Ord 107-23, §1, 10-10-23; Ord 126-23, §1, 10-10-23)

Sec. 23-114. CBD central business district.

(a) **Purpose.** This district is intended to provide a centrally located and readily accessible area that offers a wide variety of retail, service, financial, entertainment, governmental, and residential uses. A broad range of uses is permitted to reflect downtown’s role as a commercial, cultural and government center. Development is intended to be intense with maximum lot coverage, increased building scale and height density and buildings placed close together. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the CBD:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Assisted living or retirement homes • Nursing or convalescent homes • Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse; however, residential uses are prohibited on the ground floor for any lot with frontage on College Avenue or within 120 feet of College Avenue frontage 	<ul style="list-style-type: none"> • Clubs • Day care, group • Educational institutions; college or university • Governmental facilities • Museums • Places of worship • Public park or playgrounds • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Automobile maintenance shops • Commercial entertainment; excluding sexually-oriented establishments • Hotel or motels • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Multi-tenant building • Offices • Painting/Craft studio without alcohol sales • Personal services • Printing • Professional services • Restaurants (without alcohol) • Restaurant, fast foods • Retail businesses • Shopping centers • Urban farms pursuant to §23-66(h)(17) • Veterinarian clinics

(Ord 108-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the CBD district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the CBD district.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Home occupations pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 127-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the CBD District.

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(e) **Special uses.** Special uses in the CBD district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Educational institution; elementary school, junior high school or high school • Essential services • Hospital • Marina and/or boat landing 	<ul style="list-style-type: none"> • Amusement arcade • Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5) • Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles pursuant to §23-66(h)(5) • Bar or Tavern pursuant to §23-66(h)(6) • Body repair and/or paint shop pursuant to §23-66(h)(4) • Bus terminal • Craft-Distillery pursuant to §23-66(h)(19) • Electronic towers pursuant to §23-66(h)(1) • Gasoline sales pursuant to §23-66(h)(8) • Indoor kennel • Manufacturing, custom pursuant to §23-66(h)(16). • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Outdoor commercial entertainment pursuant to §23-66(h)(11) • Painting/Craft studio with alcohol sales pursuant to §23-66(h)(6) • Parking garage • Parking lot; however, surface lots are prohibited on lots fronting on College Avenue • Recycling collection point pursuant to §23-66(h)(14) • Research laboratories or testing facilities • Restaurant with alcohol pursuant to §23-66(h)(6) • Shelter facility • Tasting rooms pursuant to §23-66(h)(19, 20, 21, or 21) • Wholesale facility • Winery pursuant to §23-66(h)(21)

(Ord 109-23, §1, 10-10-23)

(f) **Site plan.** Prior to obtaining a building permit on any land in the CBD, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and loading requirements.** Provision for off-street parking and loading spaces are not required for uses in the CBD.

(h) **Landscape standards.** Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(i) **Development standards.** The space limits applicable in the CBD are as follows:

(1) **Minimum lot area.** Two thousand four hundred (2,400) square feet.

(2) **Maximum lot coverage.** One hundred percent (100%).

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(3) **Minimum lot width.** Twenty (20) feet.

(4) **Minimum front yard.** None.

(5) **Minimum rear yard.**

- a. None.
- b. Ten (10) feet when abutting a residentially-zoned district.

(6) **Minimum side yard.**

- a. None.
- b. Ten (10) feet when abutting a residentially-zoned district.

(7) **Maximum building height.** Two hundred (200) feet.

(Ord 121-05, §1, 10-25-05; Ord 101-08, §1, 5-27-08; Ord 140-08, §1, 10-7-08; Ord 157-08, §1, 10-7-08; Ord 59-12, §1, 6-6-12; Ord 36-18, §1, 4-10-18; Ord 43-20, §1, 3-24-20; Ord 108-23, §1, 10-10-23; Ord 109-23, §1, 10-10-23; Ord 127-23, §1, 10-10-23)

Sec. 23-115. P parking district.

(a) **Purpose.** The parking district is intended to provide for the off-street parking of motor vehicles in close proximity to uses which create a need for substantial amounts of vehicle parking, on properly screened and landscaped lots.

(b) **Permitted uses.** Principal uses permitted as of right in the parking district include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Parking garage • Parking lot

(Ord 110-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses, buildings and structures permitted in the parking district include:

- (1) Earthen berm.
- (2) Fences and walls pursuant to §23-44.
- (3) Private drives.
- (4) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 128-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the P District.

(e) **Special uses.** Special uses permitted in the parking district include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Essential services 	<ul style="list-style-type: none"> • None

(f) **Lot area and width.** Individual lots in the P district shall contain sufficient area for parking spaces, aisles and required screening. There is no minimum lot area and width.

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(g) **Site plan.** Prior to obtaining a building permit for a parking lot in the P district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(h) **Parking and landscape standards.** Off-street parking requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(i) **Development standards.**

(1) **Maximum lot coverage.** Ninety percent (90%).

(Ord 121-05, §1, 10-25-05; Ord 102-08, §1, 5-27-08; Ord 158-08, §1, 10-7-08; Ord 110-23, §1, 10-10-23; Ord 128-23, §1, 10-10-23)

Secs. 23-116 – 23-130. Reserved.

ARTICLE VII. INDUSTRIAL DISTRICTS

Sec. 23-131. M-1 industrial park district.

(a) **Purpose.** The M-1 district is intended for clean, low environmental impact industrial uses that are compatible with neighboring residential, office and commercial districts through limiting outdoor storage and providing adequate landscaping and screening for buildings, structures and off-street parking areas.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the M-1 district, subject to any contracts, agreements, covenants, restrictions and leases the City maintains on City-owned industrial properties.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Governmental facilities • Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building 	<ul style="list-style-type: none"> • Agriculture • Brewery pursuant to §23-66(h)(20) • Commercial entertainment • Community garden • Craft-Distillery pursuant to §23-66(h)(19) • Distillery pursuant to §23-66(h)(20) • Freight distribution or moving centers • Manufacturing, light • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Multi-tenant buildings • Offices • Printing • Research laboratory or testing facilities • Urban farms pursuant to §23-66(h)(17) • Warehouses • Wholesale facilities • Winery pursuant to §23-66(h)(21)

(Ord 111-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the M-1 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-1 district.
- (2) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (3) Drive through facility pursuant to §23-49.
- (4) Personal service occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (5) Outdoor storage pursuant to §23-46.
- (6) Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:
 - a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
 - b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
 - c. The industrial character of the property is maintained.

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(7) Fences and walls pursuant to §23-44.

(8) Refuse containers and dumpster enclosures pursuant to §23-47.
(Ord 129-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the M-1 District.

(e) **Special uses.** Special uses in the M-1 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Essential services 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Helicopter landing pads pursuant to §23-66(h)(9) • Manufacturing, heavy • Outdoor commercial entertainment pursuant to §23-66(h)(11) • Parking garages • Recycling centers • Recycling collection points pursuant to §23-66(h)(14) • Recycling and waste recovery centers pursuant to §23-66(h)(13) • Sexually-oriented establishments pursuant to Article XII

(Ord 112-23, §1, 10-10-23)

(f) **Site plan.** Prior to obtaining a building permit on any land in the M-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking, loading and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the M-1 district are as follows:

- (1) **Minimum lot area.** One (1) acre.
- (2) **Maximum lot coverage.** Ninety percent (90%).
- (3) **Minimum lot width.** One hundred fifty (150) feet.
- (4) **Minimum front yard.** Forty (40) feet.
- (5) **Minimum rear yard:**
 - a. Twenty-five (25) feet.
 - b. Fifty (50) feet if abutting a residentially-zoned district.
- (6) **Minimum side yard:**
 - a. Twenty-five (25) feet.
 - b. Fifty (50) feet if abutting a residentially-zoned district.

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(7) **Maximum building height.** Sixty (60) feet.

(Ord 121-05, §1, 10-25-05; Ord 103-08, §1, 5-27-08; Ord 159-08, §1, 10-7-08; Ord 31-11, §1, 1-25-11; Ord 158-11, §1, 7-26-11; Ord 209-11, §1, 9-27-11; Ord 60-12, §1, 6-6-12; Ord 61-12, §1, 6-6-12; Ord 45-20, §1, 3-24-20; Ord 46-20, §1, 3-24-20; Ord 111-23, §1, 10-10-23; Ord 112-23, §1, 10-10-23; Ord 129-23, §1, 10-10-23)

Sec. 23-132. M-2 general industrial district

(a) **Purpose.** The M-2 district is intended to preserve and secure areas already established with industrial type or related uses or for new uses that meet the purposes of this district. The M-2 district is also intended to apply standards for existing uses that will minimize their effect on any adjacent residential or commercial land uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the M-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Governmental facilities • Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building 	<ul style="list-style-type: none"> • Automobile maintenance shops • Body repair and/or paint shops pursuant to §23-66(h)(4) • Brewery pursuant to §23-66(h)(20) • Bus terminals • Commercial entertainment • Commercial truck body repair or paint shops • Commercial truck maintenance shops • Community garden • Craft-Distillery pursuant to §23-66(h)(19) • Distillery pursuant to §23-66(h)(20) • Freight distribution or moving centers • Landscape businesses • Manufacturing, light • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Multi-tenant buildings • Offices • Personal storage facility (self storage/mini-warehouse), including outdoor storage areas for recreational vehicles pursuant to §23-66(h)(18) • Printing • Research laboratories or testing facilities • Towing businesses pursuant to §23-66(h)(15) • Truck or heavy equipment sales or rental • Urban farms pursuant to §23-66(h)(17) • Warehouses • Wholesale facilities • Winery pursuant to §23-66(h)(21)

(Ord 113-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the M-2 district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-2 district.

(2) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

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- (3) Drive through facility pursuant to §23-49.
- (4) Outdoor display pursuant to §23-46.
- (5) Outdoor storage pursuant to §23-46.
- (6) Personal service; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (7) Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:
 - a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
 - b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
 - c. The industrial character of the property is maintained.
- (8) Fences and walls pursuant to §23-44.
- (9) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 130-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the M-2 District.

(e) **Special uses.** Special uses in the M-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Essential services • Marina or boat landing 	<ul style="list-style-type: none"> • Asphalt plant • Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5) • Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles only pursuant to §23-66(h)(5) • Bulk flammable or combustible liquid storage or distribution facility • Concrete mixing • Electronic towers pursuant to §23-66(h)(1) • Gasoline sales, pursuant to §23-66(h)(8) • Manufacturing, heavy • Indoor or outdoor kennel pursuant to §23-66(h)(12) • Mobile home sales and display lot • Parking garage • Parking lot • Recycling collection point pursuant to §23-66(h)(14) • Recycling and waste recovery center pursuant to §23-66(h)(13) • Salvage yard or junk facility • Sexually-oriented establishments pursuant to Article XII • Towed vehicle storage

(Ord 114-23, §1, 10-10-23)

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(f) **Site plan.** Prior to obtaining a building permit on any land in the M-2 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking, loading, and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the M-2 district are as follows:

(1) **Minimum lot area.** Eight thousand (8,000) square feet.

(2) **Maximum lot coverage.** Ninety percent (90%).

(3) **Minimum lot width.** Fifty (50) feet.

(4) **Minimum front yard.** None.

(5) **Minimum rear yard.** None; Fifty (50) feet if abutting a residentially zoned district.

(6) **Minimum side yard.** None; Fifty (50) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Eighty (80) feet.

(Ord 121-05, §1, 10-25-05; Ord 160-08, §1, 10-7-08; Ord 159-11, §1, 7-26-11; Ord 210-11, §1, 9-27-11; Ord 62-12, §1, 6-6-12; Ord 63-12, §1, 6-6-12; Ord 73-13, §1, 8-13-13; Ord 47-20, §1, 3-24-20; Ord 113-23, §1, 10-10-23; Ord 114-23, §1, 10-10-23; Ord 130-23, §1, 10-10-23)

Secs. 23-133 – 23-149. Reserved.

ARTICLE VIII. OVERLAY DISTRICTS

Sec. 23-150. Overlay districts purpose.

The Appleton overlay districts are intended to provide supplemental regulations or standards pertaining to specific areas of the City, wherever these are located, in addition to, but not necessarily more restrictive than the “base” or underlying zoning district regulations applicable within a designated area. Whenever there is a conflict between the regulations of a base zoning district and those of an overlay district, the overlay district regulations shall supercede the base district regulations.

Sec. 23-151. PD planned development overlay district.

(a) **Purpose.** The purpose of this district is to encourage innovative design and a mix of uses in areas of Appleton where such development could positively contribute to the physical appearance and function of land and development.

(b) **Designation of planned development overlay district.** The PD overlay district shall be designated by the Common Council pursuant to the provisions of §23-65, Zoning amendments, and shall be shown as an overlay to the underlying districts by the designation of PD on the City of Appleton Official Zoning Map.

In determining the proper location for such an overlay within the City, the City shall consider that these provisions are intended to accommodate developments that involve one (1) or more uses that may be located in one (1) or more zoning districts and provide the following:

- (1) That the application of this overlay district would provide a choice in the type of environment available to the public by allowing development that would not be possible under the strict application of other sections of this chapter.
- (2) That the application of this PD overlay district would encourage development and/or permanent reservation of open space, recreational areas and facilities.
- (3) That the application of this PD overlay district would accommodate a land use plan that permits preservation of green space, natural vegetation, topographic and geologic features and historic resources.
- (4) That the application of this PD overlay district would allow a creative approach to the use of land and related physical facilities which results in better urban design, higher quality construction and the provision of aesthetic amenities.
- (5) That the application of this PD overlay district would allow the efficient use of land, so as to promote economies in the provision of utilities, streets, schools, public grounds and buildings and other facilities.
- (6) That the application of this PD overlay district would allow innovations in development so that the needs and demands of the population may be met by a greater variety in type, design and layout of buildings, and by conservation and more efficient use of open space ancillary to said buildings, all in a manner so as to be consistent with the character of the zoning district over which the PD overlay district is to be located.
- (7) That the application of this PD overlay district would allow a land use which promotes the public health, safety, comfort, morals and welfare.

(c) **Minimum size of district.** No district shall be established unless it contains the minimum area specified in this section and has at least two hundred (200) feet of frontage or City approved private road access.

- (1) The minimum gross area required for a PD overlay district is as follows:
 - a. Two (2) acres where the overlay is placed upon base, single-family residential districts.
 - b. Two (2) acres where the overlay is placed upon base, multi-family residential districts.
 - c. One (1) acre where the overlay is placed upon base, nonresidential districts.

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- (2) Applications for a PD overlay district on sites containing less than the required acreage listed above, but not less than the underlying zoning district requirements, may be approved upon proof by the owner that the development is in the public interest and that one (1) or more of the following conditions exist:
 - a. The property contains steep topography or other unusual physical features which necessitates substantial deviation from the regulations otherwise applicable, in order to ensure a safe, efficient and attractive development.
 - b. The property is adjacent to an existing PD overlay district and will contribute to the maintenance of amenities and values of the neighboring district.
 - c. The proposal involves the redevelopment of an existing area or makes use of an infill site that could not be reasonably developed under conventional zoning requirements.
 - d. The property lends itself to creative design that will enhance quality of life in the proposed development.

(d) **Designation of permanent common open space.** No Development Plan for a PD overlay district shall be approved, unless the plan provides for permanent, landscaped, open space equivalent to the following by type of PD overlay district:

<i>Percent of gross acreage</i>	
a. Planned residential development	35%
b. Planned commercial development	10%
c. Planned office development	25%
d. Planned mixed development	30%

- (1) Open space may either be passive or active in nature and shall fully complement the proposed development. Such open space may take the form of required yards, parks, playgrounds, landscaped green space, nature walks and natural areas.
- (2) Land donated for any public purpose, which is accepted by the City, may be credited towards the open space requirement at the discretion of the Common Council.
- (3) Where a planned development is to be developed in phases, a portion of the required open space shall be provided in each phase. Maintenance of the open space shall be provided for in the planned development's restrictive covenants and/or the Implementation Plan Document (IPD) recorded as part of the project.
- (4) Open space shall be either adjacent to, or readily accessible by, all properties within the PD overlay district. Furthermore, open space shall be situated in such a way that it may be linked up with other open spaces adjacent to the proposed PD overlay district.

(e) **Area, height and yard requirements.** Lot area, width, building height, yard, density and similar requirements shall be provided in accordance with the underlying zoning district unless based upon performance standards specific to the proposed uses or structures as they relate to the total concept of the PD overlay district as identified in §23-151(m), Procedure for approval of a Development Plan within the district, of this section.

(f) **Density, height, yard and other regulation exceptions.** In the case of any PD overly district, the Plan Commission may recommend and the Common Council may authorize, exceptions to the applicable bulk, height, yard and other regulations of this chapter within the boundaries of such PD overly district, provided that the Plan Commission shall find that such exception shall be for the purpose of promoting an integrated Development Plan as beneficial to the tenants or occupants of such development, as well as the neighboring properties, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots.

(g) **Principal permitted uses.**

- (1) Uses listed as permitted in the underlying zoning district(s).

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- (2) Uses as approved or as recommended by the Plan Commission and Common Council as identified in §23-151(h), Use regulation exceptions.
- (3) Uses listed as special uses in the underlying zoning district(s) may be listed as permitted uses in the PD overlay district and shall be reviewed and approved, approved with conditions or denied as a part of the PD overlay district process.

(h) **Use regulation exceptions.** The Plan Commission may recommend and the Common Council may authorize that there will be allowed in part of the area of a proposed PD overlay district, specified uses not permitted by the use regulations of the underlying zoning districts in which the development is located, provided that the Plan Commission shall find:

- (1) That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose and character of the PD overlay district.
- (2) That the uses permitted by such exception are not of such nature or so located as to exercise a detrimental influence on the neighborhoods surrounding the PD overlay district, or upon the internal character of any part of, or all of the PD overlay district, itself.
- (3) That the use exceptions so allowed are listed in the Implementation Plan Document (IPD), of which a recorded copy of the Implementation Plan Document (IPD), shall be filed in the office of the Community and Economic Development Director.
- (4) That any excepted use which is listed as a special use in any district, unless such use is permitted as of right in the underlying zoning district, shall require a two-thirds (2/3) vote of the Common Council.

(i) **Other uses.**

- (1) **Accessory uses.** Uses listed as accessory uses in the underlying zoning district(s) are permitted as of right in the PD overlay district.
- (2) **Temporary uses and structures.** Uses listed as temporary uses and structures in the underlying district(s) may be permitted in the PD overlay district.

(j) **Signs.** Sign regulations applicable in the PD overlay district are set forth in Article XIV, Signs.

(k) **Outdoor lighting, parking and landscape standards.** All standards of the following apply: outdoor lighting requirements as set forth in §23-53, Outdoor lighting. Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(l) **Period of validity and expiration of plans.** A PD overlay district designation remains on PD parcels even if there is no approved Development Plan and/or Implementation Plan Document (IPD), or if the Development Plan and Implementation Plan Document (IPD) has expired or the Development Plan and Implementation Plan Document (IPD), has been made invalid. Any future development requires a submittal of a Development Plan and Implementation Plan Document (IPD) and its approval or a request to rezone the property.

- (1) Once a Development Plan and/or Implementation Plan Document (IPD) has expired for any portion of the planned development overlay district, no development shall occur within the expired portions of the planned district until:
 - a. A new Development Plan and Implementation Plan Document (IPD) is resubmitted and is recommended for approval by the Plan Commission and approved by Common Council; and
- (2) A one (1) year extension of an approved Development Plan and Implementation Plan Document (IPD) may be granted by Common Council for good cause shown by the applicant.

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(m) **Procedure for approval of a Development Plan within the district.** No development shall be permitted within this district unless it is submitted, reviewed and approved subject to the following procedures:

All required improvements, construction standards, design standards and all other engineering standards contained within the Municipal Code shall be complied with, except where specifically varied through the provisions of this section of the chapter.

Applications shall be made on forms provided by the City and shall be accompanied by the required plans and documents. The application and all requirements shall be reviewed for completeness by the Community and Economic Development Director. The steps in the procedure are as follows:

(1) **Step 1. Pre-application conference.**

- a. The purpose of the pre-application conference is to provide two-way communication between the applicant, the Community and Economic Development Director and City staff regarding the legal, planning, engineering and storm water management aspects of the potential development. Accordingly, the applicant shall submit conceptual plans and other pertinent information to the Community and Economic Development Director for review and discussion by other city departments prior to submittal of a PD overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD). The conceptual plan shall include the entire area of the intended PD, even if the PD overlay district is to be developed in phases.
- b. A pre-application conference review shall consider: success in achieving the purposes of the PD overlay district ordinances; adequacy of public and private services and facilities; ability to conform with all applicable codes and ordinances; utilization of commonly accepted principles of good site planning; and consistency with the comprehensive plan.
- c. Submittal requirements for the PD overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be reviewed as part of the pre-application conference. A submittal item may be waived as part of this review if determined as not needed, already known or needed at a future review process.
- d. The aforementioned requirements may be waived at the discretion of the Community and Economic Development Director.

(2) **Step 2. Application, Development Plan and Implementation Plan Document (IPD).** The Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the PD overlay district shall be submitted by the applicant to the Community and Economic Development Director who, after determining the application to be complete, will file the Development Plan, complete application and fee and Implementation Plan Document (IPD) for the PD overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, informal hearing, and recommendation.

The required procedure for consideration and approval of the PD overlay district shall be:

- a. **Submission of materials.** The applicant shall prepare and submit the following plans and documents:
 1. All information listed in §23-151(n), Specific contents of Development Plans.
 2. Written application and application fee for approval of a PD overlay district to be made on forms and in the manner prescribed by the City.
 3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Community and Economic Development Director on a diskette or by electronic mail. The Implementation Plan Document (IPD) functions to inform all whom deal with the PD overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.

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4. A statement of conformity with City's other relevant ordinances along with a list of any requested variations from these ordinances.
- b. **Development Plan and Implementation Plan Document (IPD) review.** The Community and Economic Development Director shall coordinate a review of the Development Plan and Implementation Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for an informal hearing.
- c. **Informal hearing.** The Plan Commission shall hold an informal hearing on each application for approval of a PD overlay district including the Development Plan and Implementation Plan Document (IPD) in accordance with §23-65(d), Map amendments, of this chapter.
- d. **Plan Commission findings.** Following the informal hearing, the Plan Commission shall make its findings and recommendations and send a written report to the Common Council that shall include findings of fact upon which its recommendations are based. Such findings and recommendations shall include a recommendation for approval, disapproval or approval with modifications. This report to the Common Council must be submitted within thirty (30) days after the last session of the informal hearing of the Plan Commission or the Plan Commission must indicate to the Common Council, in writing, why such report cannot be rendered within that time period.
- e. **Common Council action.** The Common Council shall hold a public hearing and act upon the recommendation within forty-five (45) days after receipt of the Plan Commission's report. The Common Council may approve, approve with modifications, refer back to the Plan Commission, disapprove the plan or provide written explanation to the petitioner on why an extension is required for Common Council action. The time period for action shall be exclusive of any time extensions or continuances requested by the petitioner.
- f. **Period of validity.**
 1. The Development Plan and Implementation Plan Document (IPD), as approved by the Common Council, shall remain valid for a period of one (1) year during which time building permits for a substantial portion of development occurring within the approved first phase of the Development Plan or, if the Development Plan does not consist of development phases, the complete Development Plan must be applied for and received by the applicant. The one (1) year period shall begin on the date the Common Council approves the PD overlay district, Development Plan and Implementation Plan Document (IPD).
 - a. For the purposes of this section, "substantial portion of development" shall mean that at least thirty percent (30%) of the building permits required for the overall project or phase, if in phases, have been approved for and approved.
 2. The Common Council may extend this period upon recommendation of the Plan Commission. If the applicant does not apply for and receive a building permit within one (1) year from the date of Common Council approval of the PD overlay district, Development Plan and Implementation Plan Document (IPD), the Development Plan and Implementation Plan Document (IPD) will constitute abandonment of the PD overlay district and related approvals, and any assumed development rights over that allowed through the underlying zoning district and shall be subject to the regulations in §23-151(l), Proof of validity and expiration of plans, of this chapter.
- g. **Recording of Development Plan and Implementation Plan Document (IPD).**
 1. The applicant shall file the Development Plan and Implementation Plan Document (IPD), signed by all parties in the Register of Deeds Office of the jurisdictional county within thirty (30) days from the date of Common Council approval of the PD overlay district and shall provide the Community and Economic Development Director a recorded copy of the Development Plan and Implementation Plan Document (IPD). This constitutes approval of the Development Plan and Implementation Plan Document (IPD), conditions applied, modifications, and any density premiums that may be granted

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and exceptions, if any, to the plan shown in the application that were ordered by the Common Council.

2. No permit allowing construction of a building or other development, shall take place until the required recording of the Development Plan and Implementation Plan Document (IPD) and the posting by the applicant of the required improvement deposits and relevant City fees unless permitted by the Community and Economic Development Director. The applicant shall pay all recording costs.

(n) ***Specific content of Development Plans.*** PD overlay district Development Plans and supporting data shall include all documentation listed in this section of the zoning ordinance. In developing plans and specifications for all required improvements, the applicant must also conform to the standards set forth in applicable sections of the Municipal Code.

- (1) ***Development plan set.*** The applicant shall provide a complete set of development plans, a digital file of the Development Plan, a PD overlay district rezoning or PD overlay district amendment application and the appropriate fee as established by the Common Council.

a. **A topographic survey and location map.**

- b. **Detailed plan.** A drawing of the Development Plan shall be prepared at a scale not less than one (1) inch equals one hundred (100) feet, or as considered appropriate by the Community and Economic Development Director, and shall show such designations as proposed streets, lots, all buildings, showing their setback dimensions to lot lines and their use, common open space, recreation facilities, parking areas, showing their setback dimensions to lot lines, service areas and other facilities to indicate the character of the proposed development. Provide note(s) identifying the lot coverage percentage of impervious surface coverage and the percentage of permanent common open space within the PD.

The submission may be composed of one (1) or more sheets and drawings and shall include:

1. Boundary lines. Bearings, distances and acreage.
2. Easements. Location, width and purpose.
3. Existing land use. On PD property and up to one hundred fifty (150) feet on adjacent lots.
4. Other conditions on adjoining land, such as actual direction and gradient of ground slope, including any embankments or retaining walls; character and location of major buildings, railroads, power lines, towers and other nearby non-residential land uses or adverse influences; for owners of adjoining platted land refer to subdivision plat by name, recording date and number and show approximate percent built up, typical lot size and dwelling type.
5. Zoning on and adjacent to the tract.
6. Streets on and adjacent to the tract, such as street name, right-of-way width, existing or proposed centerline elevations pavement type, walks, curbs, gutters, culverts, etc.
7. General location, purpose and height of each residential and non-residential building.
8. Map data. Name of development, north arrow, scale and date of preparation.
9. An accurate legal description of the entire area within the PD.

The following subsections 10 through 22 may be waived by the Community and Economic Development Director:

10. Proposed public improvements. Such as highways and other major improvements planned by public authorities for future construction on or near the tract.
11. Utilities on and adjacent to the tract. Such as location, size and invert elevation of sanitary and storm sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone

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lines and street lights; direction and distance to, and size of nearest water mains and sewers adjacent to the tract showing invert elevation of sewers.

12. Ground elevation on the tract and on the first fifty (50) feet on all adjacent tracts. Showing one (1) foot contours for land which slopes less than one-half percent ($\frac{1}{2}\%$) along with all breaks in grades, at all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than one-half percent ($\frac{1}{2}\%$) showing two (2) foot contours. Any land within the one hundred (100) year floodplain within the project area shall be identified on these plans.
 13. Subsurface conditions on the tract. Tests made to ascertain subsurface soil, rock and groundwater conditions, depth to groundwater, unless test pits are dry at a depth of five (5) feet.
 14. Other conditions on the tract. Water courses, marshes, rock outcrops, wooded areas, isolated trees one (1) foot or more in diameter, existing structures and other significant features.
 15. Title and certificates. Present tract designation according to official records in Office of the Register of Deeds; title under which the proposed development is to be recorded, with names and addresses of owners and notation stating acreage. Owners shall include beneficial owners of any land trust.
 16. Names. The names and addresses to who notices of hearings shall be sent, including the subdivider or developer, the designer of the subdivision or development and the owners of the land immediately adjoining the land to be platted.
 17. Open space. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners, with the purpose indicated.
 18. Miscellaneous. Such additional documents as may be required by the Community and Economic Development Director. The Community and Economic Development Director shall inform the applicant of such requirements after the pre-application conference.
 19. A drainage plan signed by a Wisconsin Registered Professional Engineer that conforms to City standards for site drainage.
 20. Tabulation of each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre.
 21. An accurate legal description of each separate unsubdivided use area, including open area.
 22. A storm water management plan signed by a Wisconsin Registered Professional Engineer that conforms to City Storm Water Management Ordinance.
- c. **Exceptions.** Identification and explanation of those aspects of the proposed PD overlay district that vary from the zoning ordinance requirements applicable to the underlying zoning district and from other applicable regulations of the City.
- d. **Character.** Explanation of the character of the PD overlay district and the reasons why it has been planned to take advantage of the flexibility of these regulations. This item shall include a specific explanation of how the proposed PD overlay district meets the objectives of this section.
- e. **Ownership.** Statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.
- f. **Landscape and lighting plan.** A general landscape concept plan for the site as well as a lighting concept plan for the site and the effects of such lighting on adjacent properties.

The following subsections g. through p. may be required by the Community and Economic Development Director:

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- g. **Schedule.** Development schedule indicating:
 - 1. Stages in which the project will be built, with emphasis on area, density, use and public facilities, such as open space to be developed with each stage. Each stage shall be described and mapped as a unit of the project. Overall design of each unit shall be shown on the plan and through supporting graphic material.
 - 2. Dates for beginning and completion of each stage.
- h. **Covenants.** Proposed agreements, provisions or covenants which will govern the use, maintenance and continue protection of the PD and any of its common open space. Proposed condominium declaration and bylaws of condominium form of ownership or homeowner's association if it is to be used in the PD.
- i. **Nonresidential intensity.** Information on the type and amount of nonresidential uses including building locations, sizes, building height, the amount and location of common open space, the hours of operation, number of employees and specific uses.
- j. **Architectural plans.** Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of the development, the design elements of the building and the number, size and type of dwelling units.
- k. **Facilities plan.** Development plans and feasibility reports for:
 - 1. Streets, including classification, width of right-of-way, width of pavement and construction details.
 - 2. Sidewalks.
 - 3. Sanitary sewers.
 - 4. Storm drainage.
 - 5. Water supply system.
 - 6. Street lighting.
 - 7. Public utilities.
- l. **Community-benefit analysis.** A study indicating the fiscal impact of the PD overlay district on major taxing bodies which shall include the municipal corporation, school district(s) and other taxing bodies. Information will include detailed estimates on: expected population of the development, the operating cost to be incurred by each taxing body, any additional major capital investments required, in part or in whole, because of the PD overlay district, revenue generated for each taxing body by the PD overlay district to offset service and fiscal demands created by the PD overlay district.
- m. **Traffic analysis.** A study of the impact caused by the PD overlay district on the street and highway systems operating in the City.
- n. **Market information.** Documentation indicating the extent of market demand for the uses proposed in the PD overlay district including analysis of demographics, sales potentials, competitive alignment, assessment of market share and market positioning of each component of the PD overlay district.
- o. **Environmental analysis.** The major impacts of the PD overlay district on the environment shall be analyzed and shall disclose all major negative impacts. Generally, these impacts would include effects on discrete ecosystems, deteriorated air quality in the immediate vicinity and along arterial and collector roads leading to the PD overlay district to a distance established by the City Engineer, any deterioration in the groundwater or surface water quality, effect on sensitive land areas such as floodplains, wetlands, forests, aquifer recharge areas, historic buildings or structures.

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- p. **Open space standards.** All open space, at the election of the City, shall be:
1. Conveyed to the City; or
 2. Conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the PD overlay district or adjacent property owners or any one (1) or more of them. All lands so conveyed shall be subject to the right of the grantee(s) to enforce maintenance and improvement of the common open space; or
 3. Guaranteed by a restrictive covenant described the open space and its maintenance and improvement, running with the land for the benefit of residents of the PD overlay district or adjacent property owners.

(o) **Findings of fact.** In reporting its findings and recommendations on a PD overlay district, Development Plan and Implementation Plan Document (IPD) to the Common Council, the Plan Commission will submit findings of fact upon which it has based its recommended action. These findings of fact will relate to the specific proposal and shall set forth with particularity in what respects the proposal would or would not be in the public interest, including findings of fact on the following:

- (1) In what respects the proposed plan is or is not consistent with the stated purpose, requirements, and standards of the PD regulations.
- (2) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property and the reasons why such departures are or are not deemed to be in the public interest.
- (3) The extent of public benefit of the PD in terms of meeting planning objectives and enhancing the tax base and economic development. Any specific beneficial actions, plans, or programs agreed to in the PD proposal which are clearly beyond the minimum requirements of this chapter shall be specifically listed as evidence of justified exceptions.
- (4) The physical design of the proposed plan and the manner in which said design makes adequate provision for public services, provides adequate control over vehicular traffic, provides for common open space and furthers the amenities of light, air, recreation and visual enjoyment.
- (5) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

(p) **Changes in the PD.** A PD shall be developed only according to the approved and recorded Development Plan and Implementation Plan Document (IPD) and all supporting data. The recorded Development Plan, Implementation Plan Document (IPD) and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises (including the internal use of buildings and structures) and location of structures in the PD, as set forth therein.

- (1) **Major changes.** Changes which alter the concept or intent of the PD, including:
 - a. Increases in the density by more than ten percent (10%);
 - b. Increases in the height of building(s) by more than ten percent (10%);
 - c. Reductions of proposed open space by more than ten percent (10%);
 - d. Modification in proportion of housing types by more than ten percent (10%);
 - e. Changes in standards of infrastructure or alignment of streets, including major alterations in the placement of utilities, water, electricity, drainage or changes in the final governing agreements, provisions or covenants.

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Major changes may be approved only by submission of a new Development Plan and Implementation Plan Document (IPD) and supporting data, and following the development plan approval steps, holding of a new public hearing and subsequent amendment and recordation of the Implementation Plan Document (IPD).

- (2) **Minor changes.** The Community and Economic Development Director may approve minor changes in the PD which do not change the concept or intent of the development, without going through the Development Plan approval steps. Minor changes are defined as any change not defined as a major change. Any minor changes approved shall be properly filed with the Community and Economic Development Director or it shall be automatically deemed to be a major change.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 121-05, §1, 10-25-05; Ord 84-06, §1, 7-11-06; Ord 161-08, §1, 10-7-08)

Sec. 23-152. TND traditional neighborhood development overlay district.

(a) **Purpose.** The purpose of this district is to allow for optimal development and redevelopment of land in a manner that is consistent with the design principles of traditional neighborhoods. Promoting the proximity of residential, commercial and civic uses capitalizes on the benefits received through the coordination and interaction of these uses at a pedestrian scale. The district is intended to be mapped as an overlay upon existing, underlying zoning districts, the requirements of which will also apply.

It is not intended that the City will automatically grant the use of exceptions or maximum density increases for all traditional neighborhood developments overlay districts (TND overlay district), but it is expected the City shall grant only such increases or uses which are consistent with the benefits accruing to the City as a result of the traditional neighborhood development. Therefore, the City may require as a condition of approval any reasonable condition, limitation or design factor that will promote proper development in the TND overlay district.

The following advantages are contributing factors found in a traditional neighborhood development:

- (1) Designs that balance the needs of residential uses and non-residential uses while creating compatibility among these uses;
- (2) Designs that are compact, pedestrian-oriented and relate to the human scale;
- (3) Designs that promote a variety of housing, types, styles and sizes;
- (4) Designs that reflect the City's development and planning policies reflected in the residential neighborhoods or non-residential areas in which the district is to be located;
- (5) Designs that enhance the appearance of neighborhoods by conserving areas of natural beauty and natural green spaces;
- (6) Designs that counteract possible urban monotony and congestion on streets through promotion of all types of transportation (walking, biking, etc.); and
- (7) Designs that promote compatible architecture between adjacent buildings.

- (b) **Definition.** For the purpose of this ordinance:

Traditional Neighborhood Development means a compact, mixed-use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

(c) **Designation of traditional neighborhood development overlay district.** The TND overlay district shall be designated by the Common Council pursuant to the provisions of §23-65, Zoning amendments, and shall be shown as an overlay to the underlying districts by the designation of TND overlay district on the City of Appleton Official Zoning Map.

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In determining the proper location for such an overlay within the City, the City shall consider these provisions are intended to accommodate developments that involve more than one use, that may be located in one (1) or more zoning district, and provide the following:

- (1) The application of this overlay district would provide a choice in the type of environment available to the public by allowing development that would not be possible under the strict application of other sections of this chapter.
- (2) The application of this overlay district would encourage development and/or permanent reservation of open space, recreational areas and facilities.
- (3) The application of this overlay district would accommodate a land use plan which permits preservation of green space, natural vegetation, topographic and geologic features and historic resources.
- (4) The application of this overlay district would allow a creative approach to the use of land and related physical facilities which results in better urban design, higher quality construction and the provision of aesthetic amenities.
- (5) The application of this overlay district would allow the efficient use of land, so as to promote economies in the provision of utilities, streets, educational institutions, public grounds and buildings and other facilities.
- (6) The application of this overlay district would allow innovations in development so the needs and demands of the population may be met by a greater variety in type, design and layout of buildings, and by conservation and more efficient use of open space ancillary to said buildings, all in a manner so as to be consistent with the character of the zoning district over which the TND overlay district is to be located.
- (7) The application of this overlay district would allow a land use which promotes the public health, safety, comfort, morals and welfare.

(d) ***Size of district.*** No district shall be established unless it contains the minimum area specified in this section.

- (1) The gross area required for a TND overlay district shall be no less than ten (10) acres. All acreage shall be contiguous.
- (2) Applications for a TND overlay district, on sites containing less than the required acreage listed above, but not less than the underlying zoning district requirements, may be approved upon proof by the owner the development is in the public interest and one (1) or more of the following conditions exist:
 - a. The property contains steep topography or other unusual physical features which necessitate substantial deviation from the regulations otherwise applicable, in order to ensure a safe, efficient and attractive development.
 - b. The property is adjacent to an existing TND overlay district and will contribute to the maintenance of amenities and values of the neighboring property.
 - c. The proposal involves the redevelopment of an existing area or makes use of an infill site that could not be reasonably developed under conventional zoning requirements.
 - d. The property lends itself to creative design that will enhance quality of life in the proposed development.

(e) ***Designation of permanent common space.*** No plans for a TND overlay district shall be approved, unless the plan provides for permanent, landscaped, open space.

- (1) Open space standards shall be identified in the TND overlay district design standards §23-152(r)(1), Open space design standards.

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(f) **Area, height and yard requirements.** Lot area, width, building height, yard and similar requirements shall be as established below. All requirements established shall be approved by the Common Council and made a part of the approved Development Plan and Implementation Plan Document (IPD).

Area, height and yard requirement table

Regulation	Single- and Two-Family	Multi-family, Civic and Commercial
Minimum Lot Size	4,000 s.f.	2,000 s.f. per unit for multifamily 6,000 s.f. for commercial and civic uses
Maximum Lot Size	6,000 s.f.	1 acre
Minimum Lot Width	40 feet	40 feet
Front Yard Setback	10 feet maximum 0 feet minimum	10 feet maximum 0 feet minimum
Side Yard Setback	5 feet street side 0 feet interior	5 feet street side 0 feet interior
Rear Yard Setback	5 feet	10 feet
Maximum Height	35 Feet Principal Use 15 Feet Accessory Use	45 Feet Principal Use 15 Feet Accessory Use
Maximum Building Coverage	70%	70%
Maximum Impervious Surface Coverage	80%	90%

(g) **Density, height, yard and other regulation exceptions.** In the case of any TND overlay district, the Plan Commission may recommend and the Common Council may authorize, exceptions to the applicable bulk, height, yard and other regulations of this chapter within the boundaries of such TND overlay district, provided the Plan Commission shall find that such exception shall be for the purpose of promoting an integrated site plan as beneficial to the tenants or occupants of such development, as well as the neighboring properties, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots.

(h) **Principal permitted uses.** The following principal permitted uses are permitted as of right in the TND overlay district.

- (1) The following uses are listed as permitted in the underlying zoning district. In the case of a lot located in more than one (1) underlying zoning district, the use limitations of the underlying zoning district shall apply:
 - a. All R-1A, R-1B and R-1C single-family district residential permitted uses;
 - b. All R-2 two- (2-) family district residential permitted uses;
 - c. All R-3 multi-family residential district permitted uses;
 - d. All C-O commercial office district permitted;
 - e. All C-1 neighborhood mixed use district permitted uses;
 - f. All C-2 general commercial district permitted uses, except the following:
 1. Hospitals;
 2. Towing business pursuant to §23-66(h)(16).

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(2) **Special uses.** Uses listed as special uses in the following underlying zoning district(s) may be listed as permitted uses in the TND overlay district and shall be reviewed and approved, approved with conditions or denied as part of the TND overlay district process:

- a. All R-1A, R-1B, and R-1C single-family residential district special uses;
- b. All R-2 two- (2-) family residential district special uses;
- c. All R-3 multifamily residential district special uses;
- d. All C-O commercial office district special uses, except the following:
 1. Electronic towers pursuant to §23-66(h)(1);
 2. Helicopter landing pads pursuant to §23-66(h)(9);
- e. All C-1 neighborhood mixed use district special uses, except the following:
 1. Electronic towers pursuant to §23-66(h)(1);
- f. All C-2 general commercial district special uses, except the following:
 1. Sexually-oriented establishments pursuant to Article XII;
 2. Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5);
 3. Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5);
 4. Body repair and/or paint shops pursuant to §23-66(h)(4);
 5. Electronic towers pursuant to §23-66(h)(1);
 6. Helicopter landing pads pursuant to §23-66(h)(9);
 7. Manufacturing, light;
 8. Research laboratories or testing facilities;

(3) Uses as approved or as recommended by the Plan Commission and Common Council as identified in §23-152(j), Use regulation exceptions.

(Ord 115-23, §1, 10-10-23)

(i) **Other uses.**

- (1) **Accessory uses.** Uses listed as accessory uses in the underlying zoning district(s) are permitted as of right in the TND overlay district.
- (2) **Temporary uses and structures.** Uses listed as temporary uses and structures in the underlying district(s) may be permitted in the TND overlay district.

(j) **Use regulation exceptions.** The Plan Commission may recommend and the Common Council may authorize that there be allowed in part of the area of a proposed TND overlay district, specified uses not permitted by the use regulations of the underlying zoning districts in which the development is located, provided that the Plan Commission shall find:

- (1) That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose and character of the TND overlay district.

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- (2) That the uses permitted by such exception are not of such nature or so located as to exercise a detrimental influence on the neighborhoods surrounding the TND district, or upon the internal character of any part of, or all of the TND overlay district, itself.
- (3) That the use exceptions so allowed are listed in the Implementation Plan Document (IPD), of which a recorded copy of the Implementation Plan Document (IPD), shall be filed in the office of the Community and Economic Development Director.
- (4) That any excepted use which is listed as a special use in any district, unless such use is permitted as of right in the underlying zoning district, shall require a two-thirds (2/3) vote of the Common Council.

(k) **Signs.** Sign regulations applicable in the TND overlay district are set forth in Article XIV, Signs.

(l) **Outdoor lighting, parking and landscape standards.** All standards of the following apply: outdoor lighting requirements as set forth in §23-53, Outdoor lighting. Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards and in §23-152(r), TND overlay district design standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(m) **Period of validity and expiration of plans.** A TND overlay district designation remains on TND overlay district parcels even if there is no approved Development Plan and/or Implementation Plan Document (IPD), the TND overlay district Development Plan and Implementation Plan Document (IPD) has expired or the TND overlay district Development Plan and Implementation Plan Document (IPD) has been made invalid. Any future development requires a submittal of a TND overlay district Development Plan and Implementation Plan Document (IPD) and its approval or a request to rezone the property.

- (1) Once a Development Plan and Implementation Plan Document (IPD) has expired for any portion of the Traditional Neighborhood Development Overlay District, no development shall occur within the expired portions of the Traditional Neighborhood Development Overlay District until:
 - a. A new Development Plan and Implementation Plan Document (IPD) is resubmitted and is recommended for approval by the Plan Commission to Common Council;
 - b. Common Council approves the Development Plan and Implementation Plan Document (IPD); and
- (2) A one (1) year extension of an approved Development Plan and Implementation Plan Document (IPD) may be granted by Common Council for good cause shown by the applicant.

(n) **Procedure for approval of a Development Plan within the district.** No development in a TND overlay district shall be permitted within this district unless it is submitted, reviewed, and approved subject to the following procedures:

All required improvements, construction standards, design standards and all other engineering standards contained within the Municipal Code shall be complied with, except where specifically varied through the provisions of this section of the chapter.

Applications shall be made on forms provided by the City and shall be accompanied by the required plans and documents. The application and all requirements shall be reviewed and determined complete by the Community and Economic Development Director. The steps in the procedure are as follows:

- (1) **Step 1. Pre-application conference.** Prior to filing a formal application for approval of a TND overlay district Development Plan, the applicant shall schedule a pre-application meeting with the Community and Economic Development Director.
 - a. The purpose of the pre-application conference is to provide two-way communication between the applicant, the Community and Economic Development Director and City staff regarding the legal, planning, engineering and storm water management aspects of the potential development. Accordingly, the applicant shall submit conceptual plans and other pertinent information to the Community and Economic Development Director for review and discussion by other city departments prior to submittal of a TND overlay district application, Development Plan(s) and other supporting information, and the

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Implementation Plan Document (IPD). The conceptual plan shall include the entire area of the intended TND overlay district, even if the TND overlay district is to be developed in phases.

- b. A pre-application conference review shall consider: success in achieving the purposes of the TND overlay district ordinances; adequacy of public and private services and facilities; ability to conform with all applicable codes and ordinances; utilization of commonly accepted principles of good site planning; and consistency with the comprehensive plan.
 - c. Submittal requirements for the TND overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be reviewed as part of the pre-application conference. A submitted item may be waived as part of this review if determined as not needed, already known or needed at a future review process.
 - d. The aforementioned requirements may be waived at the discretion of the Community and Economic Development Director.
- (2) **Step 2. Application, Development Plan and Implementation Plan Document (IPD).** The Development Plan, complete application and fee and Implementation Plan Document (IPD) for the TND overlay district shall be submitted by the applicant to the Community and Economic Development Director who, after determining the application to be complete, will file the Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the TND overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, informal hearing, and recommendation.

The required procedure for consideration and approval of the TND overlay district shall be:

- a. **Submission of materials.** The applicant shall prepare and submit the following plans and documents:
 1. All information listed in §23-152(o), Specific contents of Development Plans.
 2. Written application and application fee for approval of a TND overlay district to be made on forms and in the manner prescribed by the City.
 3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Community and Economic Development Director on a diskette or by electronic mail. The Implementation Plan Document (IPD) functions to inform all whom deal with the TND overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.
 4. A statement of conformity with City's other relevant ordinances along with a list of any requested variations from these ordinances.
- b. **Development Plan and Implementation Plan Document (IPD) review.** The Community and Economic Development Director shall coordinate a review of the Development Plan and Implementation Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for an informal hearing.
- c. **Informal hearing.** The Plan Commission shall hold an informal hearing on each application for approval of a TND overlay district including the Development Plan and Implementation Plan Document (IPD) in accordance with §23-65(d), Map amendments, of this chapter.
- d. **Plan Commission findings.** Following the informal hearing, the Plan Commission shall make its findings and recommendations and send a written report to the Common Council that shall include findings of fact upon which its recommendations are based. Such findings and recommendations shall include a recommendation for approval, disapproval or approval with modifications. This report to the Common Council must be submitted within thirty (30) days after the last session of the informal hearing

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of the Plan Commission or the Plan Commission must indicate to the Common Council, in writing, why such report cannot be rendered within that time period.

e. **Common Council action.** The Common Council shall hold a public hearing and act upon the recommendation within forty-five (45) days after receipt of the Plan Commission's report. The Common Council may approve, approve with modifications, refer back to the Plan Commission, disapprove the plan or provide written explanation to the petitioner on why an extension is required for Common Council action. The time period for action shall be exclusive of any time extensions or continuances requested by the petitioner.

f. **Period of validity.**

(1) The Development Plan and Implementation Plan Document (IPD), as approved by the Common Council, shall remain valid for a period of one (1) year during which time building permit(s) for a substantial portion of development occurring within the approved first phase of the Development Plan or, if the Development Plan does not consist of development phases, the complete Development Plan must be applied for and received by the applicant. The one (1) year period shall begin on the date the Common Council approves the TND overlay district, Development Plan and Implementation Plan Document (IPD).

a. For the purposes of this section, "substantial portion of development" shall mean that at least thirty percent (30%) of the building permits required for the overall project or phase, if in phases, have been applied for and approved.

(2) The Common Council may extend this period upon recommendation of the Plan Commission. If the applicant does not apply for and receive a building permit within one (1) year from the date of Common Council approval of the TND overlay district, Development Plan and Implementation Plan Document (IPD), the Development Plan and Implementation Plan Document (IPD) will constitute abandonment of the TND overlay district and related approvals, and any assumed development rights over that allowed through the base-zoning district and shall be subject to the regulations in §23-152(m), Proof of validity and expiration of plans, of this chapter.

g. **Recording of Development Plan and Implementation Plan Document (IPD).**

(1) The applicant shall file the Development Plan and Implementation Plan Document (IPD) signed by all parties in the Register of Deeds Office of the jurisdictional county within thirty (30) days from the date of Common Council approval of the TND overlay district and shall provide the Community and Economic Development Director a recorded copy of the Development Plan and Implementation Plan Document (IPD). This constitutes approval of the Development Plan and Implementation Plan Document (IPD), conditions applied, modifications and any density premiums which may be granted and exceptions, if any, to the plan shown in the application ordered by the Common Council.

(2) No permit allowing construction of a building or other development, shall take place until the required recording of the Development Plan and Implementation Plan Document (IPD) and the posting by the applicant of the required improvement deposits and relevant City fees unless permitted by the Community and Economic Development Director. The applicant shall pay all recording costs.

(o) **Specific content of development plans.** TND overlay district Development Plans and supporting data shall include all documentation listed in this section of the zoning ordinance. In developing plans and specifications for all required improvements, the applicant must also conform to the standards set forth in applicable sections of the Municipal Code.

(1) **Development Plan set.** A complete set of Development Plans, a digital file of the Development Plan, a TND overlay district rezoning or TND overlay district amendment application and the appropriate fee as established by Common Council.

a. **A topographic survey and location map.**

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- b. **Detailed plan.** The applicant shall provide a drawing of the TND overlay district Development Plan shall be prepared at a scale not less than one (1) inch equals one hundred (100) feet, or as considered appropriate by the Community and Economic Development Director, and shall show such designations as proposed streets, lots, all buildings showing their setback dimensions to lot lines and their use, common open space, recreation facilities, parking areas showing their setback dimensions to lot lines, service areas and other facilities to indicate the character of the proposed development. Provide note(s) identifying the lot coverage percentage of impervious surface coverage and the percentage of permanent common open space within the TND overlay district.

The submission may be composed of one (1) or more sheets and drawings and shall include:

1. Boundary lines. Bearings, distances and acreage.
2. Easements. Location, width and purpose.
3. Existing land use. On TND overlay district property and up to one hundred fifty (150) feet on adjacent lots.
4. Other conditions on adjoining land such as actual direction and gradient of ground slope, including any embankments or retaining walls; character and location of major buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influences, for owners of adjoining platted land refer to subdivision plat by name, recording date and number and show approximate percent built up, typical lot size and dwelling type.
5. Zoning on and adjacent to the tract.
6. Streets on and adjacent to the tract. Such as street name, right-of-way width, existing or proposed centerline elevations pavement type, walks, curbs, gutters, culverts, etc.
7. General location, purpose, and height of each residential and non-residential building.
8. Map data. Name of development, north point, scale, and date of preparation.
9. An accurate legal description of the entire area within the TND overlay district.

The following subsections 10 through 22 may be waived by the Community and Economic Development Director:

10. Proposed public improvements. Such as highways and other major improvements planned by public authorities for future construction on or near the tract.
11. Utilities on and adjacent to the tract such as location, size and invert elevation of sanitary and storm sewers, location and size of water mains, location of gas lines, fire hydrants, electric and telephone lines and street lights, direction and distance to, and size of nearest water mains and sewers adjacent to the tract showing invert elevation of sewers.
12. Ground elevation on the tract and on the first fifty (50) feet on all adjacent tracts. Showing one (1) foot contours for land which slopes less than one-half percent ($\frac{1}{2}\%$) along with all breaks in grades, at all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than one-half percent ($\frac{1}{2}\%$) showing two (2) foot contours. Any land within the one hundred (100) year floodplain within the project area shall be identified on these plans.
13. Subsurface conditions on the tract. Tests made to ascertain subsurface soil, rock and groundwater conditions, depth to groundwater, unless test pits are dry at a depth of five (5) feet.
14. Other conditions on the tract. Water courses, marshes, rock outcrops, wooded areas, isolated trees one (1) foot or more in diameter, existing structures and other significant features.

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15. Title and certificates. Present tract designation according to official records in office of the Register of Deeds, title under which the proposed development is to be recorded, with names and addresses of owners and notation stating acreage. Owners shall include beneficial owners of any land trust.
 16. Names. The names and addresses to who notices of hearings shall be sent, including the subdivider or developer, the designer of the subdivision or development and the owners of the land immediately adjoining the land to be platted.
 17. Open space. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners, with the purpose indicated.
 18. Miscellaneous. Such additional documents as may be required by the Community and Economic Development Director. The Community and Economic Development Director shall inform the applicant of such requirements after the pre-application conference.
 19. A drainage plan signed by a Wisconsin Registered Professional Engineer that conforms with City standards for site drainage.
 20. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre.
 21. An accurate legal description of each separate unsubdivided use area, including open space.
 22. A storm water management plan signed by a Wisconsin Registered Professional Engineer that conforms to City Storm Water Management Ordinance.
- c. **Exceptions.** Identification and explanation of those aspects of the proposed TND overlay district that vary from the zoning ordinance requirements applicable to the underlying zoning district and from other applicable regulations of the City.
 - d. **Character.** Explanation of the character of the TND overlay district and the reasons why it has been planned to take advantage of the flexibility of these regulations. This item shall include a specific explanation of how the proposed TND overlay district meets the objectives of this section.
 - e. **Ownership.** Statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.
 - f. **Landscape and lighting plan.** A general landscape concept plan for the site as well as a lighting concept plan for the site and the effects of such lighting on adjacent properties.

The following subsections g. through p. may be required by the Community and Economic Development Director:

- g. **Schedule.** Development schedule indicating:
 1. Stages in which the project will be built, with emphasis on area, density, use and public facilities, such as open space to be developed with each stage. Each stage shall be described and mapped as a unit of the project. Overall design of each unit shall be shown on the plan and through supporting graphic material.
 2. Dates for beginning and completion of each stage.
- h. **Covenants.** Proposed agreements, provisions, or covenants which will govern the use, maintenance and continued protection of the TND and any of its common open space. Proposed condominium declaration and bylaws of condominium form of ownership or homeowner's association if it is to be used in the TND overlay district.

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- i. **Non-residential intensity.** Information on the type and amount of non-residential uses including building locations, sizes, building height, the amount and location of common open space, the hours of operation, number of employees and specific uses.
- j. **Architectural plans.** Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of the development, the design elements of the building and the number, size and type of dwelling units.
- k. **Facilities plan.** Development plans and feasibility reports for:
 - 1. Streets, including classification, width of right-of-way, width of pavement and construction details.
 - 2. Sidewalks.
 - 3. Sanitary sewers.
 - 4. Storm drainage.
 - 5. Water supply system.
 - 6. Street lighting.
 - 7. Public utilities.
- l. **Community-benefit analysis.** A study indicating the fiscal impact of the TND overlay district on major taxing bodies which shall include the municipal corporation, school district(s) and other taxing bodies. Information will include detailed estimates on: expected population of the development, the operating cost to be incurred by each taxing body, any additional major capital investments required, in part or in whole, because of the TND overlay district, revenue generated for each taxing body by the TND overlay district to offset service and fiscal demands created by the TND overlay district.
- m. **Traffic analysis.** A study of the impact caused by the TND overlay district on the street and highway systems operating in the City.
- n. **Market information.** Documentation indicating the extent of market demand for the uses proposed in the TND overlay district including analysis of demographics, sales potentials, competitive alignment, assessment of market share and market positioning of each component of the TND overlay district.
- o. **Environmental analysis.** The major impacts of the TND overlay district on the environment shall be analyzed and shall disclose all major negative impacts. Generally, these impacts would include effects on discrete ecosystems, deteriorated air quality in the immediate vicinity and along arterial and collector roads leading to the TND overlay district to a distance established by the City Engineer, any deterioration in the groundwater or surface water quality, effect on sensitive land areas such as floodplains, wetlands, forests, aquifer recharge areas, historic buildings or structures.
- p. **Open space standards.** All open space, at the election of the City shall be:
 - 1. Conveyed to the City; or
 - 2. Conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the TND overlay district or adjacent property owners or any one (1) or more of them. All lands so conveyed shall be subject to the right of grantee(s) to enforce maintenance and improvement of the common open space; or
 - 3. Guaranteed by a restrictive covenant describing the open space and its maintenance and improvement, running with the land for the benefit of residents of the TND overlay district or adjacent property owners.

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(p) **Findings of fact.** In reporting its findings and recommendations on a TND overlay district Development Plan and Implementation Plan Document (IPD) to the Common Council, the Plan Commission will submit findings of fact upon which it has based its recommended action. These findings of fact will relate to the specific proposal and shall set forth with particularity in what respects the proposal would or would not be in the public interest, including findings of fact on the following:

- (1) In what respects the proposed plan is or is not consistent with the stated purpose, requirements, and standards of the TND overlay district regulations.
- (2) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property and the reasons why such departures are or are not deemed to be in the public interest.
- (3) The extent of public benefit of the TND overlay district in terms of meeting planning objectives and enhancing the tax base and economic development. Any specific beneficial actions, plans, or programs agreed to in the TND overlay district proposal which are clearly beyond the minimum requirements of this chapter shall be specifically listed as evidence of justified exceptions.
- (4) The physical design of the proposed plan and the manner in which said design makes adequate provision for public services, provides adequate control over vehicular traffic, provides for common open space and furthers the amenities of light, air, recreation and visual enjoyment.
- (5) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

(q) **Changes in the TND overlay district.** A TND overlay district shall be developed only according to the approved and recorded Development Plan and Implementation Plan Document (IPD) and all supporting data. The recorded Development Plan, Implementation Plan Document (IPD) and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises (including the internal use of buildings and structures) and location of structures in the TND overlay district, as set forth therein.

- (1) **Major changes.** Changes which alter the concept or intent of the TND overlay district, including:
 - a. Increases in the density by more than ten percent (10%);
 - b. Increases in the height of building(s) by more than ten percent (10%);
 - c. Reductions of proposed open space by more than ten percent (10%);
 - d. Modification in proportion of housing types by more than ten percent (10%);
 - e. Changes in standards of infrastructure or alignment of streets, including major alterations in the placement of utilities, water, electricity, drainage or changes in the final governing agreements, provisions or covenants.

Major changes may be approved only by submission of a new Development Plan and supporting data, and following the Development Plan and Implementation Plan Document (IPD) approval steps, holding of a new public hearing and subsequent amendment and recordation of the Implementation Plan Document.

- (2) **Minor changes.** The Community and Economic Development Director may approve minor changes in the TND overlay district that do not change the concept or intent of the development, without going through the Development Plan approval steps. Minor changes are defined as any change not defined as a major change. Any minor changes approved shall be properly filed with the Community and Economic Development Director or it shall be automatically deemed to be a major change.

(r) **TND overlay district design standards.**

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(1) **Open space standards.** Design standards for open spaces within a TND overlay district are established below:

- a. At least twenty percent (20%) of the gross acreage of the TND overlay district shall be open space, exclusive of yards on private property.
- b. Open space may include undevelopable areas such as steep slopes or wetlands and stormwater detention and retention basins, parks, playgrounds, landscaped green spaces and natural areas.
- c. At least twenty-five percent (25%) of open space must be common open space dedicated to the public for parkland or civic open spaces.
- d. In its design, at least eighty percent (80%) of the lots within areas devoted to residential uses shall be within a quarter (1/4) mile (645 feet) walk from common open space.
- e. The location of common dedicated open spaces shall be consistent with locations established in parks and recreation plans adopted by the City.

One (1) or more open space types as identified below shall be incorporated as an integral part of the TND overlay district as appropriate. Open spaces may be active or passive recreation. Large outdoor recreation areas shall be located in the most appropriate areas of the development to serve the TND overlay district and, potentially the surrounding area, whether at the periphery of neighborhoods or in central locations of the neighborhood.

1. Environmental corridors;
2. Protected natural areas;
3. Community parks;
4. Streams, ponds and other bodies of water;
5. Stormwater detention/retention facilities.

(2) **Mix of uses.** In order to achieve the proximity to make neighborhoods walkable, mixed-use environments are required. Mixes include residential, non-residential and open spaces. Two types of areas are required:

- a. **Residential use area.** The purpose of these areas is to promote a core of residential housing for the TND overlay district. A mix of the following types can occur anywhere within the TND overlay district. For infill development, the mix of residential uses may only be satisfied by infilling with the same type of residential uses that are adjacent to the infill property.

Residential use area uses include:

1. Single-family detached dwellings;
2. Single-family attached dwellings including duplexes, townhouses and row houses;
3. Multi-family dwellings;
4. Group housing.

- b. **Mixed use area.** The purpose of these areas is to promote a community center or focal point for the TND overlay district. A mix of non-residential uses including commercial, civic or institutional and open spaces shall be within approximately one quarter (1/4) mile or within a five (5) minute walk from residential use areas.

Mixed-use area uses include:

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1. Commercial (non-residential) uses;
 2. Single-family attached dwellings including duplexes, townhouses and row houses;
 3. Multi-family dwellings;
 4. Residential units located on the upper floors above or to the rear of storefronts;
 5. Public or semi-public uses;
 6. Open spaces including a civic square, neighborhood park or playground.
- (3) **Lot and block standards.** In order to create an environment that is pedestrian friendly, a traditional grid and block system is required.
- a. **Block and lot size diversity.** Street layouts shall provide for blocks that are in the range of four hundred (400) to eight hundred (800) feet long. A variety of lot sizes shall be provided to facilitate housing diversity and choice.
 - b. Blocks shall be established in a grid system without curvilinear streets.
 - c. All access to private garages, service structures and utilities shall be located in an alley that shall be located behind all uses and divide blocks.
- (4) **Circulation standards.** The circulation system in a TND overlay district shall allow for different modes of transportation both internally and with external connections.
- a. Circulation between different modes of transportation shall be minimized (pedestrian, bicycle and motor vehicle).
 - b. Street intersections shall be at right angles.
 - c. Streets shall terminate at other streets or at public land. Stub streets are permitted only when such streets will act as a connection to future phases of development.
- (5) **Parking standards.** Shared or community parking is encouraged. In addition:
- a. Off-street parking areas for commercial businesses and multifamily buildings shall be located at the rear or side of a building.
 - b. In mixed-use areas, adjacent on-street parking may apply toward the minimum off-street parking requirement.
- (6) **Architectural standards.** A variety of architectural features and building materials is required to give each building or group of buildings a distinct character.
- a. **Existing structures.** If an existing structure is determined to be historic or architecturally significant, shall be protected from demolition or encroachment by incompatible structures.
 - b. **New structures.**
 1. Height
 - i. New structures in a TND overlay district shall be as regulated in the table in §23-152(f), Area, height and yard requirements.

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- ii. Adjacent buildings shall be no more than twenty-five percent (25%) taller or shorter than the average building height on the block to create a unified streetscape.

2. Entries and facades

- i. The architectural features, materials, and the articulation of a facade of a building shall be continued on all sides visible from a public street.
- ii. The front facade of the principal building on any lot in a TND overlay district shall face onto and be parallel to a public street.
- iii. The front facade shall not be oriented to face directly toward a parking lot.
- iv. Porches, roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.
- v. For commercial buildings, a minimum of fifty percent (50%) of the front facade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.
- vi. New structures on opposite sides of the same street should follow similar design guidelines. This provision shall not apply to buildings bordering civic uses.

(7) **Signage standards.** A master sign program is required for the TND overlay district that establishes a uniform exterior sign theme. Signs shall share a common style (e.g. size, shape, material). Signage shall be limited to wall, awning and projecting signage pursuant to the area and size requirements of Article XIV, Signs.

(8) **Street trees.** One (1) street tree shall be required per forty (40) feet of street frontage. Deciduous canopy trees shall be used.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96; Ord 121-05, §1, 10-25-05; Ord 85-06, §1, 7-11-06; Ord 162-08, §1, 10-7-08; Ord 211-11, §1, 9-27-11; Ord 115-23, §1, 10-10-23)

Secs. 23-153 – 23-171. Reserved.

ARTICLE IX. OFF-STREET PARKING AND LOADING

Sec. 23-172. Off-street parking and loading standards.

(a) **Purpose.** The purpose of this section is to prevent or alleviate the congestion of the public streets and promote the safety and welfare of the public by establishing minimum requirements for off-street parking and loading spaces according to the use of the property and to promote safety and convenience for people by requiring that off-street parking spaces and driveways be located and constructed according to consistent standards for visibility, accessibility and safety.

(b) **Applicability.**

- (1) All uses hereafter established, reconstructed, expanded, or changed in use shall provide off-street parking spaces, bicycle parking spaces and loading spaces in accordance with the applicable standards set forth in this chapter, unless otherwise stated in this chapter.
- (2) All off-street parking lots and spaces, bicycle parking spaces and loading spaces shall be maintained, overlaid, resurfaced, rehabilitated, constructed, reconstructed or expanded in accordance with the applicable standards set forth in this chapter, unless otherwise stated.

(c) **Provisions for nonconforming off-street parking lots, or loading areas.**

- (1) Provisions for maintenance, overlays, resurfacing, rehabilitation, reconstruction or expansions of nonconforming off-street parking lots or loading areas are found under the Nonconforming Buildings, Structures, Uses and Lots section of this chapter.

(d) **Exceptions to design standards.** The following are exempt from the design standards of this chapter.

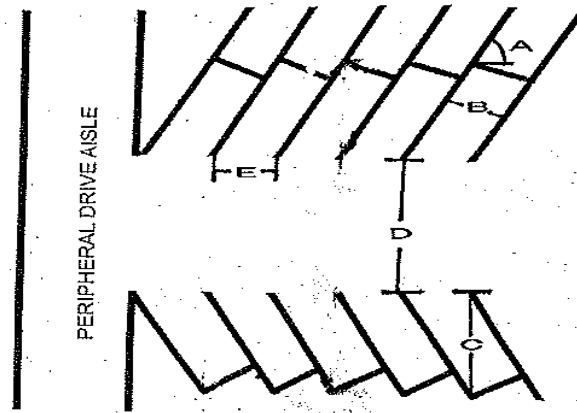
- (1) Due to the primarily pedestrian orientation of the Central Business District (CBD), provision for off-street parking and loading spaces are not required for uses in the CBD. However, new or expanded parking lots and loading areas in the CBD shall comply with the off-street parking and loading requirements of this section, including standards governing design, interior landscaping, and perimeter landscaping.
- (2) Parking ramps and underground parking facilities. Shall be exempt from dimensional and landscaping requirements of this section, but all other requirements of this section shall be complied with.
- (3) Semi truck and trailer parking areas within industrial districts and designed solely for semi-truck and trailer parking shall be exempt from dimensional, striping, surfacing and interior landscaping requirements, provided all of the following requirements are complied with.
 - a. The entrance must be asphalt or concrete for at least the first twenty-five (25) feet from the right-of-way.
 - b. All loading areas must be asphalt or concrete.
 - c. The gravel must be periodically graded and maintained in a dust free manner, free of debris, weeds and other plant materials.
 - d. The street adjoining the driveway must be free of gravel from the parking lot.
 - e. A gravel semi-truck and trailer parking area shall not be located adjacent to a residentially zoned parcel.

(e) **Design standards.** All off-street parking spaces and off-street parking lots or areas shall conform to the following design requirements, unless otherwise stated in this chapter:

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**Table 1
Off-Street Parking Spaces**

Angle A (in degrees)	Width B	Depth C	Aisle D		Stall E
			One Way	Two Way	
0	9 feet	N/A	12 feet	22 feet	22 feet
45	9 feet	19 feet	13 feet	22 feet	12½ feet
60	9 feet	20½ feet	18 feet	24 feet	10½ feet
90	9 feet	18 feet	24 feet	24 feet	9 feet



- (1) **Dimensions.** The minimum dimensional standards for off-street parking spaces shall be as identified in Table 1, Off-Street Parking above.
- (2) **Striping.** All off-street parking spaces shall be striped according to the standards of Table 1, Off-street Parking Spaces of this section to facilitate the movement into and out of the off-street parking spaces.
- (3) **Maneuvering.** All off-street parking spaces shall be designed to provide all maneuvering to occur within the property line(s). Vehicles shall not back into the public right-of-way from an off-street parking lot or parking space. Alleys are an exception to this provision, as maneuvering may occur within alley right-of-way when authorized by the Director of the Department of Public Works or designee.
- (4) **Parking space for handicapped.** Any off-street parking lot, parking ramp or underground parking facility to be used by the general public shall provide parking spaces designated and located to adequately accommodate the handicapped. These spaces shall comply with the current edition of the International Code Council/American National Standards Institute (ICC/ANSI) as adopted by the State of Wisconsin and the current Federal standards of the Americans with Disabilities Act Accessibility Guidelines (ADAAG).
- (5) **Drainage.** All off-street parking areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks unless this requirement is waived by the Director of Public Works or their designee. On-site storm drainage shall be provided in accordance with the State Plumbing Code, City Plumbing Code, and the City Stormwater Management Ordinance.
- (6) **Protection Devices.**
 - a. Barriers, curbing, guardrails or wheel stops may be installed and so located as to prevent any portion of a vehicle from projecting beyond property lines, into any required landscaping and screening, or into a

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pedestrian space. Such barriers, curbing or wheel stops shall be constructed and anchored to prevent their dislocation.

- b. When guardrails are installed, they shall be installed in accordance with all of the following provisions:
 - i. Guardrails shall abut the paved off-street parking lot, parking space, loading space or driveway surface and shall be located adjacent to a side or rear lot line.
 - ii. Landscape buffering or fencing shall be installed between the guardrail and a residentially zoned property line.
 - iii. Guardrails shall not exceed three (3) feet in height.
 - iv. Guardrails may be constructed of naturally resistant or treated wood board, galvanized metal, wrought iron, brick, natural stone, masonry, or other material as approved by the Community and Economic Development Director.

(7) **Surface areas for off-street parking spaces.** Off-street parking spaces and driveways, shall be concrete, asphalt, or another permeable hard surface as approved by the Community and Economic Development Director.

(8) **Fire access lanes.** Fire access lanes located outside of an off-street parking lot and constructed for the purpose of fire access may be constructed with an alternative surface material as required by §23-172(f)(7) if approved by the Fire Department.

(9) **Lighting.** All outdoor lighting shall comply with the outdoor lighting requirements of this chapter.

(10) **Snow storage.** Snow storage must be provided on-site or a letter from the owner of the property stating the method to remove the snow from the site in a timely fashion must be approved by the Community and Economic Development Director. Snow storage areas will be reviewed to ensure the continued health of plant materials and for their impact on drainage and vehicular circulation.

(11) **Stop sign.** When access is obtained from a collector or arterial street, a stop sign is required to be erected on the property by the owner. Stop signs shall be installed and maintained in accordance with the Federal Highway Administration Manual of Uniform Traffic Control Devices, the latest version.

(f) **Interior parking lot landscaping.**

(1) All parking lots designed for twenty (20) or more parking spaces shall be landscaped in accordance with the following interior parking lot standards.

- a. Five percent (5%) of the minimum square footage of the paved area of the off-street parking lot shall be devoted to interior landscape islands.
- b. The primary plant materials shall be shade or ornamental trees with at least one (1) shade tree for every two hundred (200) square feet of interior landscape island area, except in cases where drainage, stormwater, or utility features preclude the planting of trees.
- c. The interior landscape islands shall be dispersed throughout the off-street parking lot to the satisfaction of the Community and Economic Development Director.

(2) All off-street parking lots designed for nineteen (19) off-street parking spaces or less shall provide landscaping as deemed appropriate by the Community and Economic Development Director.

(g) **Perimeter parking lot and loading space landscaping.** Perimeter off-street parking lot landscaping shall be installed on the property, outside of the street right-of-way.

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- (1) The minimum width of the perimeter landscape buffer adjacent to the right-of-way and/or abutting zoning districts shall be as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.
- (2) When adjacent to a residential zoning district in the rear and/or side yard, perimeter landscape buffer shall be required as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.
- (3) When adjacent to an institutional, commercial or industrial zoning district in the rear and/or side yard, perimeter landscape buffer shall be required as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.
- (4) Perimeter landscaping shrubs must reach three (3) feet in height and screen the right-of-way from the adverse effects of the parking lot within two (2) years of planting. The shrubs shall be a minimum of two (2) feet in height at the time of planting.
- (5) A side and/or rear yard minimum perimeter landscape buffer may be waived if a cross access easement agreement between adjoining property owners is recorded and submitted to the Community and Economic Development Department for review.

(h) **Maintenance.** All off-street parking lots shall be maintained by the property owner in good condition without holes or faded striping and free of all weeds, standing water, trash, abandoned or junk vehicles and other debris.

Table 2 Parking Lot Buffering Requirements

When the Zoning District is:	Location is:	A Minimum Perimeter Landscape Buffer	Perimeter Landscaping Materials
C-O, M-1, M-2, P-I	Abutting R-1A, R-1B, R-1C, R-2, or R-3 zoned lot in the rear and/or side yard	Fifteen (15) feet in width	Minimum five (5) foot high staggered row of evergreens at the time of planting, to provide an opaque screen OR The property owner may request a waiver from the Community and Economic Development Director to reduce the minimum perimeter landscape strip by 50% and provide a minimum six (6) foot high alternating board on board fence with landscaping, with the landscaping facing the adjacent property.
C-1, C-2, CBD, AG, P, NC	Abutting R-1A, R-1B, R-1C, R-2, or R-3 zoned lot in the rear and/or side yard	Ten (10) feet in width	One (1) deciduous shade tree or ornamental tree shall be planted for every fifty (50) feet on center. Trees can be provided in cooperation with adjacent property.
C-O, C-1, C-2, M-1, M-2, P-I, CBD, AG, P, NC	Abutting C-O, C-1, C-2, M-1, M-2, P-I, CBD, AG, P or NC zoned lot in the rear and/or side yard	Five (5) feet in width	One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen.
C-O, C-1, C-2, M-1, M-2, CBD, P-I, AG, P, NC	Across the street from R-1A, R-1B, R-1C, R-2 or R-3 zoned lot	Eight (8) feet in width adjacent to the right of way	One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the
	Across the street from C-O, C-1, C-2, P, NC, M-1, AG, CBD, P-I or		One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the

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When the Zoning District is:	Location is:	A Minimum Perimeter Landscape Buffer	Perimeter Landscaping Materials
C-O, C-1, C-2, P-I, M-1, M-2, CBD, AG, P, NC	M-2 zoned lot	Eight (8) feet in width adjacent to the right of way	property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens and/or deciduous shrubs at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen.
Ag, R-1A, R-1B, R-1C, R-2, R-3	Abutting R-1A, R-1B, R-1C or R-2 zoned lot in the rear and/or side yard	Ten (10) feet in width	Minimum five (5) foot high staggered row of evergreens at the time of planting, to provide an opaque screen; OR The property owner may request a waiver from the Community and Economic Development Director to reduce the minimum perimeter landscape strip by 50% and provide a minimum six (6) foot high alternating board on board fence with landscaping, with the landscaping facing the adjacent property.
Ag, R-1A, R-1B, R-1C, R-2, R-3	Abutting R-3, P-I, C-O, C-1, C-2, CBD, M-1, M-2, AG, P or NC zoned lot in the rear and/or side yard	Five (5) feet in width	One (1) deciduous shade tree or ornamental tree shall be planted for every fifty (50) feet on center. Trees can be provided in cooperation with adjacent property.
Ag, R-1A, R-1B, R-1C, R-2, R-3	Across the street from R-1A, R-1B, R-1C or R-2 zoned lot	Eight (8) feet in width adjacent to the right of way	One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen.
Ag, R-1A, R-1B, R-1C, R-2, R-3	Across the street from P-I, C-O, C-1, C-2, CBD, M-1, M-2, AG, P or NC zoned lot	Eight (8) feet in width adjacent to the right of way	One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens and/or deciduous shrubs at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen.

(i) **Off-site parking spaces.** The following regulations shall apply to off-site parking spaces and areas:

- (1) Off-street parking spaces for all residential uses shall be located on the same lot as the use to which they are associated.

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- (2) Off-street parking spaces for commercial, industrial or public institutional uses shall be located not more than five hundred (500) feet from the property line of the use being served.
- (3) Where such off-site parking spaces are provided, the minimum number of required off-street parking spaces for the use(s) for which the lot is intended to serve shall not be reduced below the minimum required off-street parking spaces for all uses as indicated in this section.
- (4) Where such off-site parking spaces are provided on a separate lot to comply with the minimum off-street parking space requirements, shall be guaranteed by written agreement between the owner of the parking lot and the owner of any use located on a separate parcel and served the off-street parking lot. This written agreement may be in the form of a lease, contract, easement or similar instrument, of which the form and duration shall be subject to review and approved by the Community and Economic Development Director.
- (5) The property owners shall record the approved off-site parking space agreement in the County Register of Deeds Office, and shall provide one (1) copy of the recorded document to the Community and Economic Development Department.
- (6) Any subsequent change in use shall require proof that the minimum parking requirements, per this chapter, have been met for each use of if the owner of a building or use no longer has the right to maintain or use off-site parking spaces on a separate parcel, the owner of a building or use shall have one hundred eighty (180) days within which to accommodate all required off-street parking spaces or to apply for a variance. If the owner is unable to accommodate the off-street parking spaces, or fails to apply for a variance, then the occupancy permit shall be revoked with respect to the building or use for which the separate off-street parking was required. The occupancy permit shall be reinstated when all applicable provisions of this chapter are complied with. As an alternative, a new off-site parking agreement may be arranged in accordance with this chapter.

(j) **Determination of required off-street parking spaces.** In computing the number of off-street parking spaces required by this chapter, the following shall apply:

- (1) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross square footage of all floors that may be occupied of a building.
- (2) Where maximum capacity is designated as the standard for determining off-street parking space requirements, the maximum capacity shall mean the maximum number of persons permitted to occupy the building under the International Building Code (IBC) and the International Fire Code (IFC), whichever is more restrictive, currently used by the City.
- (3) Where the number of employees is designated as the standard for determining off-street parking space requirements, the number of employees on the largest shift shall be used for calculation purposes.
- (4) Fractional numbers shall be increased to the next highest whole number.
- (5) An applicant may request an administrative adjustment for a reduction in the number of parking spaces required by §23-172(m). The request shall be submitted in writing and provide justification for the reduction, including estimates of parking demand or other acceptable data as approved by the Community and Economic Development Director. Sources of data may include, but are not limited to, the Institute of Transportation Engineers or Urban Land Institute. Community and Economic Development staff may approve up to a twenty percent (20%) reduction. Any reductions greater than 20% shall require a variance from the Board of Appeals.

(k) **Determination of parking standards not specified.** Off-street parking space requirements for a use not specifically mentioned in this chapter shall be determined by using the most similar and restrictive off-street parking space requirement as specified by the Community and Economic Development Director based on the intended use, the location of the use, and the expected patronage or use by individuals operating motor vehicles.

(l) **Applicability of bicycle parking space requirements.** All uses, except for single and two-family dwellings, hereafter established, reconstructed, expanded, changed in use shall provide bicycle parking spaces in accordance with the

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standards set forth in this chapter, unless otherwise stated in this chapter. The Central Business District (CBD) is exempt from the bicycle parking standards.

(1) **Design requirements:**

- a. **Surfacing:** Bicycle parking spaces shall be concrete, asphalt or other hard surface such as permeable pavers.
- b. **Location:** Required bicycle parking spaces may be located indoors or outdoors and must be located on private property.
- c. **Rack/Locker/Support Design:**
 - i. For each bicycle parking space required, a stationary rack(s) shall be provided which can accommodate bicyclists' locks securing the frame and/or wheels, or a lockable enclosure in which the bicycle is stored shall be provided.
 - ii. All bicycle racks, lockers, or other facilities shall be securely anchored to the ground or a structure which must hold bicycles securely by means of the frame.

(m) **Required spaces for specific uses.** All vehicles connected with the following uses shall be accommodated for on the property in addition to the requirements stated below unless otherwise stated in this chapter. Additional parking as determined by the Community and Economic Development Director may be required to meet these standards. The table on the following page identifies the minimum number of off-street parking spaces to be provided.

Use Type	Minimum Off-Street Parking Spaces Required
Residential	
Adult family home	Up to three (3) bedrooms - Two (2) spaces for each dwelling unit.
	Four (4) or more bedrooms – Three (3) spaces for each dwelling unit.
Bed and breakfast establishment	Two (2) spaces for each dwelling unit plus one (1) space for each tourist room with screening approved by Community and Economic Development Director
Dwelling, multi-family	Up to two (2) bedrooms – One space for each dwelling unit.
	Three (3) or more bedrooms – Two (2) spaces for each dwelling unit.
	Visitor parking – One (1) space for every two (2) dwelling units.
Dwelling, single-family detached and zero lot line two-family dwellings	Up to three (3) bedrooms - Two (2) spaces for each dwelling unit
	Four (4) or more bedrooms – Three (3) spaces for each dwelling unit
Dwelling, two-family	Up to three (3) bedrooms – Two (2) spaces for each dwelling unit
	Four (4) or more bedrooms – Three (3) spaces for each dwelling unit
Residential care apartment complex	Up to two (2) bedrooms – One (1) space for each dwelling unit
	Three (3) or more bedrooms – Two (2) spaces for each dwelling unit
Use Type	
Minimum Off-Street Parking Spaces Required	
Public/Institutional	
Assisted living facility, nursing or convalescent home	One (1) space for every three (3) residents based on the maximum number of residents allowed by license.
Auditoriums, stadium, gymnasium	One (1) space for every five (5) persons based on maximum capacity
Bus terminal	One (1) space for each five hundred (500) square feet of gross floor area or one (1) space for every five (5) seats; whichever is greater
Cemetery Chapel	One (1) space for every six (6) persons based on maximum capacity
Club	One (1) space for every five (5) persons based on maximum capacity

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Community-based residential facility or community living arrangement	One (1) space for every three (3) residents based on the maximum number of residents allowed by license.
Dormitories	One (1) space for every six (6) occupants.
Educational institution; business, technical or vocational	Classrooms – One (1) space for every three (3) seats based on maximum capacity
	Gymnasiums/auditoriums – One (1) space for every five (5) persons based on maximum capacity
Educational institution; college or university	Classrooms – One (1) space for every three (3) seats based on maximum capacity
	Gymnasiums/auditoriums – One (1) space for every five (5) persons based on maximum capacity
Educational institution; elementary school or middle school	One (1) space for each employee
	Stacking spaces – A minimum of two (2) stacking spaces shall be provided for busses and five (5) for automobiles in a designated drop off area
Educational institution; high school	One (1) space per employee plus one (1) space per ten (10) students based on classroom capacity
	Stacking spaces – A minimum of two (2) stacking spaces shall be provided for busses and five (5) for automobiles in a designated drop off area
Golf course	Four (4) spaces for each hole
	Clubhouse – One (1) space for every four (4) persons based on maximum capacity.
Governmental facility	Shall be provided at a ratio of same or similar uses listed in this chapter
Museum	One (1) space for each five hundred (500) square feet of gross floor area
Hospital	One (1) space for each bed plus one (1) space for each two hundred (200) square feet in any emergency room and/or outpatient area
Place of worship	One (1) space for each eight (8) persons based on maximum capacity in the main place of assembly
Recreational facility, non-profit	One (1) space for each five (5) persons based on maximum capacity
Registered historic place	One (1) space for each four hundred (400) square feet of usable floor area open to the public

(Ord 132-23, §1, 10-10-23)

Use Type	Minimum Off-Street Parking Spaces Required
Commercial	
Amusement arcade	One (1) space for each five (5) persons based on maximum capacity
Automobile maintenance shop	Four (4) spaces for each service bay.
Automobile, RV, truck, cycle, boat sales and display lot or rental lot	One (1) space for each four hundred (400) square feet of gross floor area under roof plus one (1) space for each two thousand (2,000) square feet of open sales lot area devoted to the sale and display of vehicles
Bar – See Tavern	
Body repair and/or paint shop	Four (4) spaces for each service bay
Car wash	Drive-in – Six (6) stacking spaces for each washing bay
	Self-service – Three (3) stacking spaces for each washing bay
Commercial entertainment, Indoor	One (1) space for each three (3) seats or one space for each two hundred (200) square feet of gross floor area whichever is greater
Commercial entertainment, Outdoor	One (1) space for each three (3) seats or one space for each two hundred (200) square feet of outdoor entertainment area, whichever is greater
Commercial entertainment, combination of indoor and outdoor	One (1) space for each three (3) seats or one space for each two hundred (200) square feet of gross floor area or outdoor entertainment area, whichever is greater
Craft-Distillery	One (1) space for each three (3) persons based on maximum capacity.
Day care center, adult	One (1) space for each employee plus one (1) space for each five (5) persons

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Use Type	Minimum Off-Street Parking Spaces Required
Commercial	
	based on maximum capacity
Day care center, group	One (1) space for employee plus one (1) space for each five (5) children based on the maximum number of children allowed by license.
Gasoline sales	Two (2) spaces located at each pump.
Greenhouse/greenhouse nursery	One (1) space for every one thousand (1,000) gross square feet of sales area
Hotel/motel	One (1) space for each sleeping room plus
	Restaurants/taverns – One (1) space for each three (3) persons based on maximum capacity
	Meeting rooms/assembly areas – One (1) space for every five (5) persons based on maximum capacity
Kennel, indoor or outdoor	One (1) space for each employee plus one (1) space for ten (10) animals served
Marina	One (1) space for two (2) boat slips
Microbrewery/Brewpub	One (1) space for each three (3) persons based on maximum capacity
Office	One (1) space for each three hundred (300) square feet of gross floor area
Painting/Craft studios	One (1) space for each three (3) persons allowed based on maximum capacity
Personal service	One (1) space for each two hundred fifty (250) square feet of gross floor area
Printing	One (1) space for each two hundred fifty (250) square feet of gross floor area
Professional service	One (1) space for each two hundred fifty (250) square feet of gross floor area
Recycling and waste recovery center	One (1) space for each five hundred (500) square feet of gross floor area
Restaurant	One (1) space for each three (3) persons allowed based on maximum capacity
Restaurant, fast food	One (1) space for each two (2) persons allowed based on maximum capacity
Retail business	One (1) space for each two hundred fifty (250) square feet of gross floor area
Sexually-oriented establishment	One (1) space for each three (3) persons based on maximum capacity
Shopping center	Under 100,000 square feet of gross floor area – One (1) space for each two hundred fifty (250) square feet of gross floor area
	100,000 square feet to under 250,000 square feet of gross floor area – One (1) space for each three hundred (300) square feet of gross floor area
	Over 250,000 square feet of gross floor area – One (1) space for each four hundred (400) square feet of gross floor area
Tasting room	One (1) space for each three (3) persons allowed based on maximum capacity
Tavern	One (1) space for each three (3) persons allowed based on maximum capacity
Towing business	One (1) space for each employee plus sufficient space for vehicles towed
Veterinarian clinic	One (1) space for each two hundred fifty (25) square feet of gross floor area
Wholesale facility	One (1) space for each one thousand (1,000) square feet of gross floor area
Winery	One (1) space for each three (3) persons based on maximum capacity

(Ord 133-23, §1, 10-10-23)

Use Type	Minimum Off-Street Parking Spaces Required
Industrial	
Asphalt plant	One (1) space for each employee on the largest shift
Brewery	One (1) space for each one (1) employee on the largest shift, plus three (3)

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	visitors spaces, plus space to accommodate all company vehicles in connection therewith
Bulk flammable or combustible liquid storage or distribution facility	One (1) space for each employee on the largest shift
Concrete mixing	One (1) space for each employee on the largest shift
Distillery	One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith
Freight distribution or moving center	One (1) space for each one thousand (1,000) square feet of gross floor area
Manufacturing; custom, light or heavy	One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith
Research laboratory or testing facility	One (1) space for each five hundred (500) feet of gross floor area
Salvage yard or junk facility	One (1) space for each employee on the largest shift plus space to accommodate all company vehicles in connection therewith
Warehouse (storage or distribution)	One (1) space for each employee on the largest shift plus three (3) visitor spaces plus space to accommodate all company vehicles in connection therewith

(n) **Applicability of off-street loading requirements.** All uses hereafter established, reconstructed, expanded, changed in use shall provide loading spaces or loading docks in accordance with the standards set forth in this chapter, unless otherwise stated in this chapter.

(1) **Design requirements:**

- a. **Size of off-street loading spaces:** Off-street loading spaces shall not be less than twelve (12) feet wide and thirty (30) feet long for commercial uses and not less than twelve (12) feet wide and sixty (60) feet long for manufacturing uses. Areas dedicated to off-street loading spaces shall be identified with pavement marking and/or signage, indicating that such space(s) are reserved for loading and unloading.
- b. **Surfacing:** All off-street loading spaces shall be constructed of a durable and dustless hard surface of asphalt, concrete, or other suitable materials capable of withstanding one thousand (1,000) pounds per square inch (psi).
- c. **Drainage:** All off-street loading spaces shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks, unless this requirement is waived by the Director of Public Works or their designee. On-site storm drainage shall be provided in accordance with the State Plumbing Code, City Plumbing Code, and the City Stormwater Management Ordinance.
- d. **Location:** All required off-street loading spaces shall be located on the same lot as the specific use to be served. In no case shall an off-street loading space be located within the required principal building front yard setback.
- e. **Screening:** Off-street loading spaces shall be screened in accordance with the following standards:
 - i. When abutting residentially zoned property, a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height, shall be installed to screen the entire length of the loading space from abutting residentially zoned property. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.
 - ii. When abutting non-residentially zoned properties, loading spaces shall be screened in accordance with the perimeter landscaping standards of Table 2 Parking Lot Buffering Requirements of this chapter, or with a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or

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a combination of the above, a minimum of eight (8) feet in height. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.

iii. When abutting a right-of-way, loading spaces shall be screened in accordance with the perimeter landscaping standards of Table 2 Parking Lot Buffering Requirements of this chapter, or with a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height. The buffer shall be installed between the loading space and the right-of-way. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.

f. **Lighting:** All outdoor lighting shall comply with the outdoor lighting requirements of this chapter.

g. **Maneuvering:** All off-street loading spaces shall be designed so that all maneuvering occurs within the property line(s). Vehicles shall not back from or into the public right-of-way when accessing off-street loading spaces.

(2) **Required number of off-street loading spaces:**

a. **Personal services, professional services, hospitals and hotels or motels:**

- i. One (1) space for each ten thousand (10,000) to fifty thousand (50,000) square feet of gross floor area.
- ii. Two (2) spaces for each fifty thousand (50,000) to two hundred thousand (200,000) square feet of gross floor area.
- iii. One (1) additional space for each seventy-five thousand (75,000) square feet of gross floor area in excess of two hundred thousand (200,000) square feet of gross floor area.

b. **Other commercial uses, warehouse and industrial uses:**

- i. One (1) space for each five thousand (5,000) to twenty thousand (20,000) square feet of gross floor area.
- ii. Two (2) spaces for each twenty thousand (20,000) to one hundred thousand (100,000) square feet of gross floor area.
- iii. One (1) additional space for each seventy-five thousand (75,000) square feet of gross floor area in excess of one hundred thousand (100,000) square feet of gross floor area.

(o) **Size of stacking space.** The minimum size standard for a stacking space shall be at least nine (9) feet wide by nineteen (19) feet in length.

(Ord 121-05, §1, 10-25-05; Ord 90-07, §1, 5-8-07; Ord 166-07, §1, 12-25-07; Ord 163-08, §1, 10-7-08; Ord 212-11, §1, 9-27-11; Ord 234-11, §1, 12-27-11; Ord 49-20, §1, 3-24-20; Ord 50-20, §1, 3-24-20; Ord 51-20, §1, 3-24-20; Ord 52-20, §1, 3-24-20; Ord 53-20, §1, 3-24-20)

Editor's Note*: Article IX of Chapter 23, Off-street parking and loading was repealed and recreated by Ordinance 234-11, adopted by Council on December 21, 2011, published on December 26, 2011 and became effective on December 27, 2011.

Secs. 23-173 – 23-200. Reserved.

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ARTICLE X. FLOODPLAIN ZONING

DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

Sec. 23-201. Statutory authorization.

This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23 and the requirements in s. 87.30, Stats. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-202. Finding of fact.

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-203. Statement of purpose.

This ordinance is intended to regulate floodplain development to:

- (a) Protect life, health and property;
- (b) Minimize expenditures of public funds for flood control projects;
- (c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (d) Minimize business interruptions and other economic disruptions;
- (e) Minimize damage to public facilities in the floodplain;
- (f) Minimize the occurrence of future flood blight areas in the floodplain;
- (g) Discourage the victimization of unwary land and homebuyers;

(h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

(i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-204. Title.

This ordinance shall be known as the Floodplain Zoning Ordinance for City of Appleton, Wisconsin. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-205. General provisions.

(a) **Areas to be regulated.** This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(b) **Official maps and revisions.** The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see Division 8 *Amendments*)

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before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Department of Public Works, City of Appleton. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) ***Official maps based on the FIS:***

- a. Calumet County Flood Insurance Rate Map (FIRM), panel numbers 55015C0007E, 55015C0026E and 55015C0027E dated February 4, 2009; with corresponding profiles that are based on the Calumet County Flood Insurance Study (FIS), dated February 2009, volume number 55015CV000A.
- b. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0304E, and 55087C0308E dated January 20, 2016; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated January 20, 2016, volume number 55087CV000B.
- c. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0309D, 55087C0314D, 55087C0316D, 55087C0317D, 55087C0318D, 55087C0319D, 55087C0330, 55087C0338D, 55087C0427D, 55087C0431D and 55087C451D dated July 22, 2010; with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A.
- d. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0328D, 55087C0329D, 55087C0336D, 55087C0337D dated July 22, 2010 and revised August 23, 2013 with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A, all revised and annotated pursuant to FEMA Letter of Map Revision Determination Document Case No: 12-05-6032P, Issue Date April 10, 2013, Effective Date August 23, 2013.

Approved by: The DNR and FEMA

(2) ***Official maps based on other studies.*** Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

- a. LOMR – Case #11-05-7670P, Floodway and Floodplain revisions between Flood Insurance Study (FIS) Cross Section AW to BA, Outagamie County Flood Insurance Rate Map (FIRM) panels 55087C0318D and 55087C0319D, dated July 22, 2010. This reflects changes on the Fox River from just downstream of the Private Middle Dam to approximately 250 feet upstream of the Appleton Upper Dam.
- b. LOMR – Case #13-05-7920P, Floodplain revisions between Flood Insurance Study (FIS) Cross Section AN to AM, Outagamie County Flood Insurance Rate panels 55087C0319D, dated July 22, 2010. This reflects changes along the south side of the Fox River from the College Avenue Bridge to approximately 850 feet downstream.
- c. LOMR – Case #17-05-1963P. Floodplain revisions on Outagamie County Flood Insurance Study (FIS) AAL Tributary Cross Section C, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0336D, effective September 29, 2017. This reflects changes along the AAL Tributary from just downstream of Lightning Drive to approximately 200 feet upstream of East Glenhurst Lane.
- d. LOMR – Case #17-05-3854P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Fox River Cross Section AS through AW, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0319D, effective February 16, 2018. This reflects changes along the Fox River from just upstream of railroad to just downstream of South Oneida Street.
- e. LOMR – Case #20-05-2300P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Apple Creek North Cross Section H through J, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0328D, effective July 22, 2010. This reflects changes along Apple Creek North from approximately 1,440 feet downstream of Harrier Lance to approximately 160 feet downstream of Ballard Road.

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- f. LOMR – Case #21-05-2374P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Apple Creek Northeast Cross Section H through I, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0328D, effective January 27, 2023. This reflects changes along Apple Creek Northeast from approximately 700 feet downstream of Rubyred Drive to approximately 350 feet downstream of French Road.
- g. CLOMR – Case #21-05-3029R. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) AAL Tributary from just upstream of East Glenhurst Lane to approximately 500 feet upstream of Everbreeze Circle, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0336D, effective November 1, 2021.
- h. Kensington Pond Dam Failure analysis approved by the Department of Natural Resources on January 7, 2008, including:
 - 1. Map dated July 2007 and titled “Figure 2, City of Appleton, Kensington Pond Dam Break Analysis, Hydraulic Shadow” (Hydraulic Shadow boundary from Cross Section 0.001 to 4.84).
 - 2. Floodway data table dated 8/28/2007 and titled “Table F-10, Maximum Water Surface Elevations, Kensington Pond Dam Break Analysis, City of Appleton”.
 - 3. Flood profiles dated 7/10/2007 and titled “Figure 3, Maximum Water Surface Profiles” (Hydraulic Shadow profile from Garners Creek Sta 0 to Sta 25000). Revisions made as a result of DNR review and received from Pete Neuberger via email 2/23/2021.
- i. Outagamie County Flood Storage District Map Panel 1 of 2 approved by Wisconsin Department of Natural Resources and dated January 20, 2016. Prepared by DNR, approved by DNR.

(c) **Establishment of floodplain zoning districts.** The regional floodplain areas are divided into four districts as follows:

- (1) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.
- (2) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
- (3) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.
- (4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(d) **Locating floodplain boundaries.** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (1) or (2) below. If a significant difference exists, the map shall be amended according to Division 8 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to Sec. 23-293(c) and the criteria in (1) and (2) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Division 8 *Amendments*.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

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- (2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(e) **Removal of lands from floodplain.** Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Division 8 *Amendments*.

(f) **Compliance.** Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(g) **Municipalities and state agencies regulated.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

(h) **Abrogation and greater restrictions.**

- (1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) **Interpretation.** In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(j) **Warning and disclaimer of liability.** The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(l) **Annexed areas for cities and villages.** Respective of the County in which a given parcel is located, the Outagamie County, Calumet County, and Winnebago County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

(Ord 54-06, §1, 3-21-06; Ord 20-09, §1, 1-13-09; Ord 107-10, §1, 7-13-10; Ord 34-12, §1, 4-18-12; Ord 78-13, §1, 9-10-13; Ord 12-14, §1, 4-8-14; Ord 52-15, §1, 6-9-15; Ord 103-15, §1, 12-8-15; Ord 55-17, §1, 8-8-17, Ord 13-18, §1, 1-23-18; Ord 13-21, §1, 4-21-21; Ord 32-22, §1, 4-20-22; Ord 2-23, §1, 1-24-2023)

Secs. 23-206 – 23-219. Reserved.

DIVISION 2. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

Sec. 23-220. General standards.

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

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in Sec. 23-291(b). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-221. Hydraulic and hydrologic analyses.

(a) No floodplain development shall:

- (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
- (2) Cause any increase in the regional flood height due to floodplain storage area lost.

(b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Division 8 *Amendments* are met.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-222. Watercourse alterations.

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of Sec. 23-221 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Division 8 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-223. Chapter 30, 31, Wis. Stats. Development.

Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to Division 8 *Amendments*.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-224. Public or private campgrounds.

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

- (a) The campground is approved by the Department of Agriculture, Trade, and Consumer Protection;

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(b) A land use permit for the campground is issued by the zoning administrator;

(c) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;

(d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;

(e) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (d) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;

(f) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

(g) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;

(h) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;

(i) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

(j) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Divisions 3, 4, or 5 for the floodplain district in which the structure is located;

(k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

(l) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.
(Ord 54-06, §1, 3-21-06; Ord 108-10, §1, 7-13-10; Ord 109-10, §1, 7-13-10; Ord 13-21, §1, 4-21-21)

Secs. 23-225 – 23-235. Reserved.

DIVISION 3. FLOODWAY DISTRICT (FW)

Sec. 23-236. Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Sec. 23-266(d).
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-237. Permitted uses.

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

- they are not prohibited by any other ordinance;
- they meet the standards in Sec. 23-238 and Sec. 23-239; and
- all permits or certificates have been issued according to Sec. 23-291.

(a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of Sec. 23-238(d).

(d) Uses or structures accessory to open space uses, or classified as historic structures that comply with Sec. 23-238 and Sec. 23-239.

(e) Extraction of sand, gravel or other materials that comply with Sec. 23-238(d).

(f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.

(g) Public utilities, streets and bridges that comply with Sec. 23-238(c).
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-238. Standards for developments in the floodway.

(a) **General.**

(1) Any development in the floodway shall comply with Division 2 and have a low flood damage potential.

(2) Applicants shall provide the following data to determine the effects of the proposal according to Sec. 23-221 and Sec. 23-291(b)(3):

- a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
- b. An analysis calculating the effects of this proposal on regional flood height.

(3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (2) above.

(b) **Structures.** Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

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- (1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - (2) Shall either have the lowest floor elevated to or above the flood protection elevation shall meet all the following standards:
 - a. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 - b. Have structural components capable of meeting all provisions of Sec. 23-238(b)(7) and;
 - c. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Sec. 23-238(b)(7).
 - (3) Must be anchored to resist flotation, collapse, and lateral movement;
 - (4) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
 - (5) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - (6) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets or exceeds the following standards:
 - a. The lowest floor must be elevated to or above the flood protection elevation;
 - b. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - c. The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
 - (7) *Certification:* Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
 - a. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
 - b. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sec. 23-239(d) and 23-239(e);
 - c. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
 - d. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 - e. Placement of utilities above the flood protection elevation.
- (c) **Public utilities, streets and bridges.** Public utilities, streets and bridges may be allowed by permit, if:
- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
 - (2) Construction meets the development standards of Sec. 23-221.

(d) ***Fills or deposition of materials.*** Fills or deposition of materials may be allowed by permit, if:

(1) The requirements of Sec. 23-221 are met;

(2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;

(3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(4) The fill is not classified as a solid or hazardous material.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-239. Prohibited uses.

All uses not listed as permitted uses in Sec. 23-237 are prohibited, including the following uses:

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

(b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;

(e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(f) Any solid or hazardous waste disposal sites;

(g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and

(h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

(Ord 54-06, §1, 1, 3-21-06; Ord 25-12, §1, 3-7-12; Ord 13-21, §1, 4-21-21)

Secs. 23-240 – 23-250. Reserved.

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DIVISION 4. FLOODFRINDGE DISTRICT (FF)

Sec. 23-251. Applicability.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Sec. 23-266(d).

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-252. Permitted uses.

Any structure, land use, or development is allowed in the Floodfringe District if the standards in Sec. 23-253 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in Sec. 23-291 have been issued.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-253. Standards for development in the floodfringe.

Sec. 23-221 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Division 6 *Nonconforming Uses*;

(a) **Residential uses.** Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Division 6 *Nonconforming Uses*;

- (1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of Sec. 23-253(a)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
- (2) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. However, no floor of any kind is allowed below the regional flood elevation.
- (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (4).
- (4) In developments where existing street or sewer line elevations make compliance with subd. (3) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 - a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - b. The municipality has a DNR-approved emergency evacuation plan.

(b) **Accessory structures or uses.** Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(c) **Commercial uses.** Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of Sec. 23-253(a). Subject to the requirements of Sec. 23-253(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) **Manufacturing and industrial uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in Sec. 23-295. Subject to the requirements of Sec. 23-253(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) **Storage of materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in

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compliance with Sec. 23-295. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) **Public utilities, streets and bridges.** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with Sec. 23-295.
- (2) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(g) **Sewage systems.** All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to Sec. 23-295(c), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(h) **Wells.** All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to Sec. 23-295(c), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) **Solid waste disposal sites.** Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(j) **Deposition of materials.** Any deposited material must meet all the provisions of this ordinance.

(k) **Manufactured homes.**

- (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - a. have the lowest floor elevated to the flood protection elevation; and
 - b. be anchored so they do not float, collapse or move laterally during a flood.
- (3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in Sec. 23-253(a).

(l) **Mobile recreational vehicles.** All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Sec. 23-253(k)(2) and (3). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions. (Ord 54-06, §1, 1, 3-21-06; Ord 110-10, §1, 7-13-10; Ord 25-12, §1, 3-7-12; Ord 13-21, §1, 4-21-21)

Secs. 23-254 – 23-265. Reserved.

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DIVISION 5. OTHER FLOODPLAIN DISTRICTS.

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

Sec. 23-266. General floodplain district (GFP).

(a) **Applicability.** The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

(b) **Permitted uses.** Pursuant to Sec. 23-266(d), it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (Sec. 23-237) and Floodfringe (Sec. 23-252) Districts are allowed within the General Floodplain District, according to the standards of Sec. 23-266(c), provided that all permits or certificates required under Sec. 23-291 have been issued.

(c) **Standards for development.** Division 3 applies to floodway areas, Division 4 applies to floodfringe areas. The rest of this ordinance applies to either district.

- (1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:
 - a. At or above the flood protection elevation; or
 - b. Two (2) feet above the highest adjacent grade around the structure; or
 - c. The depth as shown on the FIRM.

(2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

(d) **Determining floodway and floodfringe limits.** Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
 - a. A Hydrologic and Hydraulic Study as specified in Sec. 23-291(b)(3).
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
 - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-267. Flood storage district.

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

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flood elevations.

(a) ***Applicability.*** The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(b) ***Permitted uses.*** Any use or development which occurs in a flood storage district must meet the applicable requirements in Sec. 23-253.

(c) ***Standards for development in flood storage districts.***

- (1) Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- (2) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- (3) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per Division 8 *Amendments* of this ordinance.
- (4) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Secs. 23-268 – 23-280. Reserved.

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DIVISION 6. NONCONFORMING USES

Sec. 23-281. General.

(a) *Applicability.* If these standards conform with s. 87.30, Stats. and ch. NR 116.15, Wis. Adm. Code and 44 CFR 59-72, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words “modification” and “addition” include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this paragraph.
- (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a).
- (6) If on a per event basis the total value of the work being done under (4) and (5) equals or exceeds fifty percent (50%) of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a).
- (7) Except as provided in subd. (8), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty percent (50%) of the structure's present equalized assessed value.

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- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

a. Residential Structures

1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Sec. 23-295(b).
2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
5. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 23-266(c).
6. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

1. Shall meet the requirements of Sec. 23-281(b)(8)a1-6.
2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Sec. 23-295(a) or (b).
3. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 23-266(c).

(c) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with Sec. 23-238(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with Sec. 23-295 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Sec. 23-281(b)(8)a if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.
(Ord 54-06, §1, 1, 3-21-06; Ord 21-09, §1, 1-13-09; Ord 13-21, §1, 4-21-21)

Sec. 23-282. Floodway district.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

- (1) Has been granted a permit or variance which meets all ordinance requirements;
- (2) Meets the requirements of Sec. 23-281;
- (3) Shall not increase the obstruction to flood flows or regional flood height;
- (4) Any addition to the existing structure shall be floodproofed, pursuant to Sec. 23-295, by means other than the

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use of fill, to the flood protection elevation; and

- (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
- a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, building access or limited storage.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, Sec. 23-295(c) and ch. SPS 383, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, Sec. 23-295(c) and chs. NR 811 and NR 812, Wis. Adm. Code. (Ord 54-06, §1, 1, 3-21-06; Ord 25-12, §1, 3-7-12; Ord 13-21, §1, 4-21-21)

Sec. 23-283. Floodfringe district.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of Sec. 23-253 except where Sec. 23-283(b) is applicable.

(b) Where compliance with the provisions of subd. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in Sec. 23-293, may grant a variance from those provisions of subd. (a) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
- (2) Human lives are not endangered;
- (3) Public facilities, such as water or sewer, shall not be installed;
- (4) Flood depths shall not exceed two feet;
- (5) Flood velocities shall not exceed two feet per second; and
- (6) The structure shall not be used for storage of materials as described in Sec. 23-253(e).

(c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, Sec. 23-295(c) and ch. SPS 383, Wis. Adm. Code.

(d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, Sec. 23-295(c) and ch. NR 811 and NR 812, Wis. Adm. Code.

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(Ord 54-06, §1, 1, 3-21-06; Ord 2-09, §1, 1-13-09; Ord 111-10, §1, 7-13-10; Ord 25-12, §1, 3-7-12; Ord 13-21, §1, 4-21-21)

Sec. 23-284. Flood storage district.

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in Sec. 23-267(c) are met.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-285 – 23-289. Reserved.

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SECTION 7. ADMINISTRATION

Sec. 23-290. Administration.

Where a zoning administrator, planning agency or a Board of Appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-291. Zoning administrator.

(a) **Duties and powers.** The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

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

(b) **Land use permit.** A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

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- (1) *General information*
 - a. Name and address of the applicant, property owner and contractor;
 - b. Legal description, proposed use, and whether it is new construction or a modification;
- (2) *Site development plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain:
 - a. Location, dimensions, area and elevation of the lot;
 - b. Location of the ordinary highwater mark of any abutting navigable waterways;
 - c. Location of any structures with distances measured from the lot lines and street center lines;
 - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - e. Location and elevation of existing or future access roads;
 - f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 - g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Divisions 3 or 4 are met; and
 - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Sec. 23-221. This may include any of the information noted in Sec. 23-238(a).
- (3) *Hydraulic and hydrologic duties to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.
 - a. Zone A floodplains:
 1. Hydrology.
 - i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge.*
 2. Hydraulic modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - ii. Channel sections must be surveyed.
 - iii. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - iv. A maximum distance of 500 feet between cross sections is allowed in developed areas with

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additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.

- v. The most current version of HEC_RAS shall be used.
 - vi. A survey of bridge and culvert openings and the top of road is required at each structure.
 - vii. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 - viii. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 - ix. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
3. Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
- b. Zone AE Floodplains
1. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 2. Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - i. Duplicate Effective Model.
The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
 - ii. Corrected Effective Model.
The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
 - iii. Existing (Pre-Project Conditions) Model.
The Existing Model shall be required to support conclusions about the actual impacts of the

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project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

- iv. Revised (Post-Project Conditions) Model.
The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
 - v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 - vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
3. **Mapping.** Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
 - ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
 - iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
 - iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
 - v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 - vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
 - vii. Both the current and proposed floodways shall be shown on the map.
 - viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

- (4) *Expiration.* All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

(c) **Certificate of compliance.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;

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- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of Sec. 23-295 are met.

(d) **Other permits.** Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-292. Zoning agency.

(a) The Plan Commission shall:

- (1) Oversee the functions of the office of the zoning administrator; and
- (2) Review and advise the governing body on all proposed amendments to this ordinance, maps and text.

(b) The Plan Commission shall not:

- (1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
- (2) Amend the text or zoning maps in place of official action by the governing body.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-293. Board of Appeals.

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

(a) **Powers and duties.** The Board of Appeals shall:

- (1) *Appeals.* Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
- (2) *Boundary Disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
- (3) *Variances.* Hear and decide, upon appeal, variances from the ordinance standards.

(b) **Appeals to the Board.**

- (1) Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.
- (2) *Notice and hearing for appeals including variances.*

a. **Notice.** The Board shall:

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1. Fix a reasonable time for the hearing;
 2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
 3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
- b. *Hearing*. Any party may appear in person or by agent. The Board shall:
1. Resolve boundary disputes according to Sec. 23-293(c);
 2. Decide variance applications according to Sec. 23-293(d); and
 3. Decide appeals of permit denials according to Sec. 23-294.
- (3) *Decision*. The final decision regarding the appeal or variance application shall:
- a. Be made within a reasonable time;
 - b. Be sent to the Department Regional office within 10 days of the decision;
 - c. Be a written determination signed by the chairman or secretary of the Board;
 - d. State the specific facts which are the basis for the Board's decision;
 - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
 - f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) *Boundary disputes*. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
- (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- (3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Division 8 *Amendments*.

(d) *Variance*.

- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - a. Literal enforcement of the ordinance will cause unnecessary hardship;
 - b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - c. The variance is not contrary to the public interest; and
 - d. The variance is consistent with the purpose of this ordinance in Sec. 23-203.

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- (2) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
 - a. The variance shall not cause any increase in the regional flood elevation;
 - b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
 - c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (3) A variance shall not:
 - a. Grant, extend or increase any use prohibited in the zoning district;
 - b. Be granted for a hardship based solely on an economic gain or loss;
 - c. Be granted for a hardship which is self-created.
 - d. Damage the rights or property values of other persons in the area;
 - e. Allow actions without the amendments to this ordinance or map(s) required in Division 8 *Amendments*; and
 - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-294. To review appeals of permit denials.

- (a) The Zoning Agency (Sec. 23-292) or Board shall review all data related to the appeal. This may include:
 - (1) Permit application data listed in Sec. 23-291(b);
 - (2) Floodway/floodfringe determination data in Sec. 23-266(d);
 - (3) Data listed in Sec. 23-238(a)(2) where the applicant has not submitted this information to the zoning administrator; and
 - (4) Other data submitted with the application, or submitted to the Board with the appeal.
- (b) For appeals of all denied permits the Board shall:
 - (1) Follow the procedures of Sec. 23-293;
 - (2) Consider zoning agency recommendations; and
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the Board shall:
 - (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases

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may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Division 8 *Amendments*; and

- (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-295. Floodproofing standards for nonconforming structures or uses.

(a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

(b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

- (1) Certified by a registered professional engineer or architect; or
- (2) Meets or exceeds the following standards:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) Floodproofing measures shall be designed, as appropriate, to:

- (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- (2) Protect structures to the flood protection elevation;
- (3) Anchor structures to foundations to resist flotation and lateral movement;
- (4) Minimize or eliminate infiltration of flood waters; and
- (5) Minimize or eliminate discharges into flood waters.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-296. Public information.

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

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Secs. 23-297 – 23-303. Reserved.

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DIVISION 8. AMENDMENTS.

Sec. 23-304. Amendments.

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 23-305.

(a) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 23-305. Any such alterations must be reviewed and approved by FEMA and the DNR.

(b) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Sec. 23-305.

(Ord 13-21, §1, 4-21-21)

Sec. 23-305. General.

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in Sec. 23-306 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

(a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

(b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

(c) Any changes to any other officially adopted floodplain maps listed in Sec. 23-205(b)(2);

(d) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;

(e) Correction of discrepancies between the water surface profiles and floodplain maps;

(f) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

(g) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-306. Procedures.

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats. The petitions shall include all data required by Sec. 23-266(d) and Sec. 23-291(b). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

(a) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.

(b) No amendments shall become effective until reviewed and approved by the Department.

(c) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Secs. 23-307 – 23-310. Reserved.

DIVISION 9. ENFORCEMENT AND PENALTIES

Sec. 23-311. Enforcement and penalties.

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

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Secs. 23-312 – 23-314. Reserved.

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DIVISION 10. DEFINITIONS.

Sec. 23-315. Definitions.

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

A Zones. Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

AH Zone. See *Area of shallow flooding*

AO Zone. See *Area of shallow flooding*

Accessory structure or use. A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

Alteration. An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

Area of shallow flooding. A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent (1%) or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood. Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement. Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

Building. See *Structure*.

Bulkhead line. A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

Campground. Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

Camping unit. Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

Certificate of compliance. A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

Channel. A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Crawlways or crawl space. An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

Deck. An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

Department. The Wisconsin Department of Natural Resources.

Development. Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Dryland access. A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Encroachment. Any fill, structure, equipment, use or development in the floodway.

Federal Emergency Management Agency (FEMA). The federal agency that administers the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM). A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- The overflow or rise of inland waters;
- The rapid accumulation or runoff of surface waters from any source;
- The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Flood frequency. The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

Floodfringe. That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

Flood hazard boundary map. A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

Flood insurance study. A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Floodplain. Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

Floodplain island. A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

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Floodplain management. Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Flood profile. A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Floodproofing. Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

Flood protection elevation. An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: **Freeboard**.)

Flood storage. Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Floodway. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Freeboard. A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

Habitable structure. Any structure or portion thereof used or designed for human habitation.

Hearing notice. Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

High flood damage potential. Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is either:

- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

Increase in regional flood height. A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Land use. Any nonstructural use made of unimproved or improved real estate. (Also see **Development**.)

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Lowest adjacent grade. Elevation of the lowest ground surface that touches any of the exterior walls of a building.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Maintenance. The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

Manufactured home. A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle".

Mobile/manufactured home park or subdivision. A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

Mobile/manufactured home park or subdivision, existing. A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Mobile/manufactured home park, expansion to existing. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

Mobile recreational vehicle. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles".

Model, corrected effective. A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

Model, duplicate effective. A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

Model, effective. The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

Model, existing (pre-project). A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

Model, revised (post-project). A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

Municipality or municipal. The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

NAVD or North American Vertical Datum. Elevations referenced to mean sea level datum, 1988 adjustment.

NGVD or National Geodetic Vertical Datum. Elevations referenced to mean sea level datum, 1929 adjustment.

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New construction. For floodplain management purposes, “new construction” means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

Nonconforming structure. An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

Nonconforming use. An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

Obstruction to flow. Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

Official floodplain zoning map. That map, adopted and made part of this ordinance, as described in Sec. 23-205(b), which has been approved by the Department and FEMA.

Open space use. Those uses having a relatively low flood damage potential and not involving structures.

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

Person. An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

Private sewage system. A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

Public utilities. Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

Reasonably safe from flooding. Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional flood. A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid

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storage tanks, bridges, dams and culverts.

Subdivision. Has the meaning given in s. 236.02(12), Wis. Stats.

Substantial damage. Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent (50%) of the equalized assessed value of the structure before the damage occurred.

Substantial improvement. Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent (50%) of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

Variance. An authorization by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

Violation. The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Watershed. The entire region contributing runoff or surface water to a watercourse or body of water.

Water surface profile. A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

Well. An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(Ord 13-21, §1, 4-21-21)

Editor's Note: Definitions previous appeared as Sec. 23-205. This section was renumbered as Sec. 23-315 by Ord 12-21. Previous amendments: Ord 54-06, §1, 3-21-06; Ord 19-09, §1, 1-13-09; Ord 106-10, §1, 713-10.

Editor's Note: Article X of Chapter 23, Floodplain Zoning, was repealed and recreated by Ordinance 54-06, adopted by Council on March 15, 2006, published on March 20, 2006, and became effective March 21, 2006

Editor's Note: Article X of Chapter 23, Floodplain Zoning, was repealed and recreated by Ordinance 12-21, adopted by Council on April 21, 2021, published on April 26, 2021, and became effective April 27, 2021

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ARTICLE XI. SHORELAND/WETLANDS REGULATIONS

Reserved for future shoreland/wetland regulations.

Secs. 23-326 – 23-389. Reserved.

ARTICLE XII. SEXUALLY-ORIENTED ESTABLISHMENTS

Sec. 23-390. Purpose.

The Common Council finds that, due to their nature, the existence of sexually-oriented establishments in the City has serious objectionable operational characteristics, such as an effect upon property values, local commerce and crime. Due to the deleterious combined effect on adjacent areas when such uses are concentrated, they should not be permitted to be located in close proximity to each other. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. Such regulations are contained in these standards. These standards are designed to protect the City's retail trade, maintain property values, prevent crime, and in general, protect and preserve the quality of the City's neighborhoods, commercial districts and the quality of urban life.

It is not the intent of this article to limit or restrict the content of communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this article to restrict or deny access by adults to materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(Ord 213-11, §1, 9-27-11)

Sec. 23-391. General standards for sexually-oriented establishments.

(a) **Standards.** A sexually-oriented establishment may be permitted as a special use in the C-2 General Commercial District, M-1 Industrial Park District and M-2 General Industrial District provided that:

- (1) Such use shall not be located within five hundred (500) feet of any residentially zoned property;
- (2) Such use shall not be located within five hundred (500) feet of a public or private educational institution, place of worship, club, park or playground, non-profit recreational facility, child day care center or hotel/motel;
- (3) Such use shall not be located within five hundred (500) feet of an establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor;
- (4) Such use shall not be located within one thousand (1,000) feet of another sexually-oriented establishment;
- (5) No sexually-oriented establishment shall be open between the hours of 2 a.m. and 8 a.m., Monday through Friday, between the hours of 3 a.m. and 8 a.m. on Saturdays or between the hours of 3 a.m. and 12 noon on Sundays;
- (6) Any sexually-oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment shall be regulated by the following with each booth, room or cubicle required to meet the following construction requirements:
 - a. Be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall;
 - b. Shall be totally accessible to and from aisles and public areas of the sexually-oriented establishment;
 - c. Shall be unobstructed by any door, lock or other control-type devices;
 - d. Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same;
 - e. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable;
 - f. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable;
 - g. The lighting level shall be a minimum of ten (10) foot candles at all times, as measured from the floor.

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- (7) Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth.
- (8) No sexually-oriented establishment shall be situated in such a manner as to allow public view of its stock in trade, advertisements, displays, promotional materials, screens, loudspeakers, sound equipment, videos, an adult motion picture theater, whether enclosed or drive-in, photographs or other forms of sexually-oriented entertainment shall be shown, seen, heard, discerned or exhibited from outside of the establishment.
- (9) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone numbers, date of employment and termination. This information on each employee shall be maintained in the register on the premises for a period of one (1) year following termination of the employee and shall be made immediately available for inspection by the Appleton Police Department and/or the Health Department of the City of Appleton.
- (10) No portion of the exterior of an sexually-oriented establishment shall utilize or contain any flashing lights, search lights, spot lights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically permitted pursuant to the Signs article as identified in this ordinance.
- (11) An applicant shall not reside with a person who has been denied a permit by the City to operate a sexually-oriented establishment within the preceding twelve (12) months, or shall not reside with a person whose permit to operate an sexually-oriented establishment has been revoked within the preceding twelve (12) months.
- (12) An applicant must be eighteen (18) years of age or older.
- (13) Further standards may be established as part of the special use permit process on a case-by-case basis for sexually-oriented establishment.

(b) *Application of Distance Standards:* The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the lot upon which the proposed use is to be located, to the nearest point of the zoning district boundary line or the lot from which the proposed use is to be separated.
(Ord 213-11, §1, 9-27-11)

Sec. 23-392. Standard conditions of approval.

- (a) In addition to complying with §23-66 Special use permits of this ordinance the following shall also apply:
 - (1) The premises to be used for the sexually-oriented establishment shall be inspected and found to be in compliance with all applicable laws and ordinances by the City of Appleton's Health Department, Fire Department and Inspections Supervisor.
 - (2) The applicant shall, within thirty (30) days after the issuance of the Special Use Permit referred to herein, deliver to the Community and Economic Development Director, or designee, a list containing the names and addresses of all employees. The applicant shall update the list within thirty (30) days of any change or addition of employees. This list, or update, shall be signed, under oath, by the applicant.
 - (3) The fact that a person possesses other types of state or county permits does not exempt that individual from the requirement of obtaining a City-issued sexually-oriented establishment Special Use Permit.
 - (4) An applicant shall pay any unpaid City of Appleton taxes, fees, fines, or penalties assessed against or imposed upon them in relation to a sexually-oriented establishment prior to the issuance of a Special Use Permit.
 - (5) The Special Use Permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually-oriented business. The permit shall be posted in a

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conspicuous place at or near the entrance to the sexually-oriented business so that it may be easily read at any time.

- (6) An applicant of the proposed establishment shall not be in violation of, or not in compliance with, any of the provisions of this zoning ordinance including any stipulations or conditions of approval of the Special Use Permit.
- (7) An applicant shall not transfer a sexually-oriented entertainment permit to another person, corporation or entity, nor shall an applicant operate a sexually-oriented establishment under the authority of a permit any place other than the address designated in the application.

(Ord 213-11, §1, 9-27-11)

Sec. 23-393. Application requirements.

(a) In addition to §23-66 Special Use Permits of this ordinance the following shall be provided:

- (1) An application for a Special Use Permit must be made on a form provided by the Community and Economic Development Department. The application must be accompanied by a site plan pursuant to §23-570, Site plan review.
- (2) If a person who wishes to operate a sexually-oriented establishment is an individual, he/she must sign the application for a Special Use Permit as the applicant. If a person who wishes to operate a sexually-oriented establishment is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a Special Use Permit as applicant.
- (3) An applicant shall provide information reasonably necessary for issuance of the permit or shall not falsely answer a question or request for information on the application form.

(4) The Special Use Permit fee required by this ordinance shall be paid at time of application.

(Ord 213-11, §1, 9-27-11)

23-394. Enforcement.

(a) In addition to this section, §23-69 Enforcement of this ordinance shall apply.

(b) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any City ordinance or statute of the State of Wisconsin regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter in the exhibition or public display thereof.

(c) A person shall be deemed to have committed a violation of this ordinance if he/she operates a sexually-oriented establishment without a valid Special Use Permit issued by the City for the particular type of business.

(d) **Public nuisance.** Any violation of the standards set forth in subsection (b) above is declared to be a public nuisance pursuant to §12-30(19) of the Appleton Municipal Code.

(e) **Inspection.**

- (1) An applicant shall permit representatives of the City of Appleton Community and Economic Development Department, Police Department, the Fire Department, the Division of Inspections, or other City departments or agencies to inspect the premises of a sexually-oriented establishment for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- (2) A person who operates a sexually-oriented business or his/her agent or employee commits a violation of this ordinance if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord 213-11, §1, 9-27-11)

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Secs. 23-394 – 23-419. Reserved.

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ARTICLE XIII. RESERVED.

Editor's Note: Ord 90-23, adopted October 4, 2023 and effective October 10, 2023 repealed Article XIII of Chapter 23, Wireless telecommunications facilities.

Secs. 23-420 – 23-499. Reserved.

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ARTICLE XIV. SIGNS*

DIVISION 1. INTRODUCTORY INFORMATION

Sec. 23-500. Purpose.

The purpose of these sign regulations is to provide comprehensive and balanced sign regulations that will preserve the right of free speech and expression; avoid excessive levels of visual clutter or distraction that are potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance; ensure that signs are well-constructed and maintained and expressive of the identity of individual activities and the community as a whole; and provide a procedure for fair and consistent enforcement and to implement the applicable policies and objectives as identified in the Appleton Comprehensive Plan.

(Ord 34-18, §1, 4-10-18)

Sec. 23-501. No discrimination against non-commercial signs or speech.

The owner of any sign which is otherwise allowed under this Article XIV may substitute noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial copy over any other noncommercial copy. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage in terms of size and number on a parcel or within a development or allow the exchange of an off-site commercial message in place of an on-site commercial message.

(Ord 34-18, §1, 4-10-18)

Sec. 23-502. Severability.

If any portion of this Article XIV or any regulation contained herein is held to be invalid or unconstitutional by a court of competent jurisdiction, it is the City's specific legislative intent that said portion or regulation is to be deemed severed from this Article XIV and should in no way affect or diminish the validity of the remainder of Article XIV or any other sign regulation set forth herein.

(Ord 34-18, §1, 4-10-18)

Sec. 23-503. Reserved.

Editor's Note: Chapter 14 – Signs was repealed by Ord 9-00, published 1-22-00. New 'Sign Code' was created by Ord 10-00, published 1-22-00

Editor's Note: Art. XIV, Signs, was repealed and recreated by Ord 34-18, adopted by the Common Council on April 4, 2018 and becoming effective April 10, 2018.

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DIVISION 2. DEFINITIONS**Sec. 23-504. Definitions and interpretation.**

Words and phrases used in this Article shall have the meanings set forth in this section. The definitions identified in this section shall apply to this article and shall prevail with respect to signs in the event any inconsistency exists between these definitions and the definitions set forth in Article II of this chapter. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this ordinance.

Abandoned sign means a sign located on a lot that contains any land use discontinued for more than a twelve (12) month period.

Animated means the movement of any light used in conjunction with a sign such as motion picture, blinking, flashing or changing degree of intensity of any light movement other than burning continuously.

Area of sign means the area of the largest single sign face within a perimeter formed by the outside shape, including any frame that forms an integral part of the display. This would not include the necessary supports or uprights of the sign. If the sign consists of more than one (1) section or module, all areas are totaled. Any writing, representation, emblem, logo, symbol or other display that has no background or is irregular in shape shall be computed based on squares or rectangles which enclose the extreme outer limits of the advertising message, announcement or decoration.

Athletic scoreboard means a sign accessory to an athletic playing field and/or its associated fences and walls, used to report scores and often to promote businesses to viewers of the events.

Awning sign means a sign with a rigid-framed, roof-like structure attached to a wall running parallel to the exterior wall of a building and composed of a covering or non-rigid materials and/or fabric, vinyl or canvas that may be either permanent or retractable.

Banner means a temporary sign of lightweight fabric, vinyl, polypropylene, polyester mesh, cloth, plastic, or similar flexible material that can be mounted to a structure with cord, rope, cable, hardware or similar method or that may be supported by stakes or poles in the ground. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Beacon means any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source; also, any light with one (1) or more beams that rotate or move.

Billboard means an off premise sign.

Building marker sign means any sign indicating a building's name, date, or any incidental information about its construction that is engraved into a masonry surface or made of bronze or other permanent material.

Changeable copy sign means a permanent sign, whether electronic or manual, where copy changes. See **Electronic message board**.

Commercial message means any sign with wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, profession, commodity, event, person, institution, or other commercial activity or otherwise contains commercial speech.

Commercial speech means any message proposing a commercial transaction or related to the economic interests of the speaker and its audience.

Construction sign means a temporary sign on private property describing a construction or improvement project that includes the names of the contractors, architects, engineers, investors and/or future tenant(s).

Copy means the wording or graphic content on a sign surface.

Department in this article means the City of Appleton Inspections Division.

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Display time means the amount of time words, symbols, figures, or images are displayed on an electronic message board.

Directional sign means a sign providing general information, such as “no parking”, “parking areas”, “entrance”, “exit”, “truck and passenger loading/unloading areas”, “identification names”, “numbers or names of occupants”, “signs posted on private property relating to private parking or warning the public against trespass or danger of animals”, “neighborhood crime watch signs” or other messages or symbols necessary to direct vehicles or pedestrians to, through or within a site. Company names and logos may be displayed on directional signs.

Directory sign means a sign listing the names, use or location of business, tenants, owners, renters and/or activities with a building or group of buildings or multi-tenant building or development.

Electronic message board means a sign capable of displaying words, symbols, figures, or images that can be electronically changed by remote or automatic means. Such signs shall include the modes of operations pursuant to Sec. 23-530 of this article.

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

Event sign means a temporary sign that directs attention to an occurrence generally regarded and acceptable as important, newsworthy and of public service that can reasonably be expected to cause a public gathering that is not part of the normal course of business at the location or otherwise an event issued a City Special Event License.

Flag means a piece of fabric having distinctive colors and patterns used as a symbol of a government, political subdivision or other entity.

Flashing sign means a sign or part thereof, operated so as to create flashing; change in light intensity, color or copy or intermittent light impulses more frequent than one every ten seconds and further provided that electronic message boards as defined herein shall not constitute flashing signs. It is further provided that a sign which creates intermittent light impulses which convey time of day and/or temperature only shall not constitute a flashing sign.

Frame means a complete, static display screen on an electronic message board sign.

Freeway means Interstate Highway 41 and State Highway 441.

Freeway-oriented on-premises sign means any on premises sign whose property abuts a freeway and primarily identifies a business or company to freeway users.

Frontage means that boundary of a lot that abuts a dedicated public street. The public right-of-way may include frontage roads.

Ghost sign means a hand-painted sign that remains from an earlier time or advertises the use of a building wall on or before January 22, 2000, and is still present on the wall, indicating a previous use of the building, or advertising a product or activities of the community.

Ground sign means any sign supported by structures or supports placed on or anchored in the ground and independent from any building or other structure.

Height of sign means the vertical distance measured from the normal grade to the highest point of the sign.

Historic marker signs means a sign identifying a historical structure, site or district pursuant to Article XVII. of this chapter or approved by the Wisconsin Historic Society pursuant to the Wisconsin Historical Markers Program.

Home occupation sign means a sign advertising a legally permitted home occupation pursuant to §23-45 of this chapter.

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Interpretive signs mean a sign providing information that interprets a natural, historical or cultural resource, event or site. Such signs shall be located only on sites directly related to the information contained in the sign.

Inspections Supervisor means the City of Appleton Inspections Supervisor or designee.

Marquee means any permanent, roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Menu board means a structure providing menu items and prices associated with a drive-through window or walk-up service window.

Monument signs means a ground sign with the bottom of the sign a maximum of twelve (12) inches from normal grade.

Multi-tenant means a building with more than one (1) tenant that utilizes wall, projecting, canopy or ground signage.

Mural means a picture, illustration, design, representation and/or copy painted or drawn directly onto the surface of an exterior building wall that does not contain commercial messages or commercial speech. Definition of Mural does not include:

1. Public art and/or murals installed or located, and approved in accordance with the City of Appleton Public Arts Policy.

Mural sponsorship signs means a sign located on or attached to an exterior building wall that identifies a person's name, business name, association, logo, and/or corporate slogan displayed at the site of a mural that identifies a sponsor in recognition of the sponsor's financial support of the mural.

Neighborhood and park identification signs means a sign that identifies a neighborhood or park that is officially designated by the city or approved pursuant to the City of Appleton Land Division and Subdivision Ordinance.

Noncommercial copy means any copy which is not a commercial message as defined herein.

Noncommercial speech mean any message which is not commercial speech as defined herein.

Nonconforming sign means any sign that does not conform to the requirements of this article.

Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, molding or excavating solely for the purpose of locating the sign.

Off-site or off-premises sign means a sign that directs attention to a business, profession, commodity, service, or entertainment conducted, sold, or offered at a location other than where the sign is located. This definition shall include, but is not limited to, billboards, posters, panels, painted bulletins, and similar advertising displays. An off-site sign meets any one of the following criteria and includes only commercial messages:

- A permanent structure sign which is used for the display of off-site commercial messages;
- A permanent structure that constitutes a principal, separate, or secondary use, as opposed to an accessory use, of the parcel on which it is located; or
- An outdoor sign used as advertising for hire, e.g., on which display space is made available to parties other than the owner or operator of the sign or occupant of the parcel (not including those who rent space from the sign owner, when such space is on the same parcel or is the same development as the sign), in exchange for a rent, fee, or other consideration.

On-site or on-premises sign means any sign identifying or advertising persons, entities, activities, business goods, products, facilities or services located on the lot where the sign is installed and maintained.

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Painted wall sign means a picture, illustration, design, representation and/or copy painted or drawn directly onto the surface of an exterior building wall that contains commercial messages or commercial speech. Definition of painted wall sign does not include:

1. Public art and/or murals installed or located, and approved in accordance with the City of Appleton Public Arts Policy.

Party wall means a wall without openings located on a lot line between adjacent buildings.

Person means any individual, association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

Personal expression signs means an on-premises sign that expresses an opinion, interest, position, or other non-commercial message.

Plot plan means a scaled drawing of a parcel that depicts all elements on and surrounding the parcel.

Portable sign means a temporary sign lit or unlit designed to be transported, including, but not limited to, signs designed to be transported by means of wheels.

Principal building means the building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clear accessory uses shall not be considered principal buildings.

Projecting sign means a sign, normally double-faced, which is attached to a structure or building perpendicular to the wall and extending more than six (6) inches. The area of projecting signs is calculated on one (1) face only.

Public art means artwork that is installed or located, and approved in accordance with the City of Appleton Public Arts Policy.

Public institutional identity signs means a sign used to identify the name, address of and/or services provided by any public institutional use(s) occupying the premises.

Right-of-way is all public property used or intended for use as a travelway and the public property that is adjacent to the travelway.

Roof sign means a sign erected upon, against or above a roof and extending above the highest point of the roof. If the sign does not extend above the highest point of the roof and is single-faced, it is a wall sign.

Sandwich board sign means a temporary sign that is self-supported and moveable, typically A-shaped with two visible sides.

Setback means the required distance a sign must be located from a lot line, easement, right-of-way line, adjacent building or other feature as indicated in this Article.

Sign means any device, fixture, placard, or structure that uses any writing, image, representation, emblem, logo, symbol or other display illuminated or non-illuminated to advertise, announce the purpose of, or identify the purpose of a person or entity to attract attention, or to communicate information of any kind to the public, visible from any public way or public street. For the purpose of removal, signs shall also include all sign structures as well as the sign itself.

1. Athletic scoreboards, flags, holiday decorations, menu boards, streamers, pennants, balloons and inflatable figures and anything else not containing copy, used for advertising purposes or otherwise meeting the definition of a sign are not considered signs. In addition, signs located entirely within an enclosed building and not legible from a street shall not be considered a sign.

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

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

Street frontage means the distance for which a lot line of a lot adjoins a street, from one (1) lot line intersecting said street to the furthest distant lot line intersecting the same street. Corner or double frontage lots will have more than one (1) street frontage.

Suspended sign means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

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

Temporary sign means a sign intended to display either a commercial or non-commercial message for a limited time and not permanently mounted.

Transition means visual effect used on an electronic message board to change from one message, symbol, figure, and/or image to another.

Wall area means the vertical exterior wall surface of a building, not including the area of a party wall, consisting of the solid portion that forms the sides of the building envelope, including walls, doors and window area, that is not the roof or floor.

Wall sign means any sign attached parallel to, and within six (6) inches of, a wall or erected and confined within the limits of an outside wall of any building. The sign is supported by such building.

Wave banner means a free standing temporary sign typically constructed of a lightweight vinyl, polypropylene, polyester mesh, fabric, cloth, plastic, or similar flexible material and mounted on a flexible pole driven in the ground with an attached pennant that is vertically elongated and attached to the pole.

Wayfinding signage means signs with maps or other graphics that do not contain commercial messages or commercial speech, that are part of a City-sponsored and coordinated program for the purpose of directing pedestrian and vehicular traffic to local destinations.

Window sign means a permanent or temporary sign that is placed inside a window and is visible from the exterior. A window sign does not supersede the transparent purpose of the window.
(Ord 2-15, §1, 1-27-15; Ord 34-15, §1, 3-24-15; Ord 34-18, §1, 4-10-18)

DIVISION 3. GENERAL PROVISIONS

Sec. 23-505. Prohibited signs.

All signs not expressly permitted or exempt under this article are prohibited in any location in the City. Prohibited signs include, but are not limited to:

(a) Signs that employ intermittent or flashing illumination, animation, motion picture, laser projection, sound emission (except electronic message boards as defined in this article).

(b) Beacons.

(c) Billboards.

(d) Off-premises signs.

(e) Roof signs.

(f) A sign or advertising device attached to or painted onto a parked vehicle or trailer and being used as an on-premises or off-premises sign.

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(g) Signs marked, tacked or otherwise affixed to trees or other vegetation.

(h) Signs containing statements, words, or pictures of an obscene or pornographic nature.

(i) Signs which purport to be, or are an imitation of, or resemble an official traffic sign or signal, or which bear the words “stop”, “caution”, “warning”, or similar words and/or colors normally associated with official signs.

(j) Swinging and alternating signs.

(Ord 3-15, §1, 1-27-15; Ord 34-18, §1, 4-10-18)

Sec. 23-506. Legal, nonconforming signs.

(a) Existing Nonconforming Signs

(1) Signs lawfully existing at the time of the adoption or amendment of this chapter or located in an area annexed to the city of Appleton may be continued although the use, size or location does not conform to the provisions of this chapter. However, it shall be deemed a nonconforming sign, and the provisions of this chapter shall apply to specific nonconforming rights.

(2) Any nonconforming sign hereafter relocated, moved, reconstructed, extended, enlarged, changed in shape or use (not including changing the copy), altered, or modified shall be made to comply with the provisions of this chapter.

(3) Maintenance of nonconforming signs including changing the sign face of existing advertising areas, replacing light bulbs or wiring and painting is permitted.

(4) If damaged or destroyed, a nonconforming sign may be replaced within one year after the calamity to the size, location, and use that it had immediately before the damage or destruction occurred, if the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(5) A conforming sign does not become nonconforming due to City, County or State acquisition of right-of-way according to §23-42(e) of this chapter.

(Ord 34-10, §1, 4-10-18)

Sec. 23-507. Signs not requiring a permit.

(a) The following signs are allowed in all zoning districts without the need for a sign permit, unless otherwise stated in this article. Such signs shall not count as part of the maximum permitted sign area, maximum number of signs per lot or building, but shall comply with sign setbacks, height and vision corner requirements, unless otherwise stated in this article.

(1) **Banners and Wave Banners.** Subject to the following requirement:

a. Maximum display time limit: Each banner and/or wave banner shall be allowed on a lot for no more than a total of one hundred twenty (120) consecutive days per calendar year.

(2) **Building marker sign.** Subject to the following requirement:

a. Sign area: Maximum four (4) square feet.

(3) **Construction signs.** Subject to the following requirements:

a. Sign number: One (1) construction sign per street frontage is allowed.

b. Sign location: This sign shall be placed on the lot where work is under construction and shall identify persons or companies involved in the design, construction, demolition, financing or project development.

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- c. Sign timeframe: Such signs shall not be erected prior to the beginning of work for which a valid building or demolition permit has been issued, and shall be removed within ten (10) days of completion of the work or the expiration of the permit, whichever is sooner.
 - d. Sign area: Construction signs for single and two-family residences shall not exceed sixteen (16) square feet.
 - e. Sign area: Construction signs for commercial, public institutional, industrial, multi-family, traditional or planned developments shall not exceed ninety-six (96) square feet.
- (4) **Directional signs.** Subject to the following requirements:
- a. Sign area: Directional signs shall not exceed six (6) square feet.
 - b. Sign number and placement: No more than one (1) directional sign is permitted per side of driveway.
 - c. Sign limitations: Directional signs shall not be composed solely of company names and/or logos. Company names and/or logos, shall not exceed two (2) square feet per sign face.
- (5) **Directory signs.** Subject to the following requirements:
- a. Sign area: Maximum thirty-two (32) square feet.
 - b. Sign height: If a ground sign, maximum eight (8) feet.
 - c. Sign placement: Wall or ground mounted sign. In addition, shall be placed adjacent to publicly used entrance to the building.
 - d. Sign number: One (1) per building unless the building has more than one entrance or direct frontage on more than one street, in which case two (2) signs are allowed.
- (6) **Governmental signs.** Subject to the following requirements:
- a. Signs erected by, or on behalf of, a governmental unit, including legal notices, traffic signs, or other similar regulatory devices, directional signs, warnings at railroad crossings, and other instructional or regulatory signs pertaining to health hazards, parking, swimming, dumping, and such emergency or non-advertising signs as may be approved by the Traffic Engineer for safety purposes or other signs approved by the Common Council.
- (7) **Historic marker signs.** Subject to the following requirements:
- a. Sign placement: Signs may be a ground sign or placed flat against a building, monument stone or other permanent surface.
 - b. Sign size: This sign shall not exceed twenty-seven (27) square feet in area or shall not exceed the size limitations established by the State Historic Markers Program Administered by the Wisconsin State Historical Society, whichever is less.
- (8) **Home occupation signs.** Subject to the following requirements:
- a. Sign number and illuminance: One (1) sign associated with a home occupation complying with the provisions of this chapter, provided such signs are non-illuminated wall signs.
 - b. Sign size and placement: Maximum two (2) square feet in area and mounted parallel to the wall.
- (9) **Public Institutional identity signs.** Subject to the following requirements:
- a. Sign number and size: One (1) sign not exceeding sixty (60) square feet.

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- b. Sign setback: This sign must be located a minimum of ten (10) feet from the right-of-way line.

(10) **Interior signs.** Subject to the following requirement:

- a. Sign placement: Signs located inside exterior windows, walls or doors of any building, mall, court yard, stadium or enclosed lobby, when such signing is intended for interior viewing only.

(11) **Model home signs.** Subject to the following requirement:

- a. Sign size: Signs not exceeding six (6) square feet identifying a non-occupied dwelling unit used as a demonstrator for selling or renting other dwelling units in the same complex.

(12) **Neighborhood and park identification signs.** Subject to the following requirements:

- a. Sign location: A sign, masonry wall, landscaping or other similar material and feature may be combined to form a display for neighborhood or tract identification at all entrances.
- b. Sign type and size: Neighborhood and park identification signs shall be limited to ground signs not exceeding eight (8) feet in height and forty-eight (48) square feet per sign face, and meet all other design standards in Division 4.

(13) **Political Election Campaign signs.** As provided in §12.04 of the Wisconsin Statutes, election campaign signs are permitted subject to the following requirements:

- a. Sign timeframe: The sign shall not be erected prior to the first day of the “election campaign period” as defined in the Wisconsin Statutes, and shall be removed within ten (10) days following the election.
- b. Sign area: Election signs shall not exceed sixteen (16) square feet in area per lot unless the sign is affixed to a permanent structure; does not extend beyond the perimeter of the structure, and does not obstruct a window, door, fire escape, ventilation shaft, or other area which is required by the City Building or Fire Code to remain unobstructed.
- c. Sign location: No election campaign sign shall be placed within a public right-of-way.
- d. Sign removal: The Inspections Supervisor and/or the Police Chief, or their designee, are authorized to remove any signs in violation of this subsection.

(14) **Real estate signs.** Subject to the following requirements:

- a. Sign number: One (1) real estate sign per street frontage of a lot, advertising the sale or lease of that lot or premises.
- b. Sign location and area: Such signs shall not be located in the public right-of-way, nor be directly illuminated, nor exceed eight (8) square feet for residential districts, thirty-two (32) square feet for public institutional and commercial districts, or sixty-four (64) square feet for industrial districts.
- c. Sign removal: Real estate signs shall be removed within fifteen (15) days after the sale, rental, or lease has been accomplished.

(15) **Personal expression signs.** Subject to the following requirements:

- a. Sign number and area: One (1) sign is allowed per lot and shall not exceed two (2) square feet.

(16) **Events signs.** Subject to the following requirements:

- a. Sign area: Signs shall not exceed thirty-two (32) square feet.

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- b. Initial installation time period: Signs shall not be erected earlier than thirty (30) days before an event.
- c. Sign removal: Signs shall be removed within two (2) days after the event.

(17) **Window signs.** Subject to the following requirements:

- a. Sign ratio: Temporary window signs shall not exceed fifty percent (50%) of the gross window area of any given wall or ten percent (10%) of the glass on any door.
- b. Sign area: The square footage of permanent window signs shall be included in the maximum allowable square footage of wall sign pursuant to Sec. 23-523(c).

(18) **Vehicle signs used in normal course of business.** Subject to the following requirements:

- a. Truck, bus, trailer, or other vehicle signs, while the vehicle is operating in the normal course of business, but is not parked in such a way that it acts as an advertising sign on a parking lot, driveway or street according to Sec. 23-505.

(Ord 34-18, §1, 4-10-18)

Secs. 23-508 – 23-521. Reserved.

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DIVISION 4. DESIGN STANDARDS

Sec. 23-522. Number of signs.

(a) **One (1) ground sign.** One (1) ground sign is permitted for each lot unless specified elsewhere in this article.

(b) **Two (2) ground signs.** Two (2) ground signs may be permitted if a parcel has a second street frontage subject to the following regulations:

- (1) For corner lots, each street frontage must be at least two hundred (200) feet before two (2) signs are allowed;
- (2) Double frontage lots must have at least three hundred (300) feet of lot depth.
- (3) Maximum size of the two (2) signs are one hundred eighteen (118) square feet for the primary sign and thirty-two (32) square feet for the secondary sign.
- (4) In no case will two (2) ground signs be allowed on the same street frontage for the same business or parcel.

(c) **Temporary signs.** One (1) temporary sign per street frontage is allowed within the minimum principal building front yard setback requirement, unless otherwise specified and provided the setback and clearance requirements of this Article are complied with.

- (1) There is no limit to the number of temporary signs on the remainder of the property.

(Ord 34-18, §1, 4-10-18)

Sec. 23-523. Sign face calculation.

(a) **Ground signs.** The maximum area of a ground sign shall not exceed one hundred fifty (150) square feet per sign face.

(b) **Multiple-faced signage.** The surface area of a sign shall be calculated only on the basis of adding together the area of the sign face(s) that can be read by one (1) viewer at a time. Where two (2) identical sign faces are both faces cannot be read by any one (1) viewer simultaneously, only one (1) of the faces shall be calculated for purposes of determining sign surface area.

(c) **Wall sign calculation.** For purposes of maximum area for wall signs, this calculation shall include awning, marquee, canopy, permanent window and projecting signs.

- (1) In the P-I, C-O, C-1, C-2, and CBD zoning districts, the maximum area of wall signage shall be calculated as follows:
 - a. For each building wall, thirty-five percent (35%) of the building wall area or three hundred fifty (350) square feet whichever is less.
- (2) In the M-1 and M-2 zoning districts, the maximum area of wall signage shall be calculated as ten percent (10%) of each building wall.

(d) **Changeable copy signs (manual and electronic message boards).** The maximum area cannot exceed forty-eight (48) square feet.

(e) **Sandwich board signs and similar temporary signs.** Sandwich board sign standards include a maximum three and one-half (3½) foot height, two and one-half (2½) foot width, and six (6) inch high maximum leg supports.

(f) **Portable signs.** The maximum size is four (4) feet by eight (8) feet.

(Ord 4-15, §1, 1-27-15; Ord 34-10, §1, 4-10-18)

Sec. 23-524. Ground sign height.

(a) **Total height.** The height of a ground sign shall not exceed twenty-eight (28) feet in height.

(b) **Computation of height.** Sign height shall be computed as the distance from the base of the sign or sign structure at normal grade to the top of the highest attached component of the sign. Where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a street or the grade of the land at the principal entrance to the principal building, whichever is lower.

Sec. 23-525. Setback and clearance.

(a) **Signs located in the right-of-way.** The closest point of a sign shall not encroach into the public right-of-way, including public sidewalks and terraces unless a street occupancy permit is obtained. Application for this permit must be obtained from the Public Works Department.

(b) **Side lot line.** A sign shall be located no closer than five (5) feet from the side lot line.

(c) **Within fifteen (15) feet of right-of-way.** A ground sign, any part of which is closer than fifteen (15) feet to the right-of-way, shall have a minimum vertical distance of ten (10) feet between the bottom of the sign and the grade at the right-of-way line or shall not be more than three (3) feet in height above the grade at the right-of-way line.

(d) **Intersections/driveways.** Any ground or portable, sign within twenty-five (25) feet of an intersection or fifteen (15) feet of a driveway shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of ten (10) feet or shall be not more than three (3) feet in height above grade.

(e) **Projecting signs.** Projecting signs shall maintain a minimum vertical distance between the bottom of the sign and the normal grade of eight (8) feet. The maximum height between the top of the sign and the normal grade shall not exceed sixteen (16) feet.

(f) **Parking area/driveway clearance.** Any sign located over a parking area or driveway shall have a minimum vertical clearance of fourteen (14) feet.

(g) **Electrical lines.** All signs shall be so located so as to avoid any contact with above or underground electrical and communication lines.
(Ord 34-18, §1, 4-10-18)

Sec. 23-526. Portable sign display limits.

A portable sign may be displayed for a total of one hundred twenty (120) days per calendar year with a minimum of thirty (30) consecutive day blocks. The entire thirty (30) consecutive day block will count towards the one hundred twenty (120) day total even if all thirty (30) days are not used.
(Ord 34-18, §1, 4-10-18)

Sec. 23-527. Awning, canopy and marquee signs.

For this section, awning includes canopies and marquees unless otherwise specified.

(a) The sign copy area shall not be larger than the maximum wall sign area restrictions in Sec. 23-523(c). The copy area shall count as part of the maximum wall sign area calculation, but shall only include those areas with text or company logos. The total awning sign area shall be the sum of all sides of the awning with such text or company logos.

(b) An awning sign shall meet the following conditions:

- (1) An awning shall not extend more than five (5) feet from the face of a building.
- (2) The support structure shall not be closer than two (2) feet from the street curb line.

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- (3) Minimum clearance for an awning sign shall be seven feet six (7'6") inches from the lowest edge of the awning material to the closest point of a sidewalk.
- (4) The valance shall not exceed nine (9) inches, and letters on the valance shall not exceed six (6) inches in height.
- (5) Any awning sign that extends into public right-of-way (including a public sidewalk) shall be required to obtain a street occupancy permit. Application for this permit must be obtained from the Public Works Department.
- (6) If illuminated, a light source shall meet all national and local electrical codes.

(Ord 34-18, §1, 4-10-18)

Sec. 23-528. Sign lighting.

Signage may be internally lighted or may have external illumination mounted on the sign, building, or ground. However, no external light source shall be positioned as to interfere or be seen by vehicular traffic or adjacent residential uses.

Sec. 23-529. Design standard and exceptions.

(a) ***Hospital sign exceptions.*** The following design standard exceptions are permitted:

- (1) Ground sign number and location: One (1) ground sign for every five hundred (500) feet of frontage subject to size, height and setback restrictions in accordance with Division 4 of this article.
- (2) Directional sign number, area and location: One (1) directional sign shall be permitted at each driveway entrance and not exceed seventy (70) square feet in area. All height and setback restrictions in accordance with Division 4 of this article shall be complied with.
- (3) Directory sign number and area: One (1) directory sign shall be permitted at each entrance door to the hospital or clinic, a ground and wall signs shall not exceed forty (40) square feet in area.
- (4) Sign illuminance: All hospital related signs may be lighted for nighttime identification.

(b) ***Skywalks within the right-of-way.*** The following design standard exceptions are permitted:

- (1) The maximum sign area shall be twenty percent (20%) of the wall area of the pedestrian skywalk, unless an increase in sign area is requested and approved pursuant to the street occupancy permit procedure. Applications for this permit must be obtained from the Public Works Department.

(c) ***41 and 441 freeway exceptions.*** The following ground sign design standard exceptions for P-I, C-O, C-1, C-2, M-1, and M-2 zoned lots apply to freeway-oriented, on-premises signs.

- (1) A ground sign may exceed twenty-eight (28) feet in height by two (2) feet for each additional foot the sign is set back from a minimum of ten (10) feet from the freeway right-of-way. No ground sign shall exceed sixty (60) feet in height above the abutting freeway's centerline grade.
- (2) A ground sign may exceed one hundred fifty (150) square feet in area by ten (10) square feet for each additional foot the sign is set back from a minimum of ten (10) feet from the freeway right-of-way. No ground sign shall exceed two hundred (200) square feet in area per sign face.
- (3) If a single parcel exceeds nine (9) acres, a second ground sign not exceeding twenty-eight (28) feet in height and one hundred fifty (150) square feet in size shall be allowed within the front yard opposite the freeway provided the setback and clearance requirements of this Article are complied with.

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(d) **Places of worship, community living arrangement serving 16 or more persons, assisted living and retirement home serving 16 or more persons, residential care apartment complex serving 16 or more persons and nursing home exceptions.** The following design standard exceptions are permitted:

- (1) Ground sign number and area: One (1) ground sign not to exceed sixteen (16) feet in height and forty-eight (48) square feet per sign face for each street frontage as calculated for multiple-faced signage pursuant to Sec. 23-523(b).
- (2) Wall Sign: One (1) wall sign will also be allowed per street frontage subject to design standards pursuant to Division 4.

(e) **Educational institution signs.** The following design standard exceptions are permitted:

- (1) Number of wall signs: One (1) wall sign will also be allowed per street frontage subject to design standards pursuant to Division 4
- (2) A substitute for the one (1) wall sign may be a changeable copy sign, attached to the exterior wall of the school building, not to exceed forty-eight (48) square feet in area.
- (3) Number of ground signs: One (1) ground sign or one (1) changeable copy sign affixed to the ground as calculated for multiple-faced signage pursuant to Sec. 23-523(b), provided a changeable copy sign does not exist as a wall sign.
- (4) Ground sign placement: A twenty (20) feet minimum setback from the public right-of-way.
- (5) Ground sign height: Maximum: Fifteen (15) feet in height.
- (6) Ground sign area: Maximum: Forty-eight (48) square feet per sign face.

(f) **Automobile, RV, truck, cycle, boat sales and dealerships.** The following design standard exceptions are permitted:

- (1) Ground sign number and area: Dealerships selling new and/or used vehicles shall be allowed one (1) ground sign for each fifty thousand (50,000) square feet of hard-surfaced designated for the outdoor display of vehicles for sale.

(g) **Real estate marketing sign.** The following design standard exceptions are permitted for the purpose of marketing a new subdivision, apartment, condominium, mixed use, business/industrial park, or planned development:

- (1) Number of ground signs: One (1) ground sign per street frontage.
- (2) Ground sign area: Maximum eighty (80) square feet in area.
- (3) Such permit will be issued for one (1) calendar year and may be renewed for one (1) additional calendar year.

(h) **Ghost Sign.** The following design standard exceptions are permitted:

- (1) Ghost signs that existed on a building wall prior to January 22, 2000, as on file with the Inspections Division, still present on the wall, are exempt from these requirements and deemed conforming. Ghost signs may be maintained, restored and repainted but no size alterations, new information or images may be added to the existing sign. Prior to a permit being issued for restoration of a ghost sign, documentation of the sign's existence shall be provided to the Inspections Supervisor. This may include photographs or permits originally issued for the sign.

(Ord 34-18, §1, 4-10-18)

Sec. 23-530. Electronic message boards.

- (a) Minimum display (static) time: Eight (8) seconds.

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- (b) Transition time between messages and/or message frames: Three (3) seconds or less.
- (c) The following modes of operation shall be allowed:
 - (1) Static: Signs which include no animation or effects simulating animation.
 - (2) Fade: Signs where static messages are changed by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.
 - (3) Dissolve: Signs where static messages are changed by means of varying light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneous to the gradual appearance and legibility of the subsequent message.
 - (4) Travel: Signs where the message is changed by the apparent horizontal movement of the letters or graphic elements of the message.
 - (5) Scrolling: Signs where the message is changed by the apparent vertical movement of the letters or graphic elements of the message.

(d) All electronic message boards must be equipped with automatic light sensors to adjust sign brightness and shall comply with light trespass requirements of Sec. 23-53(g) of this chapter.
(Ord 34-18, §1, 4-10-18)

Sec. 23-531. Murals.

- (a) Murals are permitted in the following zoning districts:

- (1) C-1, C-2, C-O, CBD, P-I, M-1 and M-2.

(b) **Permit requirements.** A permit must be applied for and received pursuant to Sec. 23-540 of this article. In addition, all provisions of Division 5 of the article shall apply to murals.

(c) **Exemptions.** Murals are not subject to size limitations applicable to wall or painted wall signs and shall not count as part of the maximum permitted sign area.

(d) **Compliance.** Issuance of a permit does not exempt the permittee and/or property owner from complying with any other applicable requirements of the City of Appleton Municipal Code.

- (e) **Mural Sponsorship Sign requirements:**

- (1) Sign number: One (1) for each mural.
 - (2) Sign area: Maximum nine (9) square feet.
 - (3) Sign placement: Wall mounted.

(Ord 34-18, §1, 4-10-18)

Secs. 23-532 – 23-539. Reserved.

DIVISION 5. ADMINISTRATIVE PROCEDURES

Sec. 23-540. Sign permit.

(a) **Permit required.** A permit from the Inspections Supervisor shall be required for any person to erect, place, replace, move, establish, paint, construct, install, convert, substantially alter, rebuild, enlarge, remodel, relocate, or illuminate any sign, unless exempted under Sec. 23-507. Repainting, routinely maintaining, or changing the message on a sign will not be considered a substantial alteration and will not require a permit.

(b) **Permit fee.** The fee for sign permits shall be established by the Common Council and on file in the Office of the City Clerk. Permit fees shall increase to three (3) times the amount if a permit is applied for after the work is started.

(c) **Permit application.** Before construction of any sign requiring a permit, an application must be filed with the Inspections Supervisor. Applications for a sign permit shall include a set of mandatory submittals as listed in this section. In addition, optional submittals may be required by the Inspections Supervisor if deemed necessary due to the character of the particular proposal under consideration. Applications will not be processed until all required submittals have been provided to the Inspections Supervisor. All applications shall be submitted upon a fully completed application form and shall be accompanied by payment of the applicable fee to defray the cost of reviewing and processing the application.

(d) **Mandatory submittals for a sign permit.**

- (1) Every applicant for a sign permit shall submit an application form as prescribed by the Inspections Supervisor
- (2) The application form shall be fully completed and contain the name and/or signature of the applicant.
- (3) Electrical signs are required to be listed. On the sign permit, state if the sign is to be electrical and listed.
- (4) The depiction showing the elevation of the proposed sign(s) needs to contain the following information:
 - a. Maximum dimensions of the sign(s) including dimensions of the supports, total height, and normal grade to bottom of sign.
 - b. The materials of which the sign's structural supports and all other elements are constructed.
 - c. Structural supports or visible methods of attaching the sign with dimensions to include the total height of the sign.
 - d. Calculations showing the structure meets the requirements of this section for wind pressure load.
 - e. If required, the Inspections Supervisor may require plans, specifications and calculations be signed and sealed by a Wisconsin registered architect or engineer.
- (5) A scaled drawing, showing the location and dimensions of the sign being applied for, along with the sign's relation to lot lines, streets (with identified names), any existing signs, and structures on the premises.

(Ord 86-06, §1, 7-11-06; Ord 34-18, §1, 4-10-18)

Sec. 23-541. Denial of sign permit.

If a sign permit is denied, the applicant can, within ten (10) days, request in writing the reasons for denial. The Inspections Supervisor shall then prepare a brief written statement of the reasons for denial.
(Ord 34-18, §1, 4-10-18)

Sec. 23-542. Variances and appeals.

(a) **Appeals.** Any aggrieved person adversely affected by the denial of a permit by the Inspections Supervisor may appeal such denial to the Board of Appeals pursuant to Sec. 23-67 of this Chapter provided the appeal is submitted in writing to the Inspections Supervisor in ten (10) calendar days after the receipt of his/her decision.

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(b) *Variances*. Variances to any provisions within this Article shall follow Sec. 23-67 of this chapter. (Ord 121-05, §1, 10-25-05; Ord 87-06, §1, 7-11-06; Ord 34-18, §1, 4-10-18)

Sec. 23-543. Reserved.

This section deleted with Ord 34-18, §1, 4-10-18.

Sec. 23-544. Indemnification of the city for sign installation and maintenance.

All persons engaged in the business of installing or maintaining signs involving the erection, alteration, relocation, or maintenance of a sign within or near public right-of-way or public property shall agree to hold harmless and indemnify the City or its officers, agents, and employees from any and all claims.

Sec. 23-545. Reserved.

This section deleted with Ord 34-18, §1, 4-10-18.

Sec. 23-546. Construction specifications.

(a) All signs shall comply with the provisions of Chapter 4 of this Municipal Code, the provisions of the National Electrical Code as amended, and the additional construction standards set forth in this section where applicable.

(b) All ground structures shall be self-supporting and permanently attached to sufficient foundations based on the height and size of sign.

(c) Electric service to ground signs shall be concealed.

(d) All signs, except those attached flat against the wall of the building, shall be constructed to withstand wind loads of thirty (30) pounds per square foot on the largest face of the sign and structure.

(e) No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections. (Ord 34-18, §1, 4-10-18)

Sec. 23-547. Maintenance required; abandoned signs.

(a) *Maintenance and repair*. All signs and murals shall be maintained in a safe, legible and good condition.

- (1) *Safety*. All signs shall be maintained to the same structural standards by which they were approved or, in the case of nonconforming signs and murals, the standard by which they would have otherwise been approved. All metal parts which are subject to rust or corrosion shall be painted at all times, all anchors and other fastenings shall be maintained in a secure and functioning condition capable of sustaining the loads for which they were designed.

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- (2) Legibility. All signs shall be maintained in a legible condition (except when a weathered or natural surface is intended). Painted signs and murals shall be repainted at such times as the deterioration of the paint results in illegibility or disfiguration.
- (3) Condition. All materials that comprise the sign face shall be replaced if broken. All electrical components, switches, lamps, relays, fuses and similar devices shall be maintained in good working order.

(b) ***Discontinued or abandoned signs.***

- (1) If any sign is discontinued or abandoned for a period of at least six (6) consecutive months in a twelve (12) month period, such sign shall be considered a public nuisance affecting or endangering surrounding property values and will be considered to be detrimental to the public health, safety and general welfare of the community.
- (2) All discontinued or abandoned signs and sign messages shall be removed by the owner or lessee of the premises when the business they advertised is no longer conducted there or the sign message contains obsolete advertising matter, except if any period of involuntary discontinuance occurs during the temporary closing of a street for road repair. If the owner or lessee fails to remove the sign, the Inspections Supervisor shall give the owner sixty (60) days written notice to remove the sign.
- (3) The Inspections Supervisor may take any appropriate legal action necessary to obtain compliance. Removal of the sign in question includes the removal of the sign structure and sign cabinet.

(Ord 34-18, §1, 4-10-18)

Sec. 23-548. Payment for sign removal.

When it becomes necessary for the Inspections Supervisor to remove or cause to be removed or taken down, a defective, unsafe, or dangerous sign, the cost thereof shall be placed on the tax roll as a special charge and become a lien against the benefited property, unless paid sooner.

Sec. 23-549. Penalty.

Any person who shall violate or cause to be violated any provisions of this section shall, upon conviction thereof, forfeit not less than fifty (\$50) dollars nor more than five hundred (\$500) dollars, together with the costs of prosecution. Each day a violation exists, or continues, shall constitute a separate offense.

Secs. 23-550 – 23-559. Reserved.

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DIVISION 6. SIGNS ALLOWED BY ZONING DISTRICTS

Sec. 23-560. Zoning district restrictions and exemptions.

(a) **Residential districts.** Signs not requiring a permit listed in Sec. 23-507 are signs permitted in the AG, R-1C, R-1A, R-1B, R-2, R-3 residential zoning districts. For design standard exceptions, see Sec. 23-529. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 23-561.

(b) **Commercial and industrial districts.** Signs permitted in the C-O commercial office, C-1 neighborhood mixed use, C-2 general commercial, M-1 industrial park and M-2 general industrial zoning districts are signs not requiring a permit listed in Sec. 23-507, ground, temporary, electronic message board, changeable copy, sandwich board, portable, projecting, wall, window, marquee, awning and canopy signs. For design standard exceptions, see Sec. 23-529. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 23-561.

(c) **Central business district.** Signs permitted in the CBD central business district are the same as in paragraph (b). For design standard exceptions, see §23-529. For Permitted and Prohibited Signs by Type and Zoning District, see §23-505 and §23-561.

(d) **Planned development districts.** Signs in a PD overlay district will be based on the permitted signage within the underlying zoning district. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 23-561.

(e) **Public Institutional district.** Signs permitted in the P-I Public Institutional district are the same as in paragraph (b). For design standard exceptions, see Sec. 23-529. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 3-561.

(f) **Nature conservancy district.** Signs not requiring a permit listed in Sec. 23-507 are signs permitted in the NC Nature conservancy district. For design standard exceptions, see Sec. 23-529. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 23-561.

(g) **Exemptions:**

(1) The following shall be exempt from the provisions of this article:

- a. Athletic score boards.
- b. Building address numbers.
- c. Flags.
- d. Interpretative signs or wayfinding signs.
- e. Menu boards.
- f. Official legal notices.
- g. Public Art.
- h. Umbrellas with commercial or non-commercial messages or speech.

(Ord 89-06, §1, 7-11-06; Ord 34-18, §1, 4-10-18)

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Sec. 23- 561. Table 3. Allowed and Prohibited Signs by Type and Zoning District.

Include, but are not limited to, the following:

Sign Type	AG	R-1A, R-1B, R-1C & R-2	R-3, NC	P-I & C-O	C-1 & C-2	CBD	M-1	M-2
Ground	A ^a	A ^a	A ^a	P	P	P	P	P
Building								
Awning	X	X	X	P	P	P	P	P
Building Marker	A	A	A	A	A	A	A	A
Canopy	X	X	X	P	P	P	P	P
Ghost	P	P	P	P	P	P	P	P
Marquee	X	X	X	P	P	P	P	P
Projecting	X	X	X	P	P	P	P	P
Roof	X	X	X	X	X	X	X	X
Suspended	X	X	X	P	P	P	P	P
Swinging	X	X	X	X	X	X	X	X
Wall	A ^a	A ^a	A ^a	P	P	P	P	P
Window	A	A	A	A	A	A	A	A
Miscellaneous								
Animated, flashing illumination, motion picture, laser projection, or sound emission	X	X	X	X	X	X	X	X
Banners and Wave Banners	A	A	A	A	A	A	A	A
Beacons	X	X	X	X	X	X	X	X
Billboard	X	X	X	X	X	X	X	X
Changeable Copy (manual and electronic message board)	X	X	X	P	P	P	P	P
Construction	A	A	A	A	A	A	A	A
Directional	A	A	A	A	A	A	A	A
Directory	A	A	A	A	A	A	A	A
Event	A	A	A	A	A	A	A	A
Governmental	A	A	A	A	A	A	A	A
Historical	A	A	A	A	A	A	A	A
Home Occupation	A	A	A	A	A	A	A	A
Interior	A	A	A	A	A	A	A	A
Model home	A	A	A	A	A	A	A	A
Neighborhood and Park Identity	A	A	A	A	A	A	A	A
Off-Premises	X	X	X	X	X	X	X	X
Personal Expression	A	A	A	A	A	A	A	A

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Sign Type	AG	R-1A, R-1B, R-1C & R-2	R-3, NC	P-I & C-O	C-1 & C-2	CBD	M-1	M-2
<i>Miscellaneous</i>								
Political Election Campaign	A	A	A	A	A	A	A	A
Portable	X	X	X	P	P	P	P	P
Public Institutional Identity	A	A	A	A	A	A	A	A
Real Estate	A	A	A	A	A	A	A	A
Residential	A	A	A	A	A	A	A	A
Sandwich Board	X	X	X	P	P	P	P	P
Vehicle	A	A	A	A	A	A	A	A

A – Allowed without a permit (§23-507).

P – Permit required.

X – Prohibited sign (§23-505).

a - Ground and wall signs are allowed only as identified in §23-507 and §23-529.

Secs. 23-562 – 23-569. Reserved.

ARTICLE XV. SITE PLAN REVIEW AND APPROVAL

Sec. 23-570. Site plan review and approval.

(a) **Purpose and intent.** A site plan review of certain new construction, rehabilitation of buildings, additions to structures, related site work and landscape development is required in order to further promote the safe and efficient use of land and to further enhance the value of property in the City. The site plan review process is intended to help ensure that newly developed properties, expanded structures or redeveloped properties are compatible with adjacent development and safety, traffic, overcrowding and environmental problems are minimized to the extent possible.

The site plan review requirements of this section are designed to ensure the orderly and harmonious development of property in the City in a manner that shall:

- (1) Promote the most beneficial relationship between adjacent land uses.
- (2) Facilitate efficient and safe circulation of traffic both on the site and as it interfaces with the public right-of-way and adjacent properties.
- (3) Permit development to a level commensurate with the availability and capacity of public facilities and services.
- (4) Encourage adequate provision for surface and subsurface drainage.
- (5) Provide appropriate screening of parking, truck loading, refuse containers, mechanical equipment and outdoor storage areas from adjacent residential districts and public rights-of-way.

(b) **No minor site plan or site plan review is required.**

(1) **Change in existing building or structure:**

When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .	And the proposed gross floor area of the addition or expansion of the existing building, structure or use, except for parking lots or parking spaces is . . .
0-10,000 square feet	Less than 1,000 square feet
10,001-25,000 square feet	Less than 2,500 square feet
25,001-50,000 square feet	Less than 5,000 square feet
50,001 square feet and over	Less than 7,500 square feet

- a. While no minor site plan or site plan review is required for the above addition or expansions, the addition or expansion is still subject to all applicable provisions of this chapter including but not limited to: lot coverage, setbacks, building height, parking, loading, signage and lighting.
- b. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for the above referenced addition or expansions pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed building permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(2) **Maintenance, overlay, resurfacing of an existing off-street parking lot and loading area.**

- a. While no minor site plan or site plan review is required for maintenance, overlay and resurfacing of an existing off-street parking lot and loading area, the maintenance, overlay or resurfacing activity is still subject to all applicable provisions of this chapter.

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- b. Off-street parking lot and loading area maintenance (patching). Fifteen percent (15%) or less than the total square foot area of an existing off-street parking lot and/or loading area is allowed to be patched per calendar year without submittal of a minor site plan or site plan.
- c. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for maintenance, overlay or resurfacing of an off-street parking lot and loading area pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(Ord 235-11, §1, 12-27-11; Ord 131-12, §1, 12-11-12)

(c) **Minor site plan review and site plan review.** In order to minimize submission requirements and expedite final approval for certain projects, there shall be two (2) types of site plan review: minor and major.

Minor site plan review shall be subject to review and approval by the Community and Economic Development Director and will require only that information identified in §23-570(g), Minor site plan required information, as deemed necessary by the Community and Economic Development Director to make an informed decision.

Site plan review shall be subject to the review and approval of the Community and Economic Development Director pursuant to **all** submission requirements of this section.

(1) **Development subject to minor site plan review.**

- a. Accessory buildings and/or structures, not including off-street parking lots or loading areas, that are 2,500 square feet or greater in size; except when associated with one-(1) or two-(2) family dwellings, unless when required per Certified Survey Map, Subdivision Plat, or the like.
- b. Personal wireless facilities as identified in §23-422(b)(1)-(3).
- c. Construction, reconstruction, rehabilitation and expansion of off-street parking lots and loading areas that consist of less than twenty (20) parking spaces or loading spaces.

(Ord 236-11, §1, 12-27-11)

(2) **Development subject to site plan review.**

- a. The following new principal buildings, uses, building additions, or structures in any zoning district; except for one-(1) and two-(2) family dwellings or accessory buildings, structures, or uses when associated with or located within one-(1) and two-(2) family dwellings, unless required per Certified Survey Map, Subdivision Plat, or the like:
 - 1. Any new principal buildings or structures.
 - 2. Additions to existing principal buildings, structures or uses except single and two (2) family dwellings and accessory buildings, structures, or uses as established in the table below:

When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .	And the proposed gross floor area of the addition or expansion of the existing building, structure or use except for parking lots or parking spaces is . . .
0-10,000 square feet	1,000 square feet or greater
10,001-25,000 square feet	2,500 square feet or greater
25,001-50,000 square feet	5,000 square feet or greater
50,001 square feet and over	7,500 square feet or greater

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3. Construction, reconstruction, rehabilitation and/or expansion of off-street parking lots and loading areas that consist of twenty (20) or more parking spaces or loading spaces.
4. Off-street parking lot and loading area reconstruction (patching). Reconstruction (patching) of off-street parking lots and loading areas that affects greater than fifteen percent (15%) of the total square foot area of an existing off-street parking lot and/or loading area per calendar year.
5. Mobile Service Support Structures and Facilities and Mobile Service Support Structures and Facilities Substantial modification (Class I Collocation) pursuant to Sec. 23-66(h)(22).

(Ord 237-11, §1, 12-27-11; Ord 116-23, §1, 10-10-23)

(d) **Authority.** The Community and Economic Development Director is hereby charged with the duty of performing site plan review and granting site plan approval for minor site plans and site plans.

(e) **Procedure.** Whenever any property owner or individual having a contractual interest proposes to develop/redevelop any tract or parcel of land where site plan review is required, that person shall submit to the Community and Economic Development Director a request for minor site plans or site plan approval.

- (1) **Presubmittal meeting.** To ensure the correct submission of a minor site plan or site plan and to identify the requirements for a complete application, applicants shall attend a presubmittal meeting with the City Community and Economic Development staff prior to submitting an application for site plan review. The applicant will discuss with staff the submission requirements for minor site plan and site plan review. The Community and Economic Development Director shall have the authority to waive the presubmittal meeting, if necessary.
- (2) **Submission of application.** All required information shall be submitted to the Community and Economic Development Director for review and processing. Within fifteen (15) business days after the submittal and acceptance of a complete application, and after notification to the Alderperson of the appropriate district and in consultation with other City officials, the Community and Economic Development Director shall, in a written decision, state the findings of the Site Plan Review Committee. Upon approval, approval with modifications or conditional approval, a building permit may be issued.
- (3) **Request of additional information.** If in the judgment of the reviewing authority, the site plan application does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the fifteen (15) business day period referred to above shall be suspended pending the receipt of all information requested.
- (4) **Issuance of Building Permit.** No building permit shall be issued by the City until site plan approval has been granted as provided in this section, unless otherwise authorized by the Director of the Department of Public Works.

(Ord 171-11, §1, 8-9-11)

(f) **Fees and structure.** Fees for site plan review shall be established by the City to cover the cost of this review. This fee may include passing along review costs of consultants or agencies that may be requested for review of site plans under unique circumstances such as traffic impact studies or stormwater management plans.

(g) **Minor site plan required information.** Minor Site Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 11"x17" or a previously approved site plan may be used and submitted. A total of five (5) complete sets shall be submitted to the Community and Economic Development Director.

- (1) All Minor Site Plans shall include as a minimum all of the information as required on a form provided by the Department of Community and Economic Development.
- (2) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

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(h) **Site plan required information.** Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 24" x 36". A total of five (5) complete folded sets shall be submitted to the Community and Economic Development Director.

- (1) All Site Plans shall include, as a minimum, all of the information as required on a form provided by the Department of Community and Economic Development.
- (2) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

(i) **Scope of review.** The Department of Community and Economic Development, when evaluating minor site plans or site plans, will review:

- (1) The relationship of the site plan to adopted land use plans and policies.
- (2) Parking layout so as to:
 - a. Minimize dangerous traffic movements.
 - b. Achieve efficient traffic flow in accordance with standards in the Institute of Traffic Engineers Transportation and Traffic Engineering Handbook.
 - c. Provide for the optimum number of parking spaces, while maintaining City design standards.
 - d. Provide for pedestrian safety.
- (3) Provisions for surface and subsurface drainage and for connections to water and sewer lines, so not to overload existing public utility lines nor increase the danger of erosion, flooding, landslide or other endangerment of adjacent or surrounding properties.
- (4) Landscaping, so as to:
 - a. Maintain existing mature trees and shrubs to the maximum extent practicable. Where practical, the property owner shall make every effort to preserve and retain existing trees and vegetation on the site when designing for the development or redevelopment of the site during design, construction and after construction.
 - b. Buffer adjacent incompatible uses.
 - c. Screen unsightly activities from public view.
 - d. Break up large expanses of asphalt and buildings with plant material.
 - e. Provide an aesthetically pleasing landscaping design.
 - f. Provide plant materials and landscaping designs that can withstand the City's climate and the microclimate on the property.
- (5) Location of principal structures, accessory structures, lighting, freestanding signs, refuse containers, mechanical equipment, etc. so that their location and proportion does not impede safe and efficient traffic flow or adversely impact the development of adjacent property or the character of the surrounding neighborhood.
- (6) All electrical, telephone and cable lines shall be placed underground whenever practical.
- (7) Compliance with this chapter, the subdivision regulations, the stormwater management ordinance, erosion control ordinance and stormwater utility of the City of Appleton.

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(j) **Validity of approval, expiration and revisions to site plan.** A site plan shall become effective upon obtaining certification of approval by the Community and Economic Development Director on the minor site plan or site plan application and the signature of the Director on the approved plans (revised if necessary).

The approval of any site plan required by this section shall remain valid for one (1) year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this article, "actual construction" shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property or stockpiling of materials on the site shall not constitute actual construction.

An approved site plan shall remain in effect until it is supplanted by a new site plan or is deemed null and void as identified above. A revision to a site plan may be requested by submitting the changes in writing or on a copy of the approved site plan to the Community and Economic Development Director. The Community and Economic Development Director may approve, approve with conditions, deny the requested revision(s) or determine that a new site plan is needed.

Cases that require an extension of time by the applicant can be submitted to the Community and Economic Development Director, in writing, for consideration. In no case, however, shall an extension of time exceed one (1) year.

(k) **Appeal.** If the Community and Economic Development Director denies the application for a site plan or approves the site plan with conditions, the applicant may appeal the decision to the Plan Commission. A notice of appeal must be filed with the Community and Economic Development Director no later than fifteen (15) days after receipt by the applicant of the decision of the Community and Economic Development Director. Failure by an applicant to file an appeal in accordance with the foregoing provisions shall be deemed to constitute a withdrawal of the application for a site plan.

The Plan Commission shall act as promptly as practical on any appeal taken in connection with the proposed site plan. The Plan Commission shall approve, approve with conditions or disapprove the site plan by action taken by a majority of the Plan Commission present at any meeting at which a quorum is present. If the Plan Commission approves the site plan, a building permit may then be issued, provided that all other requirements of all other applicable City codes and ordinances are satisfied.

(l) **Violation.** Construction or other activities contrary to the approved site plan, or in the absence of an approved plan, shall be a violation of this section.

(Ord 61-94, §5, 5-18-94; Ord 52-95, §1, 4-19-95; Ord 69-96, §1, 8-7-96; Ord 106-96, §1a, 11-6-96, Ord 121-05, §1, 10-25-05; Ord 167-07, §1, 12-25-07; Ord 235-11, §1, 12-27-11; Ord 237-11, §1, 12-27-11; Ord 55-20, §1, 3-24-20; Ord 116-23, §1, 10-10-23)

Secs. 23-571 – 23-600. Reserved.

ARTICLE XVI. LANDSCAPING AND SCREENING

Sec. 23-601. Landscaping and screening standards.

(a) **Purpose.** The landscaping and screening requirements specified in this section are intended to:

- (1) Foster aesthetically pleasing development which will protect and enhance the appearance, character, health, safety and welfare of the community; and
- (2) To increase the compatibility of adjacent uses, by minimizing adverse impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views, activities or impacts to adjacent or surrounding uses.

(b) **Applicability.** A landscape plan shall be required for all exterior construction and development activity, including the expansion of existing buildings, structures and parking lots, except construction of detached single-family and two-family dwellings and their accessory structures. The landscape plan shall be drawn in conformance with the requirements specified in this section.

(c) **Authority.** The Community and Economic Development Director is hereby charged with the duty of performing landscape plan review and granting landscape plan approval prior to issuance of a building permit.

Landscape plans for special use permits and planned developments shall also be reviewed and approved by the Plan Commission and Common Council.

(d) **Approval procedure.** Whenever any property owner or individual having a contractual interest proposes to develop, redevelop or expand a building, structure, or off-street parking lot on any tract or parcel of land where landscape plan review is required, that person shall submit to the Community and Economic Development Director a request for landscape plan approval.

All required information shall be submitted to the Community and Economic Development Director for review and processing. Within thirty (30) days after submittal, the Community and Economic Development Director, after notification to the alderperson of the appropriate district and in consultation with other City officials, shall approve, approve with modifications, conditionally approve or deny the request. If, in the judgment of the reviewing authority, the landscape plan does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the thirty (30) day period referred to above shall be suspended pending the receipt of all information requested.

The Community and Economic Development Director may seek professional advice from a registered landscape architect or licensed nurseryman in the review of any submitted landscape or screening plan. The cost of such consultation shall be passed on to the applicant.

Any applicant aggrieved by a decision to deny a permit may appeal as set out in §23-68, Administrative appeals.

No building permit shall be issued by the City until landscape plan approval has been granted as provided in this chapter.

(e) **Required information.** All landscape plans submitted for approval shall contain or have attached the following information:

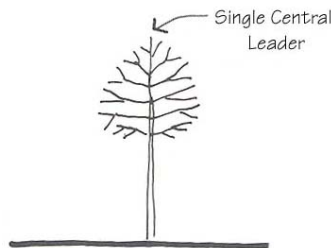
- (1) The location and dimensions of all existing and proposed structures, building entrances, parking lots and drives, rights-of-way, sidewalks, bicycle paths, ground mounted signs, refuse disposal areas, bicycle parking areas, fences, freestanding electrical equipment, recreational facilities and other freestanding structural features.
- (2) In the required landscape plan, state, at planting and at maturity, the location, quantity, size and name (including common and botanical names) of all proposed plant materials and any other information to fully describe the plant material. The location, size and type of existing plant material shall simply be identified.

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- (3) The location of all existing trees over six (6) inches in diameter.
- (4) The location and size of existing structures and plant materials on adjacent property within the required yard of that adjacent property.
- (5) Existing and proposed grading of the site, including proposed berming (indicating contours at one (1) foot intervals), spot elevations for high and low points, the flow line of drainage swales and grading features such as retaining walls, etc.
- (6) Specification of the type and boundaries of all proposed ground cover.
- (7) Elevations, including dimensions and materials, of all fences proposed for construction on the site.

(f) **Design criteria.** Landscape plans shall be prepared, evaluated and approved based on design criteria as identified below:

- (1) Landscaping, at a minimum, shall reflect the character of the property and of adjacent properties.
- (2) Any landscaping located within the front setback, in a required vision corner or within ten (10) feet of a private driveway (§23-50(g), Vision corner), shall have the following restrictions:
 - a. Shrubs shall be maintained at a height of no greater than three (3) feet.
 - b. Trees must have a clearance from the ground to the bottom of the first branch of a minimum of six (6) feet.
- (3) Side yard screening located within ten (10) feet of the street right-of-way or private driveway must not exceed three (3) feet in height. For other side and rear yard screening requirements, see §23-50(g), Vision corner.
- (4) The mature spread and overhang of plantings shall not obstruct pedestrian use of walkways or vehicular use of drives or off-street parking spaces.
- (5) All shade trees shall have a minimum trunk size of two and one-half (2½) inches in diameter upon installation as measured at six (6) inches above the established ground level. Shade trees shall be specimen grade with a single central leader.

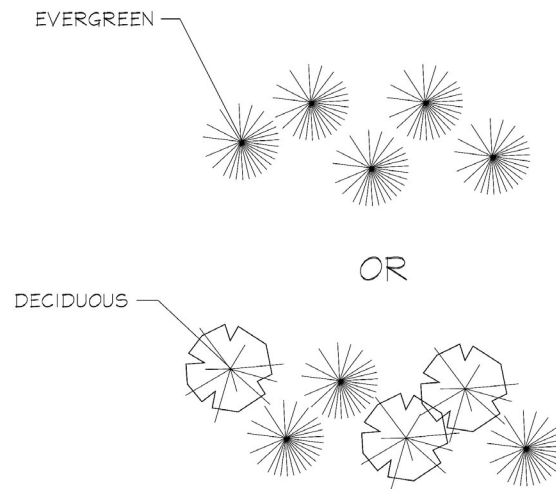


- (6) Trees and plant materials used in landscaping and screening shall conform to the standards of the American Association of Nurserymen and shall have passed any inspection required under state regulations.
- (7) Detention/retention basins and ponds shall be landscaped. Such landscaping may include shade and ornamental trees, grasses, evergreens, shrubbery, hedges or other suitable planting materials and used in a manner that controls siltation and erosion.
- (8) Trees to be maintained on and adjacent to the property shall be protected during construction by placing a barrier beyond the dripline of the tree canopy.
- (9) New plantings shall not be allowed to shade an existing solar panel receptor on an adjacent property.

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- (10) The scale and nature of landscaping materials shall be appropriate to the size of buildings and structures in the project, as well as complement the surrounding neighborhood.
- (11) Plant material shall be selected for its form, texture, color, and maintenance and with consideration for its ultimate size at maturity and its adaptability to site conditions.
- (12) Shrubs and hedges used for screening purposes shall be installed in a staggered pattern and shall be at least twenty-four (24) inches in height at the time of planting. The plantings shall be designed to provide an effective, dense screen within two (2) years after the date of planting. The height at installation of the planting shall be measured from the level of the surface of the plant base at the edge closest to the screening.

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- (13) At maturity, trees shall be maintained so there is a seven (7) foot underclearance when over off-street parking spaces, off-street loading spaces and drive aisles, and a ten (10) foot underclearance when over a public right-of-way to meet Crime Prevention Through Environmental Design (CPTED) standards. Trees shall be planted as far from the public sidewalk as possible.
- (14) Plant material shall be placed intermittently against long expanses of building walls, fences and other barriers to achieve a softening effect of hard building lines.
- (15) Earthen berms and existing topography shall be incorporated into the landscape treatment of a site. Berms shall conform to the following standards:
 - a. The maximum side slope of any berm shall be three horizontal to one vertical (3:1) and the design shall be reviewed by the Community and Economic Development Director to ensure that proper drainage, erosion prevention and control practices have been utilized.
 - b. Berms and earth mounds shall be designed with physical variations in height and alignment throughout their length.
 - c. Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.
- (16) Plantings or an enclosure shall screen service structures such as mechanical equipment, utility box pads and pedestals, trash containers and other enclosures.
- (17) Plantings around the base of ground signs is required. A minimum area of total sign face area of one (1) side of a sign shall be landscaped at the base of the sign.

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- (18) Existing plant material shall, wherever practical, be incorporated into the landscape treatment of a site.
- (19) Where utilities are to be installed within an existing root zone area, augering under the roots rather than trenching shall be used. Augering at a depth of four (4) feet is recommended.
- (20) Planting beds shall be mulched with bark chips, or other similar natural quality landscaping materials. Decorative stone may be use in conjunction with natural mulch upon approval by the Community and Economic Development Director.
- (21) When walls or fences are used to fulfill screening requirements, they shall be detailed on the required plan. They are to be constructed of weatherproof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware. Chain link fences with tubular privacy slats may be permitted to satisfy screening requirements if approved by the Community and Economic Development Director.

Any wall or fence used for screening shall be constructed so that the finished, or most visually appealing side of the wall or fence, is facing the adjacent property. Any wall or fence not used for screening purposes shall be regulated in §23-44, Fences and walls, of this zoning ordinance.

- (22) When screening service structures, the following regulations shall be observed:
- a. Service structures shall include, but not be limited to: propane tanks, trash containers, electrical transformers, utility vaults which extend above the ground; ground mounted utility equipment, transformer boxes and other equipment or elements providing service to a building or a site. The screening height shall be based upon the tallest point of the structure(s) being buffered.
 - b. A continuous staggered planting of evergreens, an alternating board on board fence or a chain link fence with tubular privacy slats, shall enclose any service structure on all sides, unless such structure must be frequently moved or accessed, in which case screening material shall be established to allow access to the structure.
 - c. Whenever screening material is placed around any trash containers or waste collection unit that is emptied or removed mechanically on a regular basis. The plant material shall be at a sufficient distance from the enclosure to prevent possible damage to the screening when the container is moved or emptied.

- (23) As landscaping is a site-specific design element, a waiver may be requested from the Community and Economic Development Director.

(g) **Parking lot landscaping.** All parking lots shall be landscaped and screened in accordance with the provisions in §23-172, Off-street parking and loading standards.

(h) **Maintenance.**

- (1) **Responsibility.** The owner of the premises shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers, including refuse disposal areas, as may be required by the provisions of this chapter. The owner or developer must provide a maintenance plan which indicates how the established buffer and landscaped areas will be maintained.
- (2) **Landscaping materials.** All landscaping materials shall be installed and maintained to accepted nursery practices. All plant material shall be maintained in good condition and shall be kept free of refuse and debris so as to present a healthy, neat and orderly appearance. All unhealthy or dead plant material shall be replaced at the next planting period.
- (3) **Fences and walls.** Fences, privacy slats, walls and other barriers shall be maintained in good repair.
- (4) **No disturbance.** Once a buffer has been approved by the Community and Economic Development Director and established by the owner, it may not be used, disturbed or altered for any purpose without review and approval of a new landscape plan submitted by the applicant.

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(i) **Alternative compliance landscape plan.** An alternative compliance landscape plan may be approved by the Community and Economic Development Director, upon request, if an applicant demonstrates that the intent of this section can be more effectively met, in whole or in part, through alternative means. If approved, an alternative compliance landscape plan shall be substituted, in whole or in part, for a landscape plan meeting the express terms of this section. Alternative compliance is not a departure, variance or a waiver. The proposed solution must meet or exceed otherwise applicable landscaping and screening requirements as established in this section.

- (1) **Procedure.** Alternative compliance landscape plans shall be prepared and submitted in accordance with the landscape plan procedures as identified in this section. The plan shall be clearly labeled as an "*Alternative Compliance Landscape Plan*," and it shall clearly identify the modifications and alternatives proposed.
- (2) **Review criteria.** In reviewing proposed alternative compliance landscape plans, favorable consideration shall be given to exceptional landscape designs that attempt to preserve and incorporate existing vegetation in excess of minimum standards and plans that demonstrate innovative design and use of plant materials. Alternative compliance landscape plans may be approved upon a finding that any of the following circumstances exist on the proposed building site or surrounding properties:
 - a. Natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this article;
 - b. Innovative landscaping or architectural design is employed on the proposed development site to achieve a screening effect that is equivalent to the screening standards of this section;
 - c. The required landscaping or buffering would be ineffective at maturity due to topography or the location of improvements on the site; or
 - d. The proposed alternative represents a plan that is as good or better than a plan prepared in strict compliance with the other standards of this section.
 - e. The alternative landscaping plan would achieve a better way to help achieve the containment of stormwater or enhance the overall quality of stormwater.

(j) **Modifications of standards.** The Community and Economic Development Director shall have the authority to waive or modify the requirements and standards of this section for good cause shown by the applicant. (Ord 238-11, §1, 12-27-11; Ord 239-11, §1, 12-27-11; Ord 240-11, §1, 12-27-11; Ord 241-11, §1, 12-27-11; Ord 243-11, §1, 12-27-11; Ord 56-20, §1, 3-24-20; Ord 57-20, §1, 3-24-20)

Secs. 23-602 – 23-650. Reserved.

ARTICLE XVII. HISTORIC PRESERVATION

Sec. 23-651. Historic preservation.

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

- (1) Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of Appleton’s cultural, social, economic, political, artistic and architectural history;
- (2) Safeguard Appleton’s historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts;
- (3) Foster civic pride in the notable accomplishments of the past;
- (4) Stabilize and improve property values and enhance the visual and aesthetic character of Appleton;
- (5) Protect and enhance Appleton’s attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

(b) **General.** This section shall in no way be construed to undermine or supersede and shall be consistent with the existing adopted City of Appleton Municipal Code which protects the public health, safety and welfare of Appleton residents. Ordinary maintenance and repairs shall be made to ensure compliance with Article 4 of Chapter 4 of the Municipal Code.

(c) **Definitions.** See Section 23-22 Words and terms defined, under the reference “HISTORIC PRESERVATION”.

(d) **Organization.** The Historic Preservation Commission is hereby created and shall consist of five (5) regular members and two (2) alternates appointed by the Mayor and subject to approval by the Common Council as vacancies occur or terms expire.

(e) **Members and qualifications.** If possible, one (1) regular member shall be an architect; one (1) shall be an alderperson; two (2) regular members shall have historian, restoration craftsperson, or architectural history credentials or expertise, or other historic preservation related disciplines such as urban planning, American Studies, American Civilization, cultural geography or cultural anthropology; one (1) regular member shall be a licensed real estate broker with two (2) alternates appointed from any of the above qualifications. All members shall be selected for their knowledge of and interest in matters pertaining to this section. Alternate members shall have full voting power in the event one (1) or more regular members have declared a conflict of interest or in the event one (1) or more regular members are absent.

(f) **Terms.** The term for each member shall be three (3) years on staggered terms except, the alderperson will be appointed annually at the Common Council annual reorganizational meeting. The term for each member shall expire May 1 of each year.

(g) **Reorganizational meeting.** The Historic Preservation Commission shall reorganize in May of each year by electing a chair, vice-chair, contact person and secretary. All meetings of the Commission shall be held at the call of the chairman or at such times as the Commission determines.

(h) **Designation of local historic structures, local historic sites and local historic districts.** The Historic Preservation Commission shall have the power to recommend local designation of historic structures, historic sites and historic districts within the City of Appleton limits. Such designation shall be made based on the review of the local historic structure, local historic site and local historic district designation criteria identified in subsection (i) of this section. Local designation of historic sites, historic structures and historic districts shall be recommended to the Common Council for a final approval. Once designated, such local historic structures, local historic site and local historic district shall be subject to all the provisions of this chapter.

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(i) **Local historic structure, local historic site and local historic district designation criteria.** For purposes of this chapter, a local historic structure, local historic site or local historic district designation may be placed on any improvement parcel, natural area, improvement, or any area of particular historic, architectural, archeological or cultural significance to the City of Appleton, the state or the nation, which is determined to have historical significance by meeting at least one (1) of the following criteria:

- a. Criterion 1: Are identified with important events that exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
- b. Criterion 2: Are identified with an important person or persons that have made specific contributions to national, state or local history; or
- c. Criterion 3: Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship, or that represents a significant and distinguishable entity whose components lack individual distinction; or
- d. Criterion 4: Are representative of the notable work of a master builder, designer or architect who influenced his age; or
- e. Criterion 5: Have yielded, or may be likely to yield, information important to prehistory or history.

(j) **Operating guidelines.** The Historic Preservation Commission may adopt specific operating guidelines subject to Common Council approval for local historic structure, local historic site and local historic district designation, providing such operating guidelines are in conformance with the provisions of this chapter. It is important to ensure that these operating guidelines are reviewed on a regular basis to ensure they are appropriate to the architectural and site characteristics of the full range of the City of Appleton's designated local historic structures, local historic sites and local historic districts and that they adequately reflect current understandings of appropriate restoration and rehabilitation techniques.

(k) **Procedure for designation of local historic structures and sites.**

- (1) **Application process.** Application forms for designation of local historic structures and local historic sites shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.
- (2) **Informal Public hearing at Historic Preservation Commission.** At least fourteen (14) days prior to such informal public hearing, the Community and Economic Development Department shall mail the informal public hearing notice, by 1st Class mail, to the alderperson of the aldermanic district, owners of record of the proposed local historic structure designation or local historic site designation and owners situated within one hundred (100) foot radius of the nominated local historic structure or site, as listed in the Office of the City Assessor. The informal public hearing notice shall identify the purpose, date, time and place of the informal public hearing.
 - a. The Historic Preservation Commission shall then conduct such informal public hearing and, in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.
- (3) **Action by the Historic Preservation Commission.** After the close of the informal public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic structure designation or local historic site designation to the Common Council, unless time is extended by agreement between the Historic Preservation Commission and the owner or owner's agent in charge of the property.
- (4) **Action by the Common Council.**

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- a. Notice of public hearing for proposed local historic structure designation or local historic site designation shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
- b. At least fourteen (14) days prior to such public hearing, the City Clerk shall mail the public hearing notice by 1st Class mail, to the alderperson of the aldermanic district, owners of record of the proposed local historic structure designation or local historic site designation and owners situated within one hundred (100) foot radius of the nominated local historic structure or site, as listed in the Office of the City Assessor. The public hearing notice shall identify the purpose, date, time and place of the public hearing.
- c. After the close of the public hearing, the Common Council shall review the report and recommendation of the Historic Preservation Commission. The Common Council shall either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission.
- d. City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(l) ***Procedure for designation of local historic districts.***

- (1) ***Historic district designation criteria.*** For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the city of Appleton to be designated as a local historic district and shall, in cooperation with the property owner(s) or owner's agent prepare a Historic Preservation Plan for each area. A local historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city of Appleton, after review of the criteria in subsection (i) a., b., c., d. and e. of this section.
 - a. ***Local Historic Preservation Plan.*** Each local historic preservation plan shall include the following:
 1. a brief description of the district,
 2. identification of the current property owners of record, of the contributing structures,
 3. identification of the uses/functions of each property in the district,
 4. a legal description of the district boundaries,
 5. a map showing the legal boundaries of the district,
 6. current photographs of the contributing structures,
 7. a historical/cultural and architectural analysis supporting the historic/cultural significance of the district, and
 8. a statement of preservation objectives and specific guidelines for future historic preservation alterations, historic preservation repairs or demolition activities within the district.
- (2) ***Application process.*** Application forms for local historic district designations shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application, the Local Historic Preservation Plan and supporting materials are then filed with the City Clerk.
- (3) ***Informal public hearing at Historic Preservation Commission.*** At least fourteen (14) days prior to such hearing, the Community and Economic Development Department shall mail the informal public hearing notice, by 1st Class mail, to the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district and owners of property in whole or in part situated within a one hundred (100)

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foot radius of the nominated local historic district, as listed in the Office of the City Assessor. The notice of informal public hearing shall identify the purpose, date, time and place of the informal public hearing.

- (4) ***Action by the Historic Preservation Commission.*** After the close of the informal public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic district designation and adoption of the proposed Local Historic Preservation Plan to the Common Council, unless time is extended by agreement between the Historic Preservation Commission and the owner(s) or owner's agent in charge of the property.
- (5) ***Action by the Common Council.***
- a. Notice of public hearing for designation of local historic districts and adoption of the Local Historic Preservation Plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
 - b. At least fourteen (14) days prior to such hearing, the City Clerk shall mail the public hearing notice by 1st Class mail, to the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district, and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor.
 - c. After the close of the public hearing, the Common Council shall review the report and recommendation of the Historic Preservation Commission. The Common Council shall either approve or deny the proposed local historic district designation and the proposed Local Historic Preservation Plan, or refer the matter back to the Historic Preservation Commission. Designation of the local historic district shall constitute adoption of the proposed Local Historic Preservation Plan prepared for that local historic district and denotes the implementation of said plan.
 - d. The City Clerk shall send written notice of the action taken by the Common Council to the property owners or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(m) ***Recognition of locally designated historic structures, historic sites and historic districts.*** At such time as a locally designated historic structure, historic site or historic district has been properly designated, the Historic Preservation Commission, in cooperation with the property owner(s) or owner's agent, may allow a suitable plaque, marker or other appropriate identifier declaring that such property is a local historic structure, local historic site, local historic district, or a contributing structure.

(n) ***Certificate of Appropriateness provision: Regulation for exterior construction, reconstruction, historic preservation alteration and demolition.***

- (1) No owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall be issued a permit by the Division of Inspections for any work identified in subsection (n)(2) a. and b. of this section, unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission.
- (2) An owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall apply for and receive approval of a Certificate of Appropriateness from the Historic Preservation Commission prior to performing any of the following work:
 - a. Historic preservation alterations or demolition of all or any part of a local historic structure, local historic site or contributing structure;
 - b. Historic preservation alterations or demolition of any improvement upon a local historic structure, local historic site or contributing structure.
- (3) ***Application process.*** Application forms for a Certificate of Appropriateness shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete

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application through initial review by the Director, the complete application, which includes the written application and supporting materials are then forwarded to the Historic Preservation Commission.

- a. ***Standards for granting Certificate of Appropriateness for exterior construction, reconstruction and historic preservation alterations.*** In determining whether to approve or deny a Certificate of Appropriateness for a historic preservation alteration, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:
 1. In the case of a local historic structure, local historic site or a contributing structure, the proposed work utilizes materials that are similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure;
 2. In the case of the construction of a new improvement upon a local historic structure, local historic site, or a contributing structure, the exterior materials of such improvement are similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure;
 3. In the case of any improvement made to a contributing structure, the proposed exterior historic preservation alteration shall conform to the purpose of this section and to the objectives and design criteria of the local historic preservation plan for the applicable local historic district.
 - b. ***Standards for granting Certificate of Appropriateness for demolition.*** In determining whether to approve or deny a Certificate of Appropriateness for any demolition of all or part of a local historic structure, a local historic site or a contributing structure, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:
 1. The local historic structure or local historic site or contributing structure is in such deteriorated condition that it is not economically feasible to renovate or restore it, provided that any economic hardship or difficulty claimed by the owner or owner's agent has not been self-created or is not the result of any failure to maintain the local historic structure, local historic site or contributing structure in good repair.
 2. The local historic structure, local historic site or contributing structure is of such local architectural or historical significance that its demolition would not be detrimental to the public interest and would not be contrary to the general welfare of the people of the city of Appleton and the state;
 3. The denial of the demolition permit would result in the loss of reasonable and beneficial use of or economic return from the property.
- (4) ***Review and decision by the Historic Preservation Commission.*** The Historic Preservation Commission, within twenty-five (25) business days from the date the Certificate of Appropriateness application was accepted by the Director, shall either approve or deny the application, unless the time is extended by agreement between the Historic Preservation Commission and the owner or owner's agent in charge of the property. The Historic Preservation Commission shall clearly state the reasons why the exterior materials are similar or are not similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure.
- (5) ***Appeals.***
- a. If the Historic Preservation Commission denies the Certificate of Appropriateness, the Historic Preservation Commission shall, at the request of the owner or person in charge of such property, work

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with the owner or owner's agent in charge of such property in an attempt to obtain a Certificate of Appropriateness within the standards of this section.

- b. In addition, if the Historic Preservation Commission denies the application for a Certificate of Appropriateness due to the proposal failing to conform to the standards for granting a Certificate of Appropriateness as identified in this section, the owner or owner's agent may appeal such decision to the Common Council.

1. The owner or owner's agent in charge of such property shall file a written appeal specifying the grounds for such an appeal with the Director no later than thirty (30) days from the date of the decision of the Historic Preservation Commission. Failure by the owner or owner's agent in charge of such property to file a written appeal in accordance with the abovementioned provisions shall be deemed to constitute a withdrawal of the application for a Certificate of Appropriateness.

2. After consideration of the appeal, the Common Council by majority vote may either affirm the decision of the Historic Preservation Commission or approve the issuance of the Certificate of Appropriateness, in which case the Director shall issue the Certificate of Appropriateness.

(6) **Other permits and approvals.** The approval of a Certificate of Appropriateness shall not relieve the property owner or owner's agent from applying for and obtaining all necessary permits and approvals pursuant to the Municipal Code prior to the commencement of such proposed work.

(7) **Violation; penalty.** Failure to comply with the approved Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness prior to the issuance of a building permit shall be a violation of this section. Administration and enforcement shall be as prescribed in the enforcement section of this chapter.

(o) **Exempt work from Certificate of Appropriateness provisions.** Historic preservation repairs made to a local historic structure or local historic site or contributing structure may be undertaken without a Certificate of Appropriateness, provided the work involves repairs to existing exterior features of a local historic structure or local historic site, or the replacement of existing exterior features of a local historic structure, local historic site or contributing structure with materials that are identical in design, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure and does not require the issuance of a building permit. Painting is exempt from the Certificate of Appropriateness provisions.

(p) **Procedure to rescind a local historic structure designation, local historic site designation and local historic district designation.**

(1) **Application process.**

- a. **Rescind a local historic structure designation or local historic site designation.** The property owner or owner's agent in charge of a local historic structure or local historic site shall submit an application form to rescind a local historic structure designation or local historic site designation to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

- b. **Rescind a local historic district designation.** The majority (greater than fifty percent (50%)) of the property owners and/or owner's agents in charge of a contributing structure shall submit an application form to rescind a local historic district designation and the applicable local historic preservation plan to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

(2) **Public Hearing at Historic Preservation Commission.**

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- a. Notice of public hearing to rescind a local historic structure designation, local historic site designation, or local historic district designation and the applicable local historic preservation plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
- b. At least fourteen (14) days prior to such hearing, the Community and Economic Development Department shall mail the public hearing notice, by 1st Class mail, to the alderperson of the aldermanic district, owners of record, and owners of property in whole or in part situated within a one hundred (100) foot radius of the local historic structure, local historic site or local historic district, as listed in the Office of the City Assessor.
- c. The Historic Preservation Commission shall then conduct such public hearing, and in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.

(3) **Action by the Historic Preservation Commission.** After the close of the public hearing, the Historic Preservation Commission shall review the rescission criteria in subsection (p)(3)a.1., 2., 3., and 4. of this section and either recommend approval or denial of the proposed rescission to the Common Council.

- a. **Rescission Criteria.** Rescission can occur for any one (1) or more of the following:
 1. The property owner has requested the designation to be rescinded for economic hardship or health reasons;
 2. For the failure to adhere to the specific standards of the historic district in which the property is located;
 3. For the failure to adhere to the specific standards of the zoning district the property is located; or
 4. The designated historic structure, site or district no longer meets the criteria of designation or retains the integrity necessary for designation.

(4) **Action by the Common Council.**

- a. After receiving and reviewing the report and recommendation of the Historic Preservation Commission the Common Council shall either approve, deny, or postpone the proposed application to rescind a local historic site designation, a local historic structure designation or a local historic district designation and the applicable local historic preservation plan, or refer the matter back to the Historic Preservation Commission.
- b. The City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(q) **Building permit.**

- (1) No building permit shall be issued by the Division of Inspections for historic preservation alteration, demolition or removal of a nominated local historic structure, local historic site, or a structure identified as contributing to a nominated local historic district, from the initial meeting date when the Historic Preservation Commission has been presented with a nomination through the date of final disposition of the nomination by the Common Council. No building permit shall all be issued for the following reasons: historic preservation alteration, removal or demolition. An exception shall be permitted when historic preservation alteration, repair, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delay be for more than sixty (60) days.

(Ord 139-95, §1, 12-20-95, Ord 45-00, §1, 6-10-00; Ord 98-12, §1, 10-9-12; Ord 88-19, §1, 9-10-19)

Editor's Note: Article XVII Historic Preservation was repealed and recreated via ordinance 98-12 adopted by the Common Council on October 3, 2012, published October 8, 2012, effective October 9, 2012.

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Secs. 23-652 – 23-699. Reserved.

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ARTICLE XVIII. SMALL WIND ENERGY SYSTEMS.

Sec. 23-700. Small wind energy systems.

(a) **Purpose.** The purpose of this ordinance is to oversee the permitting of small wind energy systems and preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system (per Wis. Stat. §66.0401).

(b) **Definitions.** See §23-22 Definitions of this ordinance under “small wind energy systems”.

(c) **Development standards.** Small wind energy systems are accessory uses and shall be a special use in all residential districts and a permitted accessory use in all other zoning districts:

(1) **Setbacks.** A wind tower for a small wind system shall be set back a distance equal to its total height from:

- a. Any right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the right-of-way. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.
- b. Any overhead utility lines, that are within the falling arc of the entire small wind energy system plus ten (10) feet unless written permission is granted by the affected utility. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.
- c. All property lines, unless written permission is granted from the affected land owner or neighbor. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.

(2) **Access.**

- a. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.

(3) **Electrical wires.** All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall not be suspended in the air.

(4) **Lighting.** A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

(5) **Appearance, color and finish.** The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless otherwise indicated in the building permit.

(6) **Signs.** All signs, other than the manufacturer’s or installer’s identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system shall be prohibited.

(7) **Code compliance.** A small wind energy system including tower shall comply with all applicable federal, state and/or local construction and electrical codes.

(8) **Utility notification and interconnection.** Small wind energy systems that connect to the electrical utility shall comply with the Public Service Commission of Wisconsin’s Rule 119, “Rules for Interconnecting Distributed Generation Facilities.”

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(9) **Standards for met towers.** Met towers shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small wind energy system.

(d) **Permit requirements.**

(1) **Permits.** All required permits, including but not limited to, building and electrical permits, shall be obtained prior to the installation of a small wind energy system.

(2) **Documents.** The building permit application shall be accompanied by a site plan which includes the following:

- a. Property lines and physical dimensions of the property;
- b. Location, dimensions, and types of existing structures on the property;
- c. Location of the proposed wind system tower;
- d. The right-of-way of any public road that is contiguous with the property;
- e. Any overhead utility lines;
- f. Wind systems specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);
- g. Tower foundation plans and specifications;
- h. Tower plans and specifications.

(e) **Site plan review.** Small wind energy systems require a site plan review and approval process and shall comply with all applicable standards and regulations as identified in §23-570. Site Plan Review and Approval, of this ordinance.

(f) **Fees.** The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for a permitted accessory use.

(g) **Expiration.** A permit issued pursuant to this ordinance shall expire if:

- (1) The small wind energy system is not installed and functioning within twenty-four (24) months from the date the permit is issued; or,
- (2) The small wind energy system is out of service or otherwise unused for a continuous twelve (12) month period.

(h) **Abandonment.**

- (1) A small wind energy system that is out-of-service for a continuous twelve (12) month period will be deemed to have been abandoned. The Building Inspection Supervisor may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The Building Inspection Supervisor shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.
- (2) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the owner's sole expense within three (3) months receipt of Notice to Abandonment. If the owner fails to remove the wind generator from the tower, the Building Inspection Supervisor may pursue a legal action to have the wind generator removed at the owner's expense.

APPLETON CODE

(i) ***Building permit procedure.***

- (1) An owner shall submit an application to the Building Inspection Supervisor for a building permit for a small wind energy system. The application must be on a form approved by the Building Inspection Supervisor and must be accompanied by two (2) copies of the site plan identified in (d)(2) above.
- (2) The Building Inspection Supervisor shall issue a building permit or deny the application within one (1) month of the date on which the application is received.
- (3) The Building Inspection Supervisor shall issue a building permit for a small wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this ordinance.
- (4) If the application is approved, the Building Inspection Supervisor will return one signed copy of the application with the permit and retain the other copy with the application.
- (5) If the application is rejected, the Building Inspection Supervisor will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Building Inspection Supervisor's decision pursuant to Chapter 68 Wis. Statutes. The applicant may resubmit if the deficiencies specified by the Building Inspection Supervisor are resolved.
- (6) The owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete, and full use authorized as signed by pertinent authority.

(j) ***Site plan review procedure.*** Prior to obtaining a building permit an owner/applicant shall obtain site plan approval as required by §23-570. Site Plan Review and Approval of this ordinance.

(k) ***Violations.*** It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with manufacturer's requirements and this ordinance or with any condition contained in a special use permit and a building permit issued pursuant to the ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt.

(l) ***Administration and enforcement.***

- (1) This ordinance shall be administered by the Building Inspection Supervisor or other official as designated.
- (2) The Building Inspection Supervisor or designee may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the condition stated in the permit have been met.
- (3) The Building Inspection Supervisor may issue orders to abate any violation of this ordinance.
- (4) The Building Inspection Supervisor may issue a citation for any violation of this ordinance.
- (5) In addition to the above §23-69 Enforcement of this ordinance shall apply.

(Ord 73-11, §1, 3-8-11)

Secs. 23-701 – 23-749. Reserved.

ZONING

ARTICLE XIX. SHORELAND ZONING

Sec. 23-750. Statutory authorization.

(a) This ordinance is adopted pursuant to the authorizations in §62.233 of the Wisconsin Statutes for villages and cities.

(b) The Appleton Common Council determines that uncontrolled development and use of the shorelands of this municipality would impair the public health, safety, convenience, general welfare and tax base.

Sec. 23-751. Definitions.

As used in this article of the zoning ordinance, the following terms shall have the meanings indicated:

Navigable waters means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d) Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder shoreland ordinances required under s. 59.692, Stats., and this chapter do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching or had no previous stream history; and

(c) Such lands are maintained in nonstructural agricultural use.

Ordinary high-water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

Principal building means a building which contains the primary use of the lot, as contrasted to accessory structure, building or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

Shorelands has the meaning given in §59.692(1)(b) of the Wisconsin Statutes.

Shoreland setback area has the meaning given in §59.692(1)(bn).

Shoreland zoning district means a zoning district comprised of shorelands that are subject to the provisions of Sec. 23-752.

Sec. 23-752. Jurisdiction.

The jurisdiction of this chapter shall include all the shorelands of the City which are:

(a) Within 1,000 feet of the ordinary high water mark of navigable lakes, ponds or flowages. Lakes, ponds, or flowages in the City shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources' publication "Surface Water Resources of Outagamie County" or shown on U.S. Geological Survey Quadrangle maps. If evidence to the contrary is presented, the Director of Public Works shall make the initial determination whether or not the lake, pond, or flowage in question is navigable under the laws of the State. The Director of Public Works shall also make the initial determination of the location of the Ordinary High Water Mark.

(b) Within 300 feet of the ordinary high water mark of navigable rivers or streams. For the purposes of this subsection, rivers and streams in the City shall be presumed to be navigable if they are designated under one of the following categories on the Official Shoreland Zoning District Map:

- (1) Navigable Stream
- (2) Probable Navigable Stream
- (3) Probable Non-Navigable Stream

If evidence is presented that the stream is Non-Navigable, then the Director of Public Works shall make the initial determination of whether or not the stream is navigable under the laws of the State. The Director of Public Works shall also make the initial determination of the location of the Ordinary High Water Mark.

Sec. 23.753. Shoreland zoning district boundaries.

The Official Shoreland Zoning District Map is hereby adopted and made part of this chapter. The boundaries of the shorelands shall be depicted on this map as defined in Section 23-751. Copies of the map shall be available for public viewing in the Department of Public Works.

Sec. 23-754. Requirements.

(a) There shall be established a shoreland setback area of at least fifty (50) feet from the ordinary high water mark (this could be greater than fifty (50) feet).

(b) The principal building may be constructed or placed within the shoreland area if all of the following apply:

- (1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.
- (2) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or thirty-five (35) feet from the ordinary high water mark, whichever distance is greater.

(c) A person who owns shoreland property that contains vegetation, shall maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending thirty-five (35) inland from the ordinary high water mark of a navigable water, except as provided in subsection (2).

(d) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

(e) The person who is required to maintain or establish a vegetative buffer zone under paragraph (c) above, may remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no more than thirty (30) feet wide for every one hundred (100) feet of shoreland frontage and that extends no more than thirty-five (35) feet inland from the ordinary high water mark.

Sec. 23-755. Zoning agency.

(a) The Director of Public Works shall:

- (1) Review and advise the governing body on all proposed amendments to this article, maps and text.

(b) This Director of Public Works shall not

- (1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
- (2) Amend the text or zoning maps in place of official action by the governing body.

ZONING

Sec. 23-756. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Wis. Admin. Code ch. NR 115 and where the meaning of the chapter provision is unclear, the provision shall be interpreted in light of the Wis. Admin. Code ch. NR 115 standards in effect on the date of the adoption of the ordinance from which this chapter is derived or in effect on the date of the most recent text amendment to this chapter.

23-757. Rules for interpretation of district boundaries.

Where uncertainty exists as to the boundary of the Shoreland District as shown on the Official Zoning Map, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;

(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(c) Boundaries indicated as approximately following City limits shall be construed as following such City limits;

(d) Boundaries indicated as following railroad lines shall be construed to be the centerline of the railroad right-of-way;

(e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;

(f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(g) Boundaries indicated as dividing a lot or plot of land shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(h) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (a) through (g) above, the Director of Public Works shall interpret the district boundaries.

23-758. Applicability.

This article does not apply to lands annexed to the City prior to May 7, 1982.
(Ord 54-14, §1, 7-22-14)