

1 *For statutory provisions pertaining to planning in general, see WSA § 62.23; for provisions
2 specifically authorizing broad zoning powers, see WSA § 62.23(7).

3
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- 39 19.60 Nonconforming Uses, Structures and Lots
- 40 19.63 Plan Review
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45 **Chapter 19.03 TITLE, AUTHORITY AND PURPOSE**

46 Sections:

47 [19.03.010 Title.](#)

48 [19.03.020 Authority.](#)

49 [19.03.030 Purpose.](#)

50 [19.03.040 Intent.](#)

51 [19.03.050 Abrogation and greater restrictions.](#)

52 [19.03.060 Interpretation.](#)

53 [19.03.070 Severability and nonliability.](#)

54 [19.03.080 Effective date.](#)

55

56 **19.03.010 Title.**

57 This title shall be known as, referred to, or cited as the "zoning ordinance, City of Whitewater,
58 Wisconsin."

59 (Ord. 994 § 1.1, 1982).

60

61 **19.03.020 Authority.**

62 The regulations are adopted under the authority granted by Article XI, Section 3, Wisconsin
63 Constitution and Sections 62.23, 62.231, 66.01, 87.30 and 144.26 of the Wisconsin Statutes and
64 amendments thereto.

65 (Ord. 1196 § 1(part), 1990: Ord. 1060 § 5, 1985).

66

67 **19.03.030 Purpose.**

68 The purpose of this title is to promote the health, safety, and general welfare of this
69 community.

70 (Ord. 994 § 1.3, 1982).

71

72 **19.03.040 Intent.**

73 It is the general intent of this title to regulate and restrict the use of all structures, lands and
74 waters; regulate and restrict lot coverage, population distribution and density, and the size and
75 location of all structures so as to lessen congestion and promote the safety and efficiency of the
76 streets and highways; secure safety from fire, flooding, panic and other dangers; prevent flood
77 damage to persons and property, and minimize expenditures for flood relief and flood control
78 projects; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid
79 undue population concentration; facilitate the adequate provision of public facilities and
80 utilities; stabilize and protect property values; further the appropriate use of land and
81 conservation of natural resources; preserve and promote the beauty of the community; and
82 implement the community's Comprehensive plan or plan components. It is further intended to
83 provide for the administration and enforcement of this title and to provide penalties for its
84 violation.

85 (Ord. 60 § 6, 1985).

86

87 **19.03.050 Abrogation and greater restrictions.**

88 Except as specifically provided in the enacting ordinance, it is not intended by this title to
89 repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed
90 restrictions, agreements, ordinances, rules, or permits previously adopted or issued pursuant to
91 laws. However, wherever this title imposes greater restrictions, the provisions of this title shall
92 govern.
93 (Ord. 994 § 1.5, 1982).

94
95 **19.03.060 Interpretation.**

96 In their interpretation and application, the provisions of this title shall be held to be minimum
97 requirements and shall be liberally construed in favor of the city and shall not be deemed a
98 limitation or repeal of any other power granted by the Wisconsin Statutes.
99 (Ord. 994 § 1.6, 1982).

100
101 **19.03.070 Severability and nonliability.**

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

105 B. If any application of this chapter to a particular structure, land or water is adjudged
106 unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be
107 applicable to any other structure, land or water not specifically included in said judgment.

108 C. The city does not guarantee, warrant or represent that only those areas designated as
109 floodlands will be subject to periodic inundation and hereby asserts that there is no liability on
110 the part of the common council, its agencies or employees for any flood damages, sanitation
111 problems or structural damages that may occur as a result of reliance upon and conformance
112 with this chapter.
113 (Ord. 1060 § 8, 1985).

114
115 **19.03.080 Effective date.**

116 This title was effective on June 24, 1982.
117 (Ord. 1060 § 7, 1985; Ord. 994 § 1.7, 1982).

118
119 **Chapter 19.06 GENERAL PROVISIONS**

120 Sections:

121 [19.06.010 Jurisdiction.](#)

122 [19.06.020 Plan and architectural review commission--Created.](#)

123 [19.06.030 Plan and architectural review commission--Qualifications and functions.](#)

124 [19.06.040 Plan and architectural review commission--Architectural function.](#)

125 [19.06.050 Plan and architectural review commission--Organization.](#)

126 [19.06.060 Compliance required.](#)

127 [19.06.065 Municipalities and state agencies regulated.](#)

128 [19.06.070 Use restrictions.](#)

129 [19.06.080 Accessory uses and structures.](#)

130 [19.06.090 Unclassified or unspecified areas.](#)

131 [19.06.100 Temporary uses.](#)

- 132 [19.06.110 Height modifications.](#)
- 133 [19.06.120 Yard modifications.](#)
- 134 [19.06.130 Reduction or joint use.](#)
- 135 [19.06.140 Lots to abut street and frontage.](#)
- 136 [19.06.150 Structures to be located on a lot.](#)
- 137 [19.06.160 Lots on undedicated portion of street.](#)
- 138 [19.06.170 Private sewer and water service.](#)
- 139 [19.06.180 Average street yards.](#)
- 140 [19.06.190 Lots abutting more restrictive districts.](#)
- 141 [19.06.200 Animal raising.](#)

142

143 **19.06.010 Jurisdiction.**

144 The jurisdiction of this title shall include all lands and water within the corporate limits of the
145 city.
146 (Ord. 994 § 2.1, 1982).

147

148 **19.06.020 Plan and architectural review commission--Created.**

149 There is created a city plan and architectural review commission which shall consist of the
150 chairman of the park and recreation board or designee, a councilmember, and five citizens of
151 the city. In addition thereto, there shall be three citizen alternate members, any of which may
152 be called upon to serve in the absence of any one of the citizen members of the commission.
153 There shall also be one alternate city councilmember. The city councilmember may only serve
154 in absence of the appointed city councilmember and shall not act as a replacement for a citizen
155 member of the commission. All the citizen members shall be residents of Whitewater. A
156 majority of the total membership shall own land in the city. Citizen members shall be persons of
157 recognized experience and qualification. The city manager and the zoning administrator shall be
158 nonvoting ex officio members of the commission. The councilmember shall be elected by a two-
159 thirds vote of the council.
160 (Ord. 1651A § 1, 2007; Ord. 1215 § 1, 1991; Ord. 994 § 2.2(part), 1982).

161

162 **19.06.030 Plan and architectural review commission--Qualifications and functions.**

163 The city plan and architectural review commission shall have the qualifications and perform the
164 functions required by this code and the Wisconsin Statutes, Section 62.23. The council or city
165 manager may, at their discretion, request that new members of the plan and architectural
166 review commission receive instructions regarding the standards, rules, and regulations to be
167 applied by the commission.
168 (Ord. 994 § 2.2(part), 1982).

169

170 **19.06.040 Plan and architectural review commission--Architectural function.**

171 The city plan and architectural review commission is empowered with the architectural
172 function as provided in Chapter 19.63, for the purpose of promoting compatible development,
173 aesthetics, historic preservation, and stability of property values. The aesthetic review function
174 of the city plan and architectural review commission shall be (a) limited to any guidelines

175 established by the City for reviewing aesthetic decisions and (b) intended to ensure
176 compatibility between new buildings and their surrounding built environment.
177 (Ord. 994 § 2.2(part), 1982).

178
179 **19.06.050 Plan and architectural review commission--Organization.**

180 The city plan and architectural review commission shall organize and adopt rules for its own
181 governing in accordance with the provisions of this code and Wisconsin Statutes.

182 A. Officers shall be elected from the membership for terms of one year.

183 B. Meetings shall be held at the call of the chairman or when requested by the zoning
184 administrator and shall be open to the public.

185 C. Minutes shall be kept showing all actions taken and shall be a public record.

186 D. Quorums shall be five members, and all actions shall require the concurring vote of at least
187 four members.

188 E. Alternate members shall be voting members of the commission in cases when any of the
189 original seven members are absent or abstaining from a vote.

190 (Ord. 994 § 2.2(part), 1982).

191
192 **19.06.060 Compliance required.**

193 All structures and uses of structures, land or water, and any development as defined in this
194 title, shall comply with this title and all other applicable local, county, state and federal
195 regulations.

196 (Ord. 1060 § 9, 1985).

197
198 **19.06.065 Municipalities and state agencies regulated.**

199 Unless specifically exempted by law, all cities, villages, towns, and counties are required to
200 comply with this title and obtain all required permits. State agencies are required to comply if
201 Section 13.48(13) of the Wisconsin Statutes applies. The construction, reconstruction,
202 maintenance and repair of state highways and bridges by the Wisconsin Department of
203 Transportation are exempt from compliance when Section 30.12(4)(a) of the Wisconsin
204 Statutes applies.

205 (Ord. 1196 § 1(part), 1990).

206
207 **19.06.070 Use restrictions.**

208 Only those principal uses specified for a district, their essential services, and the uses noted in
209 this chapter shall be permitted in that district.

210 (Ord. 994 § 2.4(part), 1982).

211
212 **19.06.080 Accessory uses and structures.**

213 Accessory uses and structures are permitted but not until their principal structure is present or
214 under construction. Residential accessory uses shall not involve the conduct of any business,
215 trade or industry except home occupations as defined. Accessory uses and structures include
216 gardening, storage, parking areas, private swimming pools, private emergency shelters and
217 communications structures and similar uses and structures.

218 (Ord. 1082 § 1, 1986).

219 **19.06.090 Unclassified or unspecified areas.**

220 A. Uses that are not specifically listed as a permitted use within a district but that are similar in
221 character or impact to other permitted uses may be authorized by interpretation of the zoning
222 administrator.

223 B. If a determination cannot be made by the zoning administrator, an unclassified or
224 unspecified use may be permitted by the board of zoning appeals, provided that the use is
225 found to be consistent with the intent of this title.
226 (Ord. 994 § 2.4(B), 1982).

227

228 **19.06.100 Temporary uses.**

229 Temporary uses and structures, such as produce stands, real estate sales field offices, or
230 shelters for materials and equipment being used in the construction of a permanent structure,
231 and similar uses and structures, may be permitted by the zoning administrator for periods not
232 to exceed one year. Establishing a temporary use for longer periods shall require approval of
233 the plan commission.
234 (Ord. 994 § 2.4(C), 1982).

235

236 **19.06.110 Height modifications.**

237 The district height limitations stipulated elsewhere in this title may be exceeded, but such
238 modification shall be in accord with the following:

239 A. Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and
240 chimneys, shall not exceed in height their distance from the lot line nearest the projection and
241 shall not exceed one hundred feet in height.

242 B. Essential services, utilities, observation towers, water towers and electric power and
243 conventional (wired) telephonic communication transmission towers are exempt from the
244 height limitations of this title. Wireless telecommunications facilities, as defined in Chapter
245 19.09, shall meet the height limitations established in Chapter 19.55. .

246 C. Residential satellite dishes less than thirty-six inches in diameter, residential television
247 antennas, and amateur radio facilities may exceed applicable district building height
248 requirements by no greater than ten feet.

249 D. Public or semipublic facilities, such as schools, churches, libraries, governmental offices and
250 stations, may be erected to a height of sixty feet, exclusive of architectural projections,
251 provided all required yards are increased not less than one foot for each foot the structure
252 exceeds the district's maximum height requirements.

253 (Ord. 1499 § 1, 2001; Ord. 1364 § 1, 1997; Ord. 1082 § 2, 1986; Ord. 994 § 2.5(A), 1982).

254

255 **19.06.120 Yard modifications.**

256 The yard requirements stipulated elsewhere in this title may be modified as follows:

257 A. Uncovered stairs, landings and fire escapes may project into any yard but not to exceed six
258 feet and not closer than ten feet to any lot line (unless allowed under Chapter 19.30).

259 B. Architectural projections, such as chimneys, flues, gutters, sills, eaves, belt courses and
260 ornaments, may project into any required yard, but such projection shall not exceed three feet.

261 C. Residential fences and walls are permitted either within or on the property line. Fences and
262 walls shall not exceed a height of six feet in the side yard or rear yard area and shall not exceed

263 a height of four feet in the required street yard. All driveway openings abutting a public right-
264 of-way shall have a fifteen-foot free vision triangle set back from both sides of the driveway.
265 (Similar to Section 19.51.010). The finished face of the fence shall face outward to the street (for the
266 front yard) and toward the outer perimeter for side and rear yard fences.

267 D. Security Fences. Within the B-3 and M-1 districts, security fences are permitted within the
268 side and rear yard areas. Such fences shall be designed to enclose the entire area for security
269 and shall not exceed ten feet in height. Barbed wire is permitted only on security fences at least
270 six feet above established grade levels.

271 E. Swimming Pools and Swimming Pool Fencing. Any public or private swimming pool shall be
272 completely enclosed within a fence at least four feet in height. For private outdoor pools an
273 outdoor tank of concrete, metal, plastic, or other material having a total area greater than 80
274 square feet or depth exceeding 24 inches. For the purpose of this chapter, "pool" shall include
275 swimming pools, hot tubs, whirlpools or other similar devices, but shall not include: (a) storable
276 swimming or wading pools having a diameter of 18 feet or less and a wall height of 24 inches or
277 less and which are constructed in such a way as to be readily disassembled for storage and
278 reassembled to original integrity; or (b) storable swimming or wading pools with nonmetallic
279 inflatable walls regardless of dimension. All temporary swimming pools shall be removed and
280 stored by November 1. Swimming pools shall not be allowed in front yards. Swimming pools
281 on side or in backyards shall be a minimum of 15 feet from the property line. All swimming
282 pools shall be covered and ladders removed when not in use
283

284 Pools within the scope of this section which are not enclosed within a permanent building shall
285 be completely enclosed by a fence of sufficient strength to prevent access to the pool. Such
286 fence or wall shall not be less than six feet in height and shall be so constructed as not to have
287 voids, holes or openings larger than six inches in one dimension. Gates or doors shall be kept
288 locked (which includes the use of self-locking devices) while the pool is not in actual use.
289

290 The pool enclosure may be omitted:

- 291 a. for portable pools installed above ground that have a raised deck around the entire pool
292 perimeter with an attached enclosed railing a minimum of 36 inches high on the top, or
293 if the side walls are unobstructed and a minimum of 36 inches high; such pool must
294 have secure access by use of self-closing/self-latching gates.
- 295 b. for aboveground pools in which the wall height is at least 48 inches and if the only
296 access to the pool is provided by a ladder or steps, provided that the ladder or steps
297 shall be capable of being secured, locked or removed to prevent access.

298
299 F. Detached accessory structures in residential districts are permitted in side and rear yards
300 only. They shall not be closer than ten feet to the principal structure, shall not exceed fifteen
301 feet in height, shall not be larger than ten percent of the side and rear yard lot area (open
302 space) and in no case shall exceed eight hundred square feet in size. Detached accessory
303 structures shall not be closer than five feet to any lot line nor ten feet to any alley line. Any
304 proposed detached accessory structure which is larger than the requirements of this section
305 may be allowed but shall require a conditional use permit. To determine the size on corner lots,
306 the side street yard shall be counted as part of the side and rear area. In non-residential districts

307 the size and location of detached accessory structures shall be treated as conditional uses when the
308 square footage exceeds 800 square feet.

309 G. Essential services, utilities, electric power and communication transmission lines are
310 exempt from the yard and distance requirements of this title.

311 H. Landscaping and vegetation are exempt from the yard requirements of this title except that
312 landscaping and vegetation shall not extend over any public right-of-way within ten feet of the
313 ground level.

314 I. All decks are to maintain a setback from a property line of no less than the front yard and
315 side yard required setback of the zoning district in which they are located and must be a
316 minimum of fifteen feet from any rear lot line.

317 (Ord. 1364 §§ 2 and 3, 1997; Ord. 1313 § 1, 1995; Ord. 1166 § 1, 1989; Ord. 1165, 1989; Ord.
318 1082 § 3, 1986; Ord. 994 § 2.5(B), 1982).

319

320 **19.06.130 Reduction or joint use.**

321 No lot, yard, parking area, building area, or other space shall be reduced in area or dimension
322 so as not to meet the provisions of this title. No part of any lot, yard, parking area, or other
323 space required for structure or use shall be used for any other structure or use.

324 (Ord. 994 § 2.6, 1982).

325

326 **19.06.140 Lots to abut street and frontage.**

327 All lots shall abut upon a public street, and each lot shall have a minimum frontage at the street
328 line of thirty feet. This requirement may be waived under planned development (PD) provisions
329 of this title.

330 (Ord. 994 § 2.7, 1982).

331

332 **19.06.150 Structures to be located on a lot.**

333 Only one principal structure shall be located, erected or moved onto a lot (except for the M-1 and
334 M-2 districts). This requirement may be waived as a conditional use under the highway
335 commercial and light industrial district (B-3), planned development (PD) provisions of this title.

336 (Ord. 1452 § 2, 2000; Ord. 1316 § 1, 1995; Ord. 1082 § 4, 1986).

337

338 **19.06.160 Lots on undedicated portion of street.**

339 No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion
340 of its proposed width.

341 (Ord. 994 § 2.9, 1982).

342

343 **19.06.170 Private sewer and water service.**

344 Where public sewerage service is not available, the width and area of all lots shall be sufficient
345 to permit the use of an on-site sewage disposal system designed in accordance with Section
346 H63 of the Wisconsin Administrative Code. Any structure or use proposing to be served by
347 private sewer and water service shall be considered as conditional use within any district.

348 (Ord. 994 § 2.10, 1982).

349

350 **19.06.180 Average street yards.**

351 A property owner may decrease the required street yard in any residential or business district
352 to the average of the existing street yards of the adjacent structures on each side. Where the
353 setback of existing adjacent structures is greater than setbacks required by this code, the
354 setback for the intervening lot shall be determined by the average of the setback of the
355 structures on each side. On corner lots, the required setback shall be determined by averaging
356 the setback of the adjacent structure with the required setback of the district in which it is
357 located. The setback of any structure may be increased or decreased by a conditional use
358 permit if there are substantial reasons to vary from the requirements of the district.
359 (Ord. 1446 § 1, 2000; Ord. 994 § 2.11, 1982).

360
361 **19.06.190 Lots abutting more restrictive districts.**

362 Lots abutting more restrictive district boundaries shall provide side and rear yards not less than
363 those required in the more restrictive abutting district. The street yards on the less restrictive
364 district shall be modified for a distance of not more than one hundred feet from the district
365 boundary line so as to equal the average of the street yards required in both districts.
366 (Ord. 994 § 2.12, 1982).

367
368 **19.06.200 Animal raising.**

369 The raising of animals shall be permitted in any zoning district in compliance with Title 9 of this
370 code.
371 (Ord. 994 § 2.13, 1982).

372
373 **Chapter 19.09 DEFINITIONS**

374 Sections:

375 [19.09.010 Generally.](#)

376 [19.09.015 A Zones.](#)

377 [19.09.020 Accessory use or structure.](#)

378 [19.09.025 Adult-oriented establishments.](#)

379 [19.09.030 Alley.](#)

380 [19.09.035 Alternative support structure.](#)

381 [19.09.040 Apartment-style building.](#)

382 [19.09.050 Arterial street.](#)

383 [19.09.055 Base flood.](#)

384 [19.09.060 Basement.](#)

385 [19.09.063 Bed and breakfast establishment.](#)

386 [19.09.064 Bedroom.](#)

387 [19.09.065 Block.](#)

388 [19.09.070 Building.](#)

389 [19.09.080 Building, accessory.](#)

390 [19.09.090 Building area.](#)

391 [19.09.100 Building height.](#)

392 [19.09.110 Building, principal.](#)

393 [19.09.113 Building scale.](#)

394 [19.09.114 Bulkhead line.](#)

395 [19.09.115 Campground.](#)
396 [19.09.116 Camping unit.](#)
397 [19.09.117 Certificate of compliance.](#)
398 [19.09.120 Classes of notice.](#)
399 [19.09.125 Channel.](#)
400 [19.09.128 Co-location.](#)
401 [19.09.130 Commercial use.](#)
402 [19.09.140 Commonly owned open space.](#)
403 [19.09.150 Community living arrangements.](#)
404 [19.09.155 Comprehensive \(master\) plan.](#)
405 [19.09.160 Conditional uses.](#)
406 [19.09.170 Corner lot.](#)
407 [19.09.171 Crawlways or crawlspace.](#)
408 [19.09.173 Day care center, adult.](#)
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411 [19.09.180 Development.](#)
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419 [19.09.240 Dwelling, single-family.](#)
420 [19.09.250 Dwelling, two-family.](#)
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425 [19.09.285 Existing manufactured home park or subdivision.](#)
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427 [19.09.290 Family.](#)
428 [19.09.295 Federal Emergency Management Agency.](#)
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434 [19.09.310 Flood Hazard Boundary Map.](#)
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436 [19.09.314 Flood protection elevation.](#)
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439 [19.09.318 Floodlands.](#)
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462 [19.09.405 Letter of Map Change \(LOMC\).](#)
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464 [19.09.420 Loading area.](#)
465 [19.09.430 Lodginghouse.](#)
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467 [19.09.450 Lot.](#)
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494 19.09.528 Overlay Permission Area Map
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497 [19.09.540 Parking space or parking stall.](#)
498 [19.09.550 Parties of interest.](#)
499 [19.09.555 Person.](#)
500 [19.09.560 Planting screen.](#)
501 [19.09.570 Principal use or structure.](#)
502 [19.09.580 Private club or lodge.](#)
503 [19.09.585 Private sewage system.](#)
504 [19.09.590 Professional home offices.](#)
505 [19.09.600 Professional offices.](#)
506 [19.09.602 Public utilities.](#)
507 [19.09.604 Reach.](#)
508 [19.09.605 Reasonably safe from flooding.](#)
509 [19.09.608 Regional flood.](#)
510 [19.09.609 Start of construction.](#)
511 [19.09.610 Story.](#)
512 [19.09.620 Public or semipublic uses.](#)
513 [19.09.623 Shielded light fixture.](#)
514 [19.09.625 Shorelands.](#)
515 [19.09.630 Sign.](#)
516 [19.09.640 Sign, directional.](#)
517 [19.09.650 Sign, nonaccessory.](#)
518 [19.09.660 Street.](#)
519 [19.09.670 Street line.](#)
520 [19.09.680 Structural alterations.](#)
521 [19.09.690 Structure.](#)
522 [19.09.700 Structure, accessory.](#)
523 [19.09.710 Structure, permanent.](#)
524 [19.09.720 Structure, principal.](#)
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526 [19.09.732 Substantial damage.](#)

- 527 [19.09.735 Substantial improvement.](#)
- 528 [19.09.740 Tourist home.](#)
- 529 [19.09.750 Townhouse style building.](#)
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- 531 [19.09.765 Traditional Neighborhood Development \(TND\).](#)
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- 539 [19.09.830 Utilities.](#)
- 540 [19.09.833 Variance.](#)
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- 545 [19.09.838 Well.](#)
- 546 [19.09.839 Wetland.](#)
- 547 [19.09.840 Wireless telecommunications facility.](#)
- 548 [19.09.841 Wireless telecommunications support facility.](#)
- 549 [19.09.845 Yard.](#)
- 550 [19.09.850 Yard, rear.](#)
- 551 [19.09.860 Yard, shore.](#)
- 552 [19.09.870 Yard, side.](#)
- 553 [19.09.880 Yard, street \(front yard\).](#)

554
555 **19.09.010 Generally.**

556 For the purposes of this title, the definitions set out in this chapter shall be used. Words used in
557 the present tense include the future; the singular number includes the plural number; and the
558 plural number includes the singular number. The word "shall" is mandatory and directory.
559 (Ord. 994 § 12.0(part), 1982).

560

561 **19.09.015 A Zones.**

562 "A Zones" means areas of potential flooding shown on the "Flood Insurance Rate Map" or
563 "Flood Hazard Boundary Map" which would be inundated by the regional flood as defined in
564 this title. These zones may be numbered as A0, A1 to A99, or be unnumbered A Zones. The A
565 Zones may or may not be reflective of flood profiles, depending on the availability of data for a
566 given area.
567 (Ord. 1060 § 10(part), 1985).

568

569 **19.09.020 Accessory use or structure.**

570 "Accessory use or structure" means a use or detached structure subordinate to the principal
571 use of structure, land, or water and located on the same lot or parcel serving a purpose
572 customarily incidental to the principal use of the principal structure.
573 (Ord. 994 § 12.0(part), 1982).
574

575 **19.09.025 Adult-oriented establishments.**

576 A. "Adult-oriented establishments" shall include the following:

577 1. "Adult bath house" means an establishment or business which provides the service of baths
578 of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical
579 practitioner or a professional physical therapist licensed by the State of Wisconsin and which
580 establishment provides to its customers an opportunity for engaging in specified sexual
581 activities as defined in this section.

582 2. "Adult body painting studio" means an establishment or business wherein customers are
583 afforded an opportunity to paint images on a body which is wholly or partially nude.

584 3. "Adult bookstore" means an establishment having as a substantial or significant portion of
585 its stock and trade in books, magazines, and other periodicals which are distinguished or
586 characterized by their emphasis on matter depicting, describing, or relating to specified sexual
587 activities or specified anatomical areas as defined herein. The term includes an establishment
588 having as its stock in trade, for sale, rent, trade, lease, inspection or viewing, books, films, video
589 cassettes, compact discs, digital video discs, computers or computer programs in any format,
590 motion pictures, magazines or other periodicals which are distinguished or characterized by
591 their emphasis on matters depicting, describing or relating to specific sexual activities or
592 specified anatomical areas, and in conjunction therewith have facilities for the presentation of
593 adult entertainment, including adult-oriented videotapes, films, motion pictures or other
594 offered entertainment for observation by customers therein. The term includes a commercial
595 establishment that, as one of its principal business purposes, offers for sale or rental for any
596 form of consideration, instruments, devices, or paraphernalia that are designed for use in
597 connection with "specified sexual activities."

598 4. "Adult cabaret" means a nightclub, dance hall, bar, restaurant, or similar commercial
599 establishment that regularly features:

600 a. Persons who appear in a state of nudity or semi-nudity; or

601 b. Live performances that are characterized by sexual activities; or

602 c. Films, motion pictures, videocassettes, slides, or other photographic or computer
603 reproductions or depictions that are characterized by the depiction or description of sexual
604 activities or nudity.

605 5. "Adult entertainment" means any exhibition of any motion pictures, live performance,
606 display or dance of any type, wherein a significant or substantial portion of such performance is
607 distinguished or characterized by an emphasis on any actual or simulated performance of
608 specified sexual activities, the exhibition and viewing of specified anatomical areas, or the
609 removal of articles of clothing to reveal specified anatomical areas.

610 6. "Adult mini-motion picture theater" means an enclosed building with a capacity for less
611 than fifty customers, including establishments that have coin-operated video or motion picture
612 booths, used for presenting material distinguished or characterized by an emphasis on matters

613 depicting, describing, or relating to specified sexual activities or specified anatomical areas as
614 defined herein for observation by customers therein.

615 7. "Adult motel" means a hotel, motel, or similar commercial establishment which:
616 a. Offers accommodations to the public for any form of consideration; provides customers
617 with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or
618 other photographic reproductions which are characterized by the depiction or description of
619 specified sexual activities or specified anatomical areas; or
620 b. Offers a sleeping room for rent for a period of time that is less than ten hours; or
621 c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time
622 that is less than ten hours.

623 8. "Adult motion picture theater" means an enclosed building with a capacity of fifty or more
624 persons at which a significant or substantial portion of the material presented is distinguished
625 or characterized by an emphasis on matter depicting, describing, or relating to specified sexual
626 activities or specified anatomical areas for observation by customers therein.

627 9. "Adult motion picture theater (outdoor)" means a parcel of land from which individuals may
628 view a motion picture presented out of doors which presents material distinguished or
629 characterized by an emphasis on matter depicting, describing, or relating to specified sexual
630 activity or specified anatomical areas for observation by customers.

631 10. "Adult novelty shop" means an establishment or business having as a substantial or
632 significant portion of its stock and trade in novelty or similar items which are distinguished or
633 characterized by their emphasis on specified sexual activities or specified anatomical areas or
634 for simulation of the foregoing.

635 11. "Miscellaneous adult-oriented establishment" means an establishment which includes, but
636 is not limited to, adult bookstores, adult motion picture theaters, outdoor adult motion picture
637 theaters, adult mini-motion theaters, adult theaters, adult bath houses, adult body painting
638 studios, adult motels, adult novelty shops or adult cabarets, sexual encounter centers, escort
639 agencies, establishments featuring live sexually explicit performances, and any premises to
640 which public customers or members are invited or admitted and which are so physically
641 arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the
642 common area of the premises for the purposes of viewing adult-oriented motion pictures, or
643 wherein an entertainer provides adult entertainment to a member of the public, a customer or
644 a member, whether or not such adult entertainment is held, conducted, operated or
645 maintained for profit, direct or indirect. An adult-oriented establishment further includes,
646 without being limited to, any adult entertainment studio or any premises that is physically
647 arranged and used as such whether advertised or represented as an adult entertainment
648 studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or
649 any other term of like import.

650 B. "Adult-oriented establishment" shall not include:

651 1. Theaters, performing arts centers, civic centers, and dinner theaters where live dance,
652 ballet, music and dramatic performances of serious artistic, social or political merit are offered
653 on a regular basis; and in which the predominant business or attraction is not the offering of
654 entertainment which is intended for the sexual interests or titillation of customers; and where
655 the establishment is not distinguished by an emphasis on or the advertising or promotion of
656 nude or semi-nude performances; or

657 2. Any public or private school, as defined in Chapter 115, Wis. Stats., when instructing pupils
658 as part of its curriculum.
659 (Ord. 1614A § 1, 2006).

660
661 **19.09.030 Alley.**

662 "Alley" means a special public right-of-way affording only secondary access to abutting
663 properties.
664 (Ord. 994 § 12.0(part), 1982).

665
666 **19.09.035 Alternative support structure.**

667 "Alternative support structure" means a water tower, silo, utility pole, light pole, smokestack,
668 electrical transmission tower, building or other similar structure of at least fifty feet in height,
669 and used as a structural base, stand, pedestal, or physical support for one or more wireless
670 telecommunications facilities.
671 (Ord. 1499 § 3(part), 2001).

672
673 **19.09.040 Apartment-style building.**

674 "Apartment-style building" means a building containing three or more attached dwelling units
675 with a majority of the units having primary access from a common entranceway or hallway.
676 Units may be attached either vertically or horizontally.
677 (Ord. 994 § 12.0(part), 1982).

678
679 **19.09.050 Arterial street.**

680 "Arterial street" means a public street or highway used or intended to be used primarily for fast
681 or heavy through traffic. For the purpose of this title, arterial streets shall include all county,
682 state and federal highways.
683 (Ord. 994 § 12.0(part), 1982).

684
685 **19.09.055 Base flood.**

686 "Base flood" means the flood having a one percent chance of being equaled or exceeded in any
687 given year, as published by the Federal Emergency Management Agency (FEMA) as part of a
688 Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).
689 (Ord. 1600 § 1(part), 2006).

690
691 **19.09.060 Basement.**

692 "Basement" means that portion of any structure located partly below the average lot grade,
693 which if occupied for living purposes shall be counted as a story for purpose of height
694 measurement.
695 (Ord. 994 § 12.0(part), 1982).

696
697 **19.09.063 Bed and breakfast establishment.**

698 "Bed and breakfast establishment" means a place of temporary lodging that provides eight or
699 fewer sleeping rooms for paying lodgers, allows a maximum individual lodger stay of one
700 month, provides meals only to paying lodgers, also serves as the principal residence for the

701 operator/owner (who shall live on the premises at all times when the establishment is active),
702 and meets all requirements of DHS 197 of the Wisconsin Administrative Code. Does not include
703 "tourist homes," "lodginghouses," or "group lodging houses" defined elsewhere in this chapter.
704 (Ord. 1580A § 1(part), 2005).
705

706 **19.09.064 Bedroom**

707 For the purpose of defining the number of occupiable bedrooms in a residential unit, a "bedroom" shall
708 (a) meet all applicable building codes (b) be at least 100 net square feet for a 1-person bedroom or 125
709 net square feet for a two-person bedroom, and (c) contain a closet not included in the net square feet,
710 and (d) when added as part of a new remodeling or addition, be consistent with the function and
711 appearance of the interior of the residential unit
712

713 **19.09.065 Block.**

714 A "block" means a unit of land bounded by streets or by a combination of streets and public
715 land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.
716 (Ord. 1511 § 1(part), 2002).
717

718 **19.09.070 Building.**

719 "Building" means any structure having a roof supported by columns or walls used or intended
720 to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.
721 (Ord. 994 § 12.0(part), 1982).
722

723 **19.09.080 Building, accessory.**

724 "Accessory building" means a building or portion of building used for a purpose customarily
725 incident to the permitted principal use of the lot, and located on the same lot as the principal
726 use.
727 (Ord. 994 § 12.0(part), 1982).
728

729 **19.09.090 Building area.**

730 "Building area" means the total living area bounded by the exterior walls of a building at the
731 floor levels, but not including basement, garages, porches, breezeways and unfinished attics.
732 (Ord. 994 § 12.0(part), 1982).
733

734 **19.09.100 Building height.**

735 "Building height" means the vertical distance measured from the main elevation of the finished lot grade
736 along the street yard face of the structure to the mid-point between the eave and highest point of the
737 roof, not including ornamental features or architectural projections.
738 (Ord. 994 § 12.0(part), 1982).
739

740 **19.09.110 Building, principal.**

741 "Principal building" means the building on a lot in which is conducted the principal use as permitted on
742 such lot by the regulations of the district in which it is located.
743 (Ord. 994 § 12.0(part), 1982).
744

745 **19.09.113 Building scale.**

746 "Building scale" means the relationship between the mass of a building and its surroundings, including
747 streets, open spaces, and surrounding buildings. Mass is the three-dimensional bulk of a structure:
748 height, width, and depth.
749 (Ord. 1511 § 1(part), 2002).

750

751 **19.09.114 Bulkhead line.**

752 "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by a
753 municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11,
754 Wisconsin Statutes and which allows limited filling between this bulkhead line and the original ordinary
755 high-water mark, except where such filling is prohibited by the floodway provisions of this title.
756 (Ord. 1600 § 1(part), 2006).

757

758 **19.09.115 Campground.**

759 "Campground" means any parcel of land which is designed, maintained, intended or used for the
760 purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is
761 advertised or represented as a camping area.
762 (Ord. 1600 § 1(part), 2006).

763

764 **19.09.116 Camping unit.**

765 "Camping unit" means any portable device, no more than four hundred square feet in area, used as a
766 temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck,
767 tent, or other mobile recreational vehicle.
768 (Ord. 1600 § 1(part), 2006).

769

770 **19.09.117 Certificate of compliance.**

771 "Certificate of compliance" means a certification that the construction and the use of land or a building,
772 the elevation of fill, or the lowest floor of a structure is in compliance with all of the floodplain
773 provisions of this title.
774 (Ord. 1600 § 1(part), 2006).

775

776 **19.09.120 Classes of notice.**

777 References in this title to Class 1 and Class 2 notices refer to Chapter 985 of the Wisconsin Statutes.
778 (Ord. 994 § 12.0(part), 1982).

779

780 **19.09.125 Channel.**

781 "Channel" means the floodlands normally occupied by a stream of water under average annual high-
782 water flow conditions while confined within general well-established banks.
783 (Ord. 1060 § 10(part), 1985).

784

785 **19.09.128 Co-location.**

786 "Co-location" means the clustering of multiple antennas, dishes or similar telecommunications facilities
787 or devices operated by different service providers but located on a single, freestanding wireless
788 telecommunications facility or alternative support structure.
789 (Ord. 1499 § 3(part), 2001).

790

791 **19.09.130 Commercial use.**

792 "Commercial use" means and refers to activity carried out for pecuniary gain.
793 (Ord. 994 § 12.0(part), 1982).

794

795 **19.09.140 Commonly owned open space.**

796 "Commonly owned open space" means publicly or privately owned undeveloped open space intended
797 for aesthetic, recreational or other conservation purpose, to be used by the owners or residents of a
798 particular development or the public in general.

799 (Ord. 994 § 12.0(part), 1982).

800

801 **19.09.150 Community living arrangements.**

802 "Community living arrangements" means a group lodging facility licensed or operated or permitted
803 under the authority of the Wisconsin Department of Health Services (see Section 46.03(22), Wisconsin
804 Statutes) where three or more unrelated persons reside, and in which care, treatment or services above
805 the level of room and board but less than skilled nursing care is provided to persons residing in the
806 facility. Such care, treatment or services are provided as a major function of the facility. Child care
807 facilities, nursing homes, hospitals, prisons, jails, foster family homes which are the primary domiciles of
808 a foster parent and four or fewer children are not "community living arrangements" for purposes of this
809 title.

810 (Ord. 994 § 12.0(part), 1982).

811

812 **19.09.155 Comprehensive (master) plan.**

813 "Comprehensive (master) plan" means the plan for the physical development of the city, also called a
814 master plan or comprehensive plan, adopted by the city pursuant to Wisconsin Statutes, Sections 62.23
815 and/or 66.1001, including proposals for future land use, transportation, urban redevelopment and
816 public facilities.

817 (Ord. 1511 § 1(part), 2002).

818

819 **19.09.160 Conditional uses.**

820 "Conditional uses" means uses of a special nature as to make impractical their complete
821 predetermination as a use in a district.

822 (Ord. 994 § 12.0(part), 1982).

823

824 **19.09.170 Corner lot.**

825 "Corner lot" means a lot abutting two or more streets at their intersection, provided that the corner of
826 such intersection shall have an angle of one hundred thirty-five degrees or less, measured on the lot
827 side. For the purpose of determining yard requirements, the front yard shall be the yard where the main
828 door of the principal structure faces the street addressed.

829 (Ord. 994 § 12.0(part), 1982).

830

831 **19.09.171 Crawlways or crawlspace.**

832 "Crawlways or crawlspace" means an enclosed area below the first usable floor of a building, generally
833 less than five feet in height, used for access to plumbing and electrical utilities.

834 (Ord. 1600 § 1(part), 2006).

835

836 **19.09.173 Day care center, adult.**

837 "Day care center, adult" means a facility operated for the purpose of providing care, protection, and
838 guidance to adults during normal business hours and with no overnight facilities.

839 (Ord. 1452 § 3(part), 2000).

840

841 **19.09.177 Day care center, child.**

842 "Day care center, child" means a state licensed facility where a person or persons, other than a relative
843 or legal guardian, provides paid care and supervision for four or more children under seven years of age,
844 for less than twenty-four hours a day.

845 (Ord. 1452 § 3(part), 2000).

846

847 **19.09.178 Deck.**

848 "Deck" means an unenclosed exterior structure that has no roof or sides, but has a permeable floor
849 which allows the infiltration of precipitation.

850 (Ord. 1600 § 1(part), 2006).

851

852 **19.09.180 Development.**

853 "Development" means any manmade change to improved or unimproved real estate, including but not
854 limited to construction of or additions or substantial improvements to buildings, other structures, or
855 accessory uses, the placement of mobile homes, mining, dredging, filling, grading, paving, excavation or
856 drilling operations, or deposition of materials.

857 (Ord. 994 § 12.0(part), 1982).

858

859 **19.09.185 District, basic.**

860 "Basic district" means a part or parts of the city for which the regulations of this chapter governing the
861 use and location of land and buildings are uniform.

862 (Ord. 1060 § 10(part), 1985).

863

864 **19.09.190 Drive-in establishment.**

865 "Drive-in establishment" means a building and the lot on which it is situated, or a portion thereof which
866 is used for off-street quick-service business purposes catering primarily to automobile trade wherein the
867 customer is served directly at the automobile or the automobile is parked temporarily and the customer
868 is served from a counter or pass-through window. Drive-in food service establishments may contain very
869 limited seating accommodations for walk-up customers.

870 (Ord. 994 § 12.0(part), 1982).

871

872 **19.09.191 Driveway**

873 An improved access which is used primarily to connect off-street parking spaces to the public right-of-
874 way. All areas intended to be utilized as [a-driveways and parking areas](#) shall be surfaced with [materials](#)
875 [asphalt or concrete](#) to control dust and drainage, except in the case of farm dwellings and operations.
876 [The use of bricks or pavers will require a conditional use permit.](#) In all cases, permeable or pervious
877 materials are preferred. [Gravel is not permitted for driveway or parking areas.](#) Plans for surfacing and
878 drainage of driveways shall be submitted to the City for review and approval.

879

880 **19.09.195 Dryland access.**

881 "Dryland access" means a vehicular access route which is above the regional flood elevation and which
882 connects land located in the floodplain to land which is outside the floodplain, such as a road with its
883 surface above the regional flood elevation and wide enough to accommodate wheeled vehicles.

884 (Ord. 1196 § 1(part), 1990).

885

886 **19.09.200 Dwelling.**

887 "Dwelling" means a building or part of a building, containing one or more dwelling units and also
888 containing other directly associated elements such as hallways, storage areas or common laundry
889 facilities. For purposes of this title, the term "dwelling" does not include group lodging facilities.
890 (Ord. 994 § 12.0(part), 1982).

891

892 **19.09.210 Dwelling, attached.**

893 "Attached dwelling" means a dwelling attached to another dwelling unit by having any portion of any
894 roof, any wall, or any floor in common with another dwelling unit.
895 (Ord. 994 § 12.0(part), 1982).

896

897 **19.09.220 Dwelling, detached.**

898 "Detached dwelling" means a dwelling separated from another dwelling unit and not having any portion
899 of any roof, any wall, or any floor in common with another dwelling unit.
900 (Ord. 994 § 12.0(part), 1982).

901

902 **19.09.230 Dwelling, multiple-family.**

903 "Multiple-family dwelling" means a dwelling having more than two attached dwelling units, and includes
904 both apartment and townhouse-style buildings.
905 (Ord. 994 § 12.0(part), 1982).

906

907 **19.09.240 Dwelling, single-family.**

908 "Single-family dwelling" means a detached dwelling having one dwelling unit.
909 (Ord. 994 § 12.0(part), 1982).

910

911 **19.09.250 Dwelling, two-family.**

912 "Two-family dwelling" means a dwelling having two attached dwelling units.
913 (Ord. 994 § 12.0(part), 1982).

914

915 **19.09.260 Dwelling unit.**

916 "Dwelling unit" means an area of or within a dwelling that is designed, occupied or intended to be
917 occupied by a family (or by a non-family household) as permitted by this title as a separate living
918 quarters with private kitchen, sanitary, sleeping and living quarters within the dwelling unit. Quarters
919 are within the dwelling unit if they are within the same contiguous area. Kitchen quarters in a dwelling
920 must be designed and outfitted to have, at a minimum, a refrigerator, stove and range, kitchen sink and
921 cabinet facilities.

922 (Ord. 994 § 12.0(part), 1982).

923

924 **19.09.270 Dwelling unit, efficiency.**

925 "Efficiency dwelling unit" means a dwelling unit within a dwelling that has two or more attached units
926 and having not more than one habitable room in addition to kitchen and sanitary facilities.
927 (Ord. 994 § 12.0(part), 1982).

928

929 **19.09.275 Encroachment.**

930 "Encroachment" means any fill, structure, equipment, building, use or development in the floodway.

931 (Ord. 1600 § 1(part), 2006).

932

933 **19.09.280 Essential services.**

934 "Essential services" means services provided by public and private utilities, necessary for the exercise of
935 the principal use or service of the principal structure. These services include underground, surface, or
936 overhead gas, electrical, television, steam, water, sanitary sewerage, storm water drainage, and
937 conventional, non-wireless telephonic communication systems and accessories thereto, such as poles,
938 towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, water storage tanks,
939 conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but
940 not including buildings, wireless telecommunications facilities, or wireless telecommunications support
941 facilities.

942 (Ord. 1499 § 2, 2001; Ord. 994 § 12.0(part), 1982).

943

944 **19.09.285 Existing manufactured home park or subdivision.**

945 "Existing manufactured home park or subdivision" means a parcel of land, divided into two or more
946 manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is
947 completed before January 1, 2006. At a minimum, this would include the installation of utilities, the
948 construction of streets and either final site grading or the pouring of concrete pads.

949 (Ord. 1600 § 1(part), 2006).

950

951 **19.09.286 Expansion to existing mobile/manufactured home park.**

952 "Expansion to existing mobile/manufactured home park" means the preparation of additional sites by
953 the construction of facilities for servicing the lots on which the manufactured homes are to be affixed.
954 This includes installation of utilities, construction of streets and either final site grading, or the pouring
955 of concrete pads.

956 (Ord. 1600 § 1(part), 2006).

957

958 **19.09.290 Family.**

959 "Family" means an individual or a group of two or more individuals who are related by blood, marriage,
960 adoption, domestic partnership, or civil union, (limited to immediate family members, grandparents,
961 aunts, uncles, nieces, nephews, and first cousins) together with not more than two additional persons
962 not so related (with the exception of the R-O overlay district), living as a single household in a dwelling
963 unit. (For the purposes of this title, "family" includes "non-family households.")

964 (Ord. 994 § 12.0(part), 1982).

965

966 **19.09.295 Federal Emergency Management Agency.**

967 "Federal Emergency Management Agency" means the federal agency that administers the National
968 Flood Insurance Program. Also referred to as FEMA.

969 (Ord. 1600 § 1(part), 2006).

970

971 **19.09.296 Flood frequency.**

972 "Flood frequency" means the probability of a flood occurrence which is determined from statistical
973 analyses. The frequency of a particular flood event is usually expressed as occurring, on the average,
974 once in a specified number of years or as a percent chance of occurring in any given year.

975 (Ord. 1600 § 1(part), 2006).

976

977 **19.09.300 First floor.**

978 "First floor" means that floor located at ground level and having one-half or more of its windows above
979 the lot grade at the building line.
980 (Ord. 994 § 12.0(part), 1982).

981

982 **19.09.305 Flood.**

983 "Flood" means a general and temporary condition of partial or complete inundation of normally dry land
984 caused by the overflow or rise of inland waters; or the rapid accumulation or runoff of surface waters
985 from any source; or inundation caused by waves or currents of water exceeding cyclical levels along the
986 shores of Lake Michigan or Lake Superior; or a sudden increase caused by an unusually high water level
987 in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such
988 as a seiche, or by some similarly unusual event.
989 (Ord. 1196 § 1(part), 1990).

990

991 **19.09.306 Flood Insurance Rate Map.**

992 "Flood Insurance Rate Map" means a map of a community on which the Federal Insurance and
993 Mitigation Administration has delineated both special flood hazard areas (the floodplain) and the risk
994 premium zones applicable to the community. This map can only be amended by the Federal Emergency
995 Management Agency. Also referred to as FIRM.
996 (Ord. 1600 § 1(part), 2006).

997

998 **19.09.307 Flood Insurance Study.**

999 "Flood Insurance Study" means a technical engineering examination, evaluation, and determination of
1000 the local flood hazard areas. It provides maps designating those areas affected by the regional flood,
1001 provides both flood insurance rate zones and base flood elevations, and may provide floodway lines.
1002 The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate
1003 Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the
1004 insurance aspects of the National Flood Insurance Program (NFIP).
1005 (Ord. 1600 § 1(part), 2006).

1006

1007 **19.09.310 Flood Hazard Boundary Map.**

1008 "Flood Hazard Boundary Map" means a map designating approximate flood hazard areas. Flood hazard
1009 areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood
1010 elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood
1011 Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
1012 (Ord. 1600 § 1(part), 2006; Ord. 994 § 12.0(part), 1982).

1013

1014 **19.09.312 Flood profile.**

1015 "Flood profile" means a graph showing the relationship of the floodwater surface elevation of a flood
1016 event of a specified recurrence interval to the stream bed and other significant natural and manmade
1017 features along a stream.
1018 (Ord. 1060 § 10(part), 1985).

1019

1020 **19.09.314 Flood protection elevation.**

1021 "Flood protection elevation" means a point two feet above the water surface elevation of the one-
1022 hundred-year recurrence interval flood. This safety factor, also called "freeboard," is intended to
1023 compensate for the many unknown factors that contribute to flood heights greater than those

1024 computed. Such unknown factors may include ice jams, debris accumulation, wave action, and
1025 obstruction of bridge openings.
1026 (Ord. 1060 § 10(part), 1985).

1027

1028 **19.09.315 Floodplain.**

1029 "Floodplain" means land which has been or may be covered by flood water during the regional flood. It
1030 includes the floodway and the floodfringe, and may include other designated floodplain areas for
1031 regulatory purposes.
1032 (Ord. 1600 § 1(part), 2006).

1033

1034 **19.09.316 Flood stage.**

1035 "Flood stage" means the elevation of the floodwater surface above an officially established datum plan,
1036 which is Mean Sea Level 1929 Adjustment.
1037 (Ord. 1060 § 10(part), 1985).

1038

1039 **19.09.318 Floodlands.**

1040 For the purpose of this title, the "floodlands" are all lands contained in the "regional flood" or one-
1041 hundred-year recurrence interval flood.
1042 (Ord. 1600 § 1(part), 2006; Ord. 1196 § 1(part), 1990).

1043

1044 **19.09.320 Floodfringe.**

1045 "Floodfringe" means that a portion of the one-hundred-year recurrence interval floodplain located
1046 beyond the limits of the floodway. The floodfringe is generally associated with standing water rather
1047 than rapidly flowing water.
1048 (Ord. 1600 § 1(part), 2006; Ord. 1196 § 1(part), 1990).

1049

1050 **19.09.321 Floodplain island.**

1051 "Floodplain island" means a natural geologic land formation within the floodplain that is surrounded,
1052 but not covered, by floodwater during the regional flood.
1053 (Ord. 1600 § 1(part), 2006).

1054

1055 **19.09.322 Floodproofing.**

1056 "Floodproofing" means measures designed to prevent and reduce flood damage for those uses which
1057 cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from
1058 structural modifications through installation of special equipment or materials to operation and
1059 management safeguards, such as the following: reinforcing of basement walls; underpinning of floors;
1060 permanent sealing of all exterior openings; use of masonry construction; erection of permanent
1061 watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable
1062 utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of
1063 sump pumps; placement of automatic swing check valves; installation of sealtight windows and doors;
1064 installation of wire-reinforced glass; location and elevation of valuable items; waterproofing,
1065 disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable
1066 areas; temporary removal or waterproofing of merchandise; operation of emergency pump equipment;
1067 closing of backwater sewer valves; placement of plugs and flood drain pipes; placement of movable
1068 watertight bulkheads; and the shoring of weak walls or structures. Floodproofing of structures shall be
1069 extended at least to a point two feet above the elevation of the regional flood. Any structure that is

1070 located entirely or partially below the flood protection elevation shall be anchored to protect it from
1071 larger floods.

1072 (Ord. 1060 § 10(part), 1985).

1073

1074 **19.09.323 Floodplain management.**

1075 "Floodplain management" means policy and procedures to ensure wise use of floodplains, including
1076 mapping and engineering, mitigation, education, and administration and enforcement of floodplain
1077 regulations.

1078 (Ord. 1600 § 1(part), 2006).

1079

1080 **19.09.324 Floodway.**

1081 "Floodway" means a designated portion of the one-hundred-year recurrence interval flood that will
1082 safely convey the regulatory flood discharge into small, acceptable upstream and downstream increases,
1083 limited in Wisconsin to 0.01 foot unless special legal measures are provided. The floodway, which
1084 includes the channel, is that portion of the floodplain needed to convey the regional flood discharges
1085 and is not suited for human habitation. All fill, structures and other development that would impair
1086 floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to
1087 flood damage should be prohibited in the floodway.

1088 (Ord. 1196 § 1(part), 1990).

1089

1090 **19.09.326 Flood storage.**

1091 "Flood storage" means those floodplain areas where storage of floodwaters has been taken into account
1092 during analysis in reducing the regional flood discharge.

1093 (Ord. 1600 § 1(part), 2006).

1094

1095 **19.09.330 Fraternity or sorority house.**

1096 "Fraternity or sorority house" means a building containing sleeping rooms, bathrooms, common rooms
1097 and a central kitchen and dining room maintained exclusively for fraternity or sorority members and
1098 their guests or visitors and affiliated with an institution of higher learning.

1099 (Ord. 1668A § 1, 2007; Ord. 994 § 12.0(part), 1982).

1100

1101 **19.09.333 Freeboard.**

1102 "Freeboard" means a safety factor expressed in terms of a specified number of feet above a calculated
1103 flood level. Freeboard compensates for any factors that cause flood heights greater than those
1104 calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and
1105 floodways, the effects of watershed urbanization, loss of flood storage areas due to development and
1106 aggregation of the river or stream bed.

1107 (Ord. 1600 § 1(part), 2006).

1108

1109 **19.09.335 Freestanding wireless telecommunications facility.**

1110 "Freestanding wireless telecommunications facility" means a self-supporting telecommunications tower
1111 or other self-supporting wireless telecommunications facility that is not mounted, or otherwise attached
1112 to, an alternative support structure. A tower using guy wires shall be considered a freestanding wireless
1113 telecommunications facility.

1114 (Ord. 1499 § 3(part), 2001).

1115

1116 **19.09.340 Garage, private.**

1117 "Private garage" means a structure primarily intended for and used for the enclosed storage or shelter
1118 of the private motor vehicles of the families resident upon the premises. Carports shall be considered
1119 garages within this definition.
1120 (Ord. 994 § 12.0(part), 1982).

1121

1122 **19.09.350 Garage, public or commercial.**

1123 "Public or commercial garage" means any garage not falling within the definition of a "private garage" as
1124 established in this chapter.
1125 (Ord. 994 § 12.0(part), 1982).

1126

1127 **19.09.360 Group lodging facilities.**

1128 "Group lodging facilities" means buildings or parts of buildings designed, occupied or intended to be
1129 occupied as living quarters on a basis other than described in this ordinance under the defined terms:
1130 dwelling, dwelling unit, hotel or motel.
1131 (Ord. 994 § 12.0(part), 1982).

1132

1133 **19.09.370 Group lodging house.**

1134 "Group lodging house" means a group lodging facility containing several lodging rooms without kitchen
1135 facilities that are offered for rent or comparable compensation on a monthly or longer basis. Meals or
1136 access to common meal preparation facilities may be offered as part of the service to occupants.
1137 Facilities commonly known as dormitories are group lodging houses for purposes of this title.
1138 (Ord. 994 § 12.0(part), 1982).

1139

1140 **19.09.375 Habitable structure.**

1141 "Habitable structure" means any structure or portion thereof used or designed for human habitation.
1142 (Ord. 1600 § 1(part), 2006).

1143

1144 **19.09.376 Hearing notice.**

1145 "Hearing notice" means a publication or posting meeting the requirements of Chapter 985, Statutes. For
1146 appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required.
1147 For all zoning ordinance text and map amendments, a Class 2 notice, published twice, once each week
1148 consecutively, the last at least a week (seven days) before the hearing, is required.
1149 (Ord. 1600 § 1(part), 2006).

1150

1151 **19.09.377 High flood damage potential.**

1152 "High flood damage potential" means damage that could result from flooding that includes any danger
1153 to life or health or any significant economic loss to a structure or building and its contents.
1154 (Ord. 1600 § 1(part), 2006).

1155

1156 **19.09.380 Historic landmark.**

1157 "Historic landmark" means any building or structure which has a special historic, architectural or cultural
1158 interest, significance or value as part of the heritage, development or cultural characteristics of the city,
1159 state or nation and which has been designated as a landmark under this title.
1160 (Ord. 994 § 12.0(part), 1982).

1161

1162 **19.09.385 Historic structure.**

1163 For the purposes of the floodplain regulations in this title, "historic structure" means any structure that
1164 is either: listed individually in the National Register of Historic Places or preliminarily determined by the
1165 Secretary of the Interior as meeting the requirements for individual listing on the National Register,
1166 certified or preliminarily determined by the Secretary of the Interior as contributing to the historical
1167 significance of a registered historic district or a district preliminarily determined by the Secretary to
1168 qualify as a registered historic district; individually listed on a state inventory of historic places in states
1169 with historic preservation programs which have been approved by the Secretary of the Interior; or
1170 individually listed on a local inventory of historic places in communities with historic preservation
1171 programs that have been certified either by an approved state program, as determined by the Secretary
1172 of the Interior, or by the Secretary of the Interior in states without approved programs.
1173 (Ord. 1600 § 1(part), 2006).

1174

1175 **19.09.390 Household occupation or home occupation.**

1176 "Household occupation" or "home occupation" means an occupation for gain or support that is
1177 traditionally or customarily conducted within a residential building by resident occupants, and which
1178 meets all of the following criteria:

1179 A. Home occupation is incidental to the principal residential use of the premises.

1180 B. Space used for the home occupation(s) does not exceed either twenty-five percent of the usable
1181 floor area of the principal building or fifty percent of an accessory building.

1182 C. No article or service shall be sold or offered for sale on the premises except articles or services that
1183 are produced by such occupation.

1184 D. There shall be no exterior alterations that change the character of the dwelling or accessory
1185 building, or exterior evidence of the home occupation, other than permitted signage under Chapter
1186 19.54.

1187 E. There shall not be more than one employee other than members of the resident family.

1188 F. No home occupation shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small
1189 electrical interference, or any other nuisance not normally associated with the average residential use in
1190 the district.

1191 G. There shall be no exterior display or storage of any materials, supplies, equipment, or product
1192 produced or used by such occupation.

1193 (Ord. 1605A § 1, 2006; Ord. 994 § 12.0(part), 1982).

1194

1195 **19.09.400 Incidental repairs.**

1196 "Incidental repairs" are not considered structural repairs, modifications, or additions; incidental repairs
1197 include internal and external painting, decoration, paneling, and the replacement of doors, windows,
1198 and other nonstructural components.

1199 (Ord. 994 § 12.0(part), 1982).

1200

1201 **19.09.401 Increase in regional flood height.**

1202 "Increase in regional flood height" means a calculated upward rise in the regional flood elevation, equal
1203 to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions
1204 which is directly attributable to development in the floodplain but not attributable to manipulation of
1205 mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

1206 (Ord. 1600 § 1(part), 2006).

1207

1208 **19.09.403 Land use.**

1209 For the purposes of the floodplain regulations in this title, "use" means any nonstructural use made of
1210 unimproved or improved real estate.

1211 (Ord. 1600 § 1(part), 2006: Ord. 1452 § 3(part), 2000).

1212

1213 **19.09.405 Letter of Map Change (LOMC).**

1214 "Letter of Map Change" or "LOMC" means official notification from the Federal Emergency Management
1215 Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

1216 (Ord. 1600 § 1(part), 2006: Ord. 1060 § 10(part), 1985).

1217

1218 **19.09.410 Living rooms.**

1219 "Living rooms" means all rooms within a dwelling except closets, foyers, storage areas, utility rooms and
1220 bathrooms.

1221 (Ord. 994 § 12.0(part), 1982).

1222

1223 **19.09.420 Loading area.**

1224 "Loading area" means a completely off-street space or berth on the same lot for the loading or
1225 unloading of freight carriers, having adequate ingress and egress to a public street or alley.

1226 (Ord. 994 § 12.0(part), 1982).

1227

1228 **19.09.430 Lodginghouse.**

1229 "Lodginghouse" means a building other than a hotel, restaurant or a dormitory where lodging is
1230 regularly furnished by prearrangement for a definite period for compensation for six or more persons
1231 not members of a family, but not exceeding twelve persons (individual) and not open to transient
1232 customers. A lodginghouse shall maintain a minimum green space area of three hundred fifty square
1233 feet per allowed occupant.

1234 (Ord. 1364 § 4, 1997: Ord. 994 § 12.0(part), 1982).

1235

1236 **19.09.440 Lodging rooms.**

1237 "Lodging rooms" means rooms within group lodging facilities that are rented as sleeping and living
1238 quarters, or spaces within a suite of rooms in a group lodging facility that provide sleeping
1239 accommodations. For purposes of this title any lodging room that is designed or intended to be
1240 occupied by one or two persons shall be counted as one lodging room.

1241 (Ord. 994 § 12.0(part), 1982).

1242

1243 **19.09.450 Lot.**

1244 "Lot" means a single parcel of contiguous land abutting and having frontage on a public street, being a
1245 part of a platted recorded subdivision, or recorded CSM, or a parcel of land for which the deed is
1246 recorded, with the respective county register of deeds occupied or intended to be occupied by a
1247 principal structure or principal group of structures or use and sufficient in size to meet the lot width, lot
1248 frontage, lot area, yard parking area, and other open space provisions of this title.

1249 [Click here](#)

1250

1251 **[19.09.460 Lot coverage, maximum.](#)**

1252 ["Maximum lot coverage" is the total impervious area that can be occupied by principal accessory](#)
1253 [structures, parking areas, drives, sidewalks, and similar at-grade structures.](#)
1254 [\(Ord. 994 § 12.0\(part\), 1982\).](#)

1255

1256 **19.09.455 Lot width.**

1257 "Lot width" means the horizontal distance between side lot lines as measured at the minimum front
1258 yard setback required in the zoning district in which the lot is located or through a recorded final plat or
1259 certified survey map.
1260 (Ord. 1511 § 1(part), 2002).

1261

1262 **19.09.457 Major subdivision.**

1263 "Major subdivision" means the division of a lot or parcel, or tract of land by the owners thereof, or their
1264 agents, for the purpose of transfer of ownership or building development where a single act of division
1265 creates five or more parcels or building sites, each less than five acres in size; or an act of division results
1266 in the creation of five or more parcels or building sites by successive divisions within a period of five
1267 years, where at least five of the parcels or sites are less than one and one-half acres in size in the M-I
1268 general manufacturing district, or less than five acres in size in all other zoning districts.
1269 (Ord. 1600 § 1(part), 2006: Ord. 1580A § 1(part), 2005).

1270

1271 **19.09.458 Manufactured home.**

1272 "Manufactured home" means a type of single-family dwelling as defined in Wisconsin Statutes, Section
1273 101.91(2), fabricated in an off-site manufacturing facility for installation or assembly at the building site,
1274 and bearing a Department of Housing and Urban Development (HUD) label or insignia certifying that it
1275 was built in compliance with the Federal Manufactured Home Construction and Safety Standards under
1276 42 U.S.C. Chapter 70 Sections 5401 to 5426. For the purposes of the floodplain regulations in this title
1277 only, the term "manufactured home" includes a mobile home but does not include a "mobile
1278 recreational vehicle."
1279 (Ord. 1600 § 1(part), 2006: Ord. 1511 § 1(part), 2002).

1280

1281 ~~**19.09.460 Maximum lot coverage.**~~

1282 ~~"Maximum lot coverage" is the total buildable area that can be occupied by principal accessory~~
1283 ~~structures, parking areas, drives, sidewalks and similar at-grade structures shall not be included when~~
1284 ~~figuring maximum lot coverage.~~
1285 ~~(Ord. 994 § 12.0(part), 1982).~~

1286

1287 **19.09.470 Minor structures.**

1288 "Minor structures" are small structures, less than 6' in height and less than 100 square feet in area (such
1289 as doghouses, birdhouses, small storage sheds, play structures, mailboxes, or similar structures) and are
1290 either permanently affixed to a foundation or portable..
1291 (Ord. 994 § 12.0(part), 1982).

1292

1293 **19.09.475 Minor subdivision.**

1294 "Minor subdivision" is a division of land into four or fewer parcels, each of which is less than 5 acres in
1295 size (this is customarily accomplished by certified survey map).

1296

1297 **19.09.480 Mobile home.**

1298 "Mobile home" means a transportable factory built structure as is defined in Wisconsin Statutes Section
1299 101.91(2)(k), designed for long term occupancy by one family and built prior to June 15, 1976, the
1300 effective date of the Federal Manufactured Home Construction and Safety Standards Act. A mobile
1301 home is not considered to be a type of single-family dwelling for the purposes of this title.
1302 (Ord. 1600 § 1(part), 2006; Ord. 994 § 12.0(part), 1982).

1303

1304 **19.09.490 Mobile home park.**

1305 "Mobile home park" means a site with required improvements and utilities for the long-term parking of
1306 mobile homes, which may include services and facilities for the residents.
1307 (Ord. 994 § 12.0(part), 1982).

1308

1309 **19.09.495 Mobile recreational vehicle.**

1310 "Mobile recreational vehicle" means a vehicle which is built on a single chassis; is four hundred square
1311 feet or less when measured at the largest horizontal projection; is designed to be self-propelled; is
1312 carried or permanently towable by a licensed, light-duty vehicle; is licensed for highway use if
1313 registration is required; and is designed primarily not for use as a permanent dwelling, but as temporary
1314 living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or
1315 carried onto a parcel of land, but do not remain capable of being towed or carried, including park model
1316 homes, do not fall within the definition of a "mobile recreational vehicle." Also referred to as
1317 "Recreational Vehicle" or "RV."

1318 (Ord. 1600 § 1(part), 2006).

1319

1320 **19.09.500 Modular home.**

1321 "Modular home" means a dwelling unit which meets all regulations for conventional construction,
1322 sections of which are built in a factory and joined on a permanent foundation.

1323 (Ord. 994 § 12.0(part), 1982).

1324

1325 **19.09.501 Motor vehicles.**

1326 "Motor vehicle" means a vehicle, including a combination of two or more vehicles or an articulated
1327 vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. "Motor vehicle" includes,
1328 without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power
1329 obtained from overhead trolley wires but not operated on rails. A snowmobile and an all-terrain vehicle
1330 shall only be considered motor vehicles for purposes made specifically applicable by ordinance.

1331 (Ord. 1364 § 5, 1997).

1332

1333 **19.09.502 Municipality or municipal.**

1334 "Municipality" or "municipal" means the City of Whitewater, Wisconsin. Also referred to as "City."

1335 (Ord. 1600 § 1(part), 2006).

1336

1337 **19.09.504 National geodetic vertical datum.**

1338 "National geodetic vertical datum" or NGVD means elevations referenced to mean sea level datum,
1339 1929 adjustment.

1340 (Ord. 1600 § 1(part), 2006).

1341

1342 **19.09.505 Navigable water.**

1343 "Navigable water" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all
1344 rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state,
1345 including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.
1346 The Wisconsin Supreme Court has declared navigable all bodies of water with a bed differentiated from
1347 adjacent uplands and with levels or flow sufficient to support navigation by a recreational craft of the
1348 shallowest draft on an annually recurring basis. [Muench v. Public Service Commission, 261 Wis. 492
1349 (1952), and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]

1350
1351 For the purpose of this title, rivers and streams will be presumed to be navigable if they are designated
1352 as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps
1353 until such time that the Wisconsin Department of Natural Resources has made a determination that the
1354 waterway is not, in fact, navigable.
1355 (Ord. 1196 § 1(part), 1990).

1356
1357 **19.09.507 Neighborhood development plan.**

1358 "Neighborhood development plan" means a city, developer, or property owner prepared plan for the
1359 future development of a part of the community, and including the proposed land use pattern, zoning,
1360 street alignments, lot patterns, locations of utilities and public buildings, parks, open spaces,
1361 environmental corridors, trails, and a development phasing timetable.
1362 (Ord. 1511 § 1(part), 2002).

1363
1364 **19.09.508 New construction.**

1365 For floodplain management purposes, "new construction" means structures for which the start of
1366 construction commenced on or after the effective date of the original floodplain zoning regulations
1367 adopted by the city and includes any subsequent improvements to such structures. For the purpose of
1368 determining flood insurance rates, it includes any structures for which the "start of construction"
1369 commenced on or after the effective date of an initial Flood Insurance Rate Map (FIRM) or after
1370 December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
1371 (Ord. 1600 § 1(part), 2006).

1372
1373 **19.09.510 Nonconforming structure.**

1374 A "nonconforming structure" means a structure, or portion thereof, that was legally established prior to
1375 the effective date of this title, or subsequent amendments thereto, which does not conform with one or
1376 more of the dimensional requirements applicable within the zoning district in which the structure is
1377 located.
1378 (Ord. 1600 § 1(part), 2006; Ord. 994 § 12.0(part), 1982).

1379
1380 **19.09.511 Nonconforming use.**

1381 A "nonconforming use" means an active and actual use of land, structure, or both that was legally
1382 established prior to the effective date of this title, or subsequent amendments thereto, which has
1383 continued the same use to the present, and which does not conform to the use regulations applicable
1384 within the zoning district in which the use is located. Also referred to as "nonconforming land use."
1385 (Ord. 1600 § 1(part), 2006).

1386
1387 **19.09.520 Non-family household.**

1388 "Non-family household" means a group of individuals who do not constitute a family under the terms of
1389 this title and who live as a single household in a dwelling unit. This definition is intended to facilitate

1390 application of regulations that ensure the right of quiet enjoyment of each property owner, or resident
1391 of their home. The constant or consistent presence of visitors to a particular residence can constitute
1392 the equivalent of additional persons living there, for land use purposes, regardless if they are listed as
1393 residents on a lease or deed, if the "quiet enjoyment" of others' property rights is affected. For the
1394 purposes of this section, actions that affect quiet enjoyment shall include actions by occupants or
1395 visitors which unreasonably disturb other property owners' or occupants' enjoyment of their premises.
1396 (Ord. 994 § 12.0(part), 1982).
1397 (Ord. No. 1689A, 6-17-2008; Ord. No. 1694A, 8-5-2008)
1398

19.09.521 Obstruction to flow.

1400 "Obstruction to flow" means any development which blocks the conveyance of floodwaters such that
1401 this development alone or together with any future development will cause an increase in regional flood
1402 height.
1403 (Ord. 1600 § 1(part), 2006).
1404

19.09.522 Official floodplain zoning map.

1406 "Official floodplain zoning map" means that map, adopted and made part of this title, as described in
1407 Section 19.46.010(E)(2), which has been approved by the Department of Natural Resources and the
1408 Federal Emergency Management Agency (FEMA).
1409 (Ord. 1600 § 1(part), 2006).
1410

19.09.524 Open space use.

1412 "Open space use" means those land uses having a relatively low flood damage potential, and not
1413 involving structures when in a floodplain.
1414 (Ord. 1600 § 1(part), 2006).
1415

19.09.525 Ordinary high water mark.

1417 "Ordinary high water mark" means the point on the bank or shore up to which the presence and action
1418 of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or
1419 prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized
1420 characteristics.
1421 (Ord. 1196 § 1(part), 1990).
1422

19.09.527 Outdoor lighting fixture.

1424 "Outdoor lighting fixture" means an outdoor artificial illuminating device, either permanent or portable,
1425 used for illumination or advertisement of parking lots, architecture, signage, landscaping, entryways, or
1426 areas requiring security.
1427 (Ord. 1452 § 3(part), 2000).
1428

19.09.528 Overlay Permission Area Map

1430 A map depicting the boundary lines within which applications are allowed for changing the zoning
1431 district designation to that of a specific overlay zone (with the exception of the R-O overlay district)
1432

19.09.529 Overlay Zoning District

1434 A type of zoning district that offers alternative regulations for an existing zoning district. The properties
1435 which can apply for an overlay zoning district map change are limited by boundaries as depicted in an
1436 Overlay Permission Area Map (with the exception of the R-O overlay which is applicable anywhere

1437 within the City). The procedures for changing and amending a property to overlay zoning status are
1438 described in section 19.69 and in each of the overlay districts.

1439

1440 **19.09.530 Parking lot.**

1441 "Parking lot" means a structure or premises containing parking spaces open to the public. Curb cut
1442 openings shall be designed to facilitate traffic safety and pedestrian movement.
1443 (Ord. 994 § 12.0(part), 1982).

1444

1445 **19.09.540 Parking space or parking stall.**

1446 "Parking space" or "parking stall" means a graded and paved area of not less than one hundred eighty
1447 square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress
1448 and egress to a public street or alley except as additionally provided for in Section 19.50.010. All areas
1449 intended to be utilized as ~~a parking areas and~~ driveways shall be surfaced with ~~materials asphalt or~~
1450 ~~concrete~~ to control dust and drainage, except in the case of farm dwellings and operations. The use of
1451 bricks or pavers will require a conditional use permit. In all cases, permeable or pervious materials are
1452 preferred. Gravel is not permitted for parking or driveway areas, LANGUAGE WITH THE DATE for
1453 grandfathered parking, unless not well-kept according to the gravel criteria. Plans for surfacing and
1454 drainage of stalls and driveways shall be submitted to the City for review and approval.
1455 (Ord. 994 § 12.0(part), 1982).

1456

1457 For discussion: criteria for well-kept gravel and grandfathered gravel

1458

1459 **19.09.550 Parties of interest.**

1460 "Parties of interest" includes all abutting property owners, all property owners within three hundred
1461 feet, and all property owners of opposite frontage. For purposes of this title, property ownership shall
1462 be determined from property tax billing records available within municipal records at the time the
1463 notification is sent.
1464 (Ord. 994 § 12.0(part), 1982).

1465

1466 **19.09.555 Person.**

1467 "Person" means an individual, or group of individuals, corporation, partnership, association, municipality
1468 or state agency.
1469 (Ord. 1600 § 1(part), 2006).

1470

1471 **19.09.560 Planting screen.**

1472 "Planting screen" means an arrangement of living vegetation reaching an anticipated height of four feet
1473 or more, which may or may not be accompanied by materials used to construct fences and the like,
1474 which is intended to provide a reasonable separation of vision between abutting lots or the lot and the
1475 street line.
1476 (Ord. 994 § 12.0(part), 1982).

1477

1478 **19.09.570 Principal use or structure.**

1479 "Principal use or structure" means a use or structure specified as a principal use under the district
1480 regulations of this title; such uses or structures must occur or be built prior to or concurrently with any
1481 accessory uses or structures.
1482 (Ord. 994 § 12.0(part), 1982).

1483

1484 **19.09.580 Private club or lodge.**

1485 "Private club or lodge" means a structure or grounds used for regular or periodic meetings or gatherings
1486 of a group of persons organized for a nonprofit purpose, but not groups organized to render a service
1487 customarily carried on as a business.

1488 (Ord. 994 § 12.0(part), 1982).

1489

1490 **19.09.585 Private sewage system.**

1491 "Private sewage system" means a sewage treatment and disposal system serving one structure with a
1492 septic tank and soil absorption field located on the same parcel as the structure. It also means an
1493 alternative sewage system approved by the Department of Commerce, including a substitute for the
1494 septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system
1495 located on a different parcel than the structure. Also referred to as "septic system" or "private on-site
1496 waste treatment system."

1497 (Ord. 1600 § 1(part), 2006).

1498

1499 **19.09.590 Professional home offices.**

1500 "Professional home offices" means residences of doctors of medicine, practitioners, dentists, clergymen,
1501 architects, landscape architects, professional engineers, real estate and insurance offices, registered
1502 land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions, used to
1503 conduct their professions, where the office does not exceed one-half of the area of only one floor of the
1504 residence and only one nonresident person is employed.

1505 (Ord. 994 § 12.0(part), 1982).

1506

1507 **19.09.600 Professional offices.**

1508 "Professional offices" means doctors of medicine, practitioners, dentists, clergymen, architects,
1509 landscape architects, professional engineers, real estate and insurance offices, registered land
1510 surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions not able to
1511 meet professional home office requirements.

1512 (Ord. 994 § 12.0(part), 1982).

1513

1514 **19.09.602 Public utilities.**

1515 "Public utilities" means those utilities using underground or overhead transmission lines such as electric,
1516 telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and
1517 storm sewer.

1518 (Ord. 1600 § 1(part), 2006).

1519

1520 **19.09.604 Reach.**

1521 "Reach" means longitudinal segment of a stream, generally including those floodlands wherein flood
1522 stages are primarily and commonly controlled by the same manmade or natural obstructions to flow.

1523 (Ord. 1060 § 10(part), 1985).

1524

1525 **19.09.605 Reasonably safe from flooding.**

1526 "Reasonably safe from flooding" means base flood waters will not inundate the land or damage
1527 structures to be removed from the special flood hazard area and that any subsurface waters related to
1528 the base flood will not damage existing or proposed buildings.

1529 (Ord. 1600 § 1(part), 2006; Ord. 1580A § 1(part), 2005).

1530

1531 **19.09.608 Regional flood.**

1532 "Regional flood" means a flood determined to be representative of large floods known to have generally
1533 occurred in Wisconsin and which may be expected to occur on a particular stream because of like
1534 physical characteristics. The flood frequency of the regional flood is once in every one hundred years;
1535 this means that in any given year, there is a one percent chance that the regional flood may occur or be
1536 exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent
1537 chance of occurrence.

1538 (Ord. 1060 § 10(part), 1985).

1539

1540 **19.09.609 Start of construction.**

1541 "Start of construction" means the date the building or zoning permit was issued, provided the actual
1542 start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement
1543 was within six months of the permit date. The actual start means either the first placement of
1544 permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the
1545 construction of columns, or any work beyond initial excavation, or the placement of a manufactured or
1546 mobile home on a foundation. Permanent construction does not include land preparation, such as
1547 clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it
1548 include excavation for a basement, footings, piers or foundations or the erection of temporary forms,
1549 nor does it include the installation on the property of accessory buildings, such as garages or sheds not
1550 occupied as dwelling units or not part of the main structure. For an alteration, the actual start of
1551 construction means the first alteration of any wall, ceiling, floor or other structural part of a building,
1552 whether or not that alteration affects the external dimensions of the building.

1553 (Ord. 1600 § 1(part), 2006).

1554

1555 **19.09.610 Story.**

1556 "Story" means that portion of a building included between the surface of a floor and the surface of the
1557 floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next
1558 above it. A basement or cellar having one-half or more of its height above grade shall be deemed a story
1559 for purposes of height regulation.

1560 (Ord. 994 § 12.0(part), 1982).

1561

1562 **19.09.620 Public or semipublic uses.**

1563 For purposes of this title, the following uses shall be considered "public and semipublic uses":
1564 government office buildings, fire and police stations, public garages, libraries, museums, community
1565 centers, churches, cemeteries, public and private elementary and secondary schools, colleges and
1566 universities, and similar uses not specifically listed but similar in character.

1567 (Ord. 994 § 12.0(part), 1982).

1568

1569 **19.09.623 Shielded light fixture.**

1570 "Shielded light fixture" means an outdoor lighting fixture which through design is shielded in such a
1571 manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture,
1572 are projected at least fifteen degrees below a horizontal plane running through the lowest point on the
1573 fixture where light is emitted. Except for ground and sign mounted light fixtures, that horizontal plane
1574 shall be parallel to the surface of the ground.

1575 (Ord. 1452 § 3(part), 2000).

1576

1577 **19.09.625 Shorelands.**

1578 "Shorelands" are those lands lying within the following distances from the ordinary high water mark of
1579 navigable waters: one thousand feet from a lake, pond or flowage; and three hundred feet from a river
1580 or stream; or to the landward side of the floodplain, whichever distance is greater. Shorelands shall not
1581 include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a
1582 navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were not
1583 navigable streams before ditching or had no previous stream history; and (c) such lands are maintained
1584 in nonstructural agricultural use.
1585 (Ord. 1196 § 1(part), 1990).

1586

1587 **19.09.630 Sign.**

1588 "Sign" means any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs,
1589 pictures, symbols, trade names or trademarks by which anything is made known, and which are used to
1590 advertise or promote an individual, firm, association, corporation, profession, business, commodity or
1591 product, located outside a structure or incorporated into the structure or in windows, and which are
1592 visible from any public street or highway.
1593 (Ord. 994 § 12.0(part), 1982).

1594

1595 **19.09.640 Sign, directional.**

1596 "Directional sign" means a sign intended solely for the purpose of directing patrons or customers to an
1597 establishment off the main-traveled road, and not including promotional advertising unnecessary to
1598 such directional purpose.
1599 (Ord. 994 § 12.0(part), 1982).

1600

1601 **19.09.650 Sign, nonaccessory.**

1602 "Nonaccessory sign" means a sign related to commercial or similar activities other than those actually
1603 engaged in on the site on which such nonaccessory sign is located.
1604 (Ord. 994 § 12.0(part), 1982).

1605

1606 **19.09.660 Street.**

1607 "Street" means a public right-of-way not less than sixty feet wide providing primary access to abutting
1608 properties. Existing streets with rights-of-way less than sixty feet shall also be included in this definition.
1609 (Ord. 994 § 12.0(part), 1982).

1610

1611 **19.09.670 Street line.**

1612 "Street line" means a dividing line between a lot, tract, or parcel of land and a contiguous street.
1613 (Ord. 994 § 12.0(part), 1982).

1614

1615 **19.09.680 Structural alterations.**

1616 "Structural alterations" means the erection, strengthening, removal or other change of the supporting
1617 elements of a building or structure. Such elements shall include, but shall not be limited to, footings,
1618 foundations, bearing walls, columns, beams, girders, joists and decking. The enlargement of an existing
1619 building or structure shall be considered a structural alteration for the purpose of this title.
1620 (Ord. 994 § 12.0(part), 1982).

1621

1622 **19.09.690 Structure.**

1623 "Structure" means any erection or construction, above or below grade, to form a shelter, enclosure,
1624 retainer, container, support or decoration, such as, but not limited to, buildings, towers, tanks, masts,
1625 poles, booms, signs, sculpture, carports, tents, machinery and equipment (excluding driveways and on-
1626 grade parking lots).

1627 (Ord. 994 § 12.0(part), 1982).

1628

1629 **19.09.700 Structure, accessory.**

1630 "Accessory structure" means a structure or portion of a structure customarily incident to any permitted
1631 principal use of such lot and located on the same lot as such principal use.

1632 (Ord. 994 § 12.0(part), 1982).

1633

1634 **19.09.710 Structure, permanent.**

1635 "Permanent structure" means a structure placed on or in the ground or attached to another structure in
1636 a fixed and determined position, and intended to remain in place for a period more than nine months.

1637 (Ord. 994 § 12.0(part), 1982).

1638

1639 **19.09.720 Structure, principal.**

1640 "Principal structure" means a structure used or intended to be used for the principal use as permitted
1641 on such lot by the regulations of the district in which it is located.

1642 (Ord. 994 § 12.0(part), 1982).

1643

1644 **19.09.730 Structure, temporary.**

1645 "Temporary structure" means any structure other than a permanent structure.

1646 (Ord. 994 § 12.0(part), 1982).

1647

1648 **19.09.732 Substantial damage.**

1649 "Substantial damage" means damage of any origin sustained by a structure, whereby the cost of
1650 restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the
1651 equalized assessed value of the structure before the damage occurred.

1652 (Ord. 1600 § 1(part), 2006).

1653

1654 **19.09.735 Substantial improvement.**

1655 "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of
1656 which equals or exceeds fifty percent of the present equalized assessed value of the structure either
1657 before the improvement or repair is started or, if the structure has been damaged and is being restored,
1658 before the damage occurred. The term does not, however, include either: (a) any project for
1659 improvement of a structure to comply with existing state or local health, sanitary or safety code
1660 specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a
1661 structure or site documented as deserving preservation by the Wisconsin State Historical Society or
1662 listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered
1663 structural repairs, modifications or additions; such ordinary maintenance repairs include internal and
1664 external painting, decorating, paneling, and the replacement of doors, windows and other nonstructural
1665 components.

1666 (Ord. 1060 § 10(part), 1985).

1667

1668 **19.09.740 Tourist home.**

1669 "Tourist home" means a building in which lodging, with or without meals, is offered to transient guests
1670 for compensation and having no more than five sleeping rooms for this purpose, with no cooking
1671 facilities in any such individual room or apartment.
1672 (Ord. 994 § 12.0(part), 1982).

1673

1674 **19.09.750 Townhouse.**

1675 "Townhouse" means a building having three or more attached dwelling units with each unit having
1676 separate primary ground level access to the outside, each unit having a first floor at ground level, and
1677 the units being attached by vertical common walls.
1678 (Ord. 994 § 12.0(part), 1982).

1679

1680 **19.09.760 Townhouse dwelling units.**

1681 "Townhouse dwelling units" means attached single-family dwellings having direct outside access from
1682 each unit. Units may be attached either vertically or horizontally.
1683 (Ord. 994 § 12.0(part), 1982).

1684

1685 **19.09.770 Trailer camp.**

1686 "Trailer camp" means any tract or parcel of land upon which two or more trailers, camp cabins, house
1687 cars, or other mobile homes are located, or trailer or camp sites are provided for the purpose of either
1688 temporary or permanent habitation.
1689 (Ord. 994 § 12.0(part), 1982).

1690

1691 **19.09.775 Unnecessary hardship.**

1692 "Unnecessary hardship" is that circumstance where special conditions, which are not self-created, affect
1693 a particular property and make strict conformity with the restrictions governing dimensional standards
1694 (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome
1695 or unreasonable in light of the purpose of the ordinance. Unnecessary hardship is present only where, in
1696 the absence of a variance, no feasible use can be made of the property.
1697 (Ord. 1196 § 1(part), 1990).

1698

1699 **19.09.780 Usable open space.**

1700 "Usable open space" means land used for recreation, resource protection, amenity or buffers, is freely
1701 accessible to all residents, and is protected by the provisions of this title to ensure that it remains in such
1702 uses. Usable open space does not include land occupied by buildings, roads, road right-of-ways or
1703 drives, nor does it include the yards of single, two-family or multifamily dwellings used for parking areas.
1704 (Ord. 994 § 12.0(part), 1982).

1705

1706 **19.09.790 Use, accessory.**

1707 "Accessory use" means a use customarily incident to the permitted principal use of property and on the
1708 same lot as the principal permitted use.
1709 (Ord. 994 § 12.0(part), 1982).

1710

1711 **19.09.800 Use, legal nonconforming.**

1712 "Legal nonconforming use" means a use not in compliance with the regulations of this title, but which
1713 existed lawfully in April, 1982.
1714 (Ord. 994 § 12.0(part), 1982).

1715

1716 **19.09.810 Use, permitted.**

1717 "Permitted use" means that utilization of land by occupancy, activity, building or other structure which is
1718 specifically enumerated as permissible by the regulations of the zoning district in which the land is
1719 located.

1720 (Ord. 994 § 12.0(part), 1982).

1721

1722 **19.09.820 Use, principal.**

1723 "Principal use" means the main or primary use of property or structures as permitted on such lot by the
1724 regulations of the district in which it is located.

1725 (Ord. 994 § 12.0(part), 1982).

1726

1727 **19.09.830 Utilities.**

1728 "Utilities" means public and private facilities such as water wells, water and sewage pumping stations,
1729 water storage tanks, power and communication transmission lines, electrical power substations, static
1730 transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation
1731 stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and
1732 storage yards.

1733 (Ord. 994 § 12.0(part), 1982).

1734

1735 **19.09.833 Variance.**

1736 "Variance" means an authorization granted by the zoning board of appeals to construct, alter, or use a
1737 building or structure in a manner that deviates from the dimensional standards of this title. A variance
1738 may not permit the use of a property that is otherwise prohibited by the ordinance codified in this title
1739 or allow floodland construction that is not protected to the flood protection elevation.

1740 (Ord. 1196 § 1(part), 1990).

1741

1741 **19.09.834 Vehicle.**

1742 "Vehicle" means every device in, upon or by which any person or property is or may be transported or
1743 drawn upon a highway, except railroad trains. A snowmobile or an all terrain vehicle (ATV) shall not be
1744 considered a vehicle except for purposes made specifically applicable by ordinance.

1745 (Ord. 1364 § 6, 1997).

1746

1747 **19.09.835 Violation.**

1748 With respect to the floodplain regulations of this chapter, "violation" means the failure of a structure or
1749 other development to be fully compliant with the floodplain zoning provisions of this title. A structure or
1750 other development without required permits, lowest floor elevation documentation, floodproofing
1751 certificates or required floodway encroachment calculations is presumed to be in violation until such
1752 time as that documentation is provided.

1753 (Ord. 1600 § 1(part), 2006).

1754

1755 **19.09.836 Watershed.**

1756 "Watershed" means the entire region contributing runoff or surface water to a watercourse or body of
1757 water.

1758 (Ord. 1600 § 1(part), 2006; Ord. 1196 § 1(part), 1990).

1759

1760 **19.09.837 Water surface profile.**

1761 "Water surface profile" means a graphical representation showing the elevation of the water surface of
1762 a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface
1763 profile of the regional flood is used in regulating floodplain areas.

1764 (Ord. 1600 § 1(part), 2006: Ord. 1499 § 3(part), 2001).

1765

1766 **19.09.838 Well.**

1767 "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or other
1768 methods, to obtain groundwater regardless of its intended use.

1769 (Ord. 1600 § 1(part), 2006: Ord. 1499 § 3(part), 2001).

1770

1771 **19.09.839 Wetland.**

1772 "Wetland" means an area where water is at, near, or above the land surface long enough to be capable
1773 of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

1774 (Ord. 1600 § 1(part), 2006).

1775

1776 **19.09.840 Wireless telecommunications facility.**

1777 "Wireless telecommunications facility" means a facility that consists of or includes one or more
1778 antennas, antenna arrays, telecommunications towers, microwave relay systems, satellite dish antennas
1779 of at least thirty-six inches in diameter, or other similar communications devices used for transmitting,
1780 receiving, or relaying radio, microwave, digital, cellular, or other wireless telecommunications signals.
1781 For the purposes of this title, wireless telecommunications facilities shall not include conventional, non-
1782 wireless telephone poles (unless also serving as an alternative support structure), residential satellite
1783 dishes less than thirty-six inches in diameter, residential television antennas, and amateur radio
1784 facilities.

1785 (Ord. 1600 § 1(part), 2006: Ord. 994 § 12.0(part), 1982).

1786

1787 **19.09.841 Wireless telecommunications support facility.**

1788 "Wireless telecommunications support facility" means any and all ancillary structures, mechanicals,
1789 shelters, devices, or equipment, other than attached antennas, that are incidental or accessory to the
1790 operation of a wireless telecommunications facility.

1791 (Ord. 1600 § 1(part), 2006).

1792

1793 **19.09.845 Yard.**

1794 "Yard" means the space on the same lot with a principal structure, between such structure and the
1795 street line and the lot lines, unoccupied and unobstructed from the ground upward except for
1796 vegetation, and with the exception of allowed accessory structures.

1797 (Ord. 1600 § 1(part), 2006).

1798

1799 **19.09.850 Yard, rear.**

1800 "Rear yard" means a yard extending across the full width of the lot, the depth of which shall be the
1801 minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest
1802 point of the principal structure.

1803 (Ord. 994 § 12.0(part), 1982).

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19.09.860 Yard, shore.

"Shore yard" means a yard extending across the full width or depth of a lot, the depth of which shall be the minimum horizontal distance between a line intersecting both side lots at the same angle and containing the point of the high-water elevation of a pond, stream or lake nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the high-water line. (Ord. 994 § 12.0(part), 1982).

19.09.870 Yard, side.

"Side yard" means a yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. (Ord. 994 § 12.0(part), 1982).

19.09.880 Yard, street (front yard).

"Street yard (front yard)" means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards. (Ord. 994 § 12.0(part), 1982).

Title 19 ZONING*

Chapter 19.12 ZONING DISTRICTS

Sections:

- [19.12.010 Districts--Established.](#)
- [19.12.020 Districts--Boundaries.](#)
- [19.12.030 Vacation of streets and alleys.](#)
- [19.12.040 Annexations and consolidations.](#)
- [19.12.050 Zoning map.](#)

19.12.010 Districts--Established.

For the purpose of this title, the city is divided into the following zoning districts:

TABLE INSET:

R-1	One-family residence district
R-1x	One-family residence district
R-2	One and two-family residence district
R-2A	Residential occupancy overlay district
R-3	Multifamily residence district
R-3A	University residential density west overlay district

R-4	Mobile home district
R-O	Non-Family Residential Restriction Overlay District
B-1	General business district
B-1A	University mixed-use neighborhood overlay district
B-2	Central business district
B-2A	Downtown housing overlay district
B-3	Commercial service and light manufacturing district
M-1	General manufacturing district
M-2	Manufacturing and miscellaneous use district
WUTP	Whitewater University Technology Park District
PD	Planned development district
AT	Agricultural transition district
I	Institutional district
C-1	Shoreland wetland district
C-2	Nonshoreland wetland district
FW	Floodway district
FWW	Floodway/wetland district
FFO	Floodplain fringe overlay district.

1843 (Ord. 1196 § 1(part), 1990).

1844

1845 **19.12.020 Districts--Boundaries.**

1846 A. Boundaries of all districts shall be as shown on the map entitled "Zoning Map, City of Whitewater,
1847 Wisconsin," which accompanies and is a part of the ordinance codified in this title. The district
1848 boundaries in all districts, except the C-1 shoreland wetland district, the C-2 nonshoreland wetland
1849 district, FW floodway district, the FWW floodway/wetland district, and the FFO floodplain fringe overlay
1850 district, shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines;
1851 centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended.

1852 B. Boundaries of the FW floodway district and The boundaries of the FFO floodplain fringe overlay
1853 district shall be determined by the floodland limits shown on the map entitled, "Flood Hazard
1854 Investigation--Whitewater Creek, Spring Brook-City of Whitewater," dated May 1979, which
1855 accompanies and is made a part of the ordinance codified in this title, and are superseded by more
1856 current versions of that map. The flood stages, under floodway conditions, contained in the Flood
1857 Hazard Investigation map were developed from technical data contained in the "Flood Insurance Study--
1858 City of Whitewater, Walworth County, Wisconsin," published by the Federal Emergency Management
1859 Agency (FEMA) and dated December 1, 1981 and are superseded by more current versions of that map.
1860 The information contained in the flood insurance study is further illustrated in FEMA "Floodway and
1861 Flood Boundary Map" and "Flood Insurance Rate Map," both maps dated June 1, 1982 and are
1862 superseded by more current versions of that map. Where a conflict exists between the floodland limits
1863 as shown on the flood hazard investigation map and actual field conditions, the elevations from the one
1864 hundred year recurrence interval flood profile shall be the governing factor in locating the regulatory
1865 floodland limits.

1866 C. Boundaries of the C-1 shoreland wetland district, the C-2 nonshoreland wetland district, and the
1867 FWW floodway/wetland district are based on the Wisconsin Wetland Inventory Maps for the City of
1868 Whitewater, dated July 2, 1987, and stamped "FINAL." The C-1 district includes all shoreland wetlands,
1869 five acres or greater in area shown on those maps.
1870 (Ord. 1196 § 1(part), 1990).

1871

1872 **19.12.030 Vacation of streets and alleys.**

1873 Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same
1874 district as the abutting side to which the vacated land reverts.
1875 (Ord. 994 § 3.3, 1982).

1876

1877 **19.12.040 Annexations and consolidations.**

1878 A. Annexations to or consolidations with the city subsequent to June 24, 1982, the effective date of the
1879 ordinance codified in this title shall be placed in the AT agricultural transition district, unless the
1880 annexation ordinance temporarily places the land in another district. Within one year, the city plan
1881 commission shall evaluate and recommend a permanent classification to the common council.

1882 B. Annexations containing floodlands and shorelands shall be governed in the following manner:

1883 1. Annexations containing floodlands shall be governed by the provisions of the Walworth County
1884 floodplain zoning ordinance until such time that the Wisconsin Department of Natural Resources (DNR)
1885 certifies that amendments to the City of Whitewater zoning ordinance meet the requirements of
1886 Chapter NR 116 of the Wisconsin Administrative Code.

1887 2. Annexations containing shorelands. Pursuant to Section 59.971(7) of the Wisconsin Statutes, any
1888 annexation of land after May 7, 1982, which lies within shorelands, as defined in this title, shall be
1889 governed by the provisions of the Walworth County shoreland zoning ordinance until such time that the
1890 City of Whitewater adopts an ordinance which is at least as restrictive as the Walworth County
1891 shoreland zoning ordinance. Said regulations shall be administered and enforced by the City of
1892 Whitewater building inspector.

1893 (Ord. 1196 § 1(part), 1990).

1894

1895 **19.12.050 Zoning map.**

1896 A certified copy of the zoning map shall be adopted and approved with the text as part of this title, and
1897 shall bear upon its face the attestation of the city manager and city clerk and shall be available to the
1898 public in the office of the city clerk. Changes thereafter to the districts shall be entered and attested on
1899 this certified copy.

1900 (Ord. 994 § 3.5, 1982).

1901

1902 **Chapter 19.15 R-1 ONE-FAMILY RESIDENCE DISTRICT**

1903 Sections:

1904 [19.15.010 Purpose.](#)

1905 [19.15.020 Permitted uses.](#)

1906 [19.15.030 Conditional uses.](#)

1907 [19.15.040 Lot area.](#)

1908 [19.15.050 Lot width.](#)

1909 [19.15.060 Yards.](#)

1910 [19.15.070 Coverage.](#)

1911 [19.15.080 Building height.](#)

1912 [19.15.090 Park fees.](#)

1913

1914 **19.15.010 Purpose.**

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1915 The R-1 one-family residence district is established to stabilize and protect the essential characteristics
1916 of low-density residential areas. A non-family household in R-1 shall be limited to three unrelated
1917 persons unless otherwise modified by an overlay district.
1918 (Ord. 994 § 3.6(part), 1982).

1919

1920 **19.15.020 Permitted uses.**

1921 Permitted uses in the R-1 district include:

1922 A. One-family detached dwellings;

1923 B. The second or greater wireless telecommunications facility located on an alternative support
1924 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
1925 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
1926 accessory uses, all per the requirements of Chapter 19.55.

1927 C. Home occupations/professional home offices for non-retail goods and services (defined in this
1928 district as businesses that do not require customer access).

1929 (Ord. 1499 § 4, 2001; 1149 § 1, 1988; Ord. 994 § 3.6(A), 1982).

1930

1931 **19.15.030 Conditional uses.**

1932 Conditional uses in the R-1 district include:

1933 A. Public and semipublic uses, to include public and private schools; churches and religious institutions;
1934 government facilities; active recreational parks; museums, hospitals, public transportation terminals,
1935 and similar uses;

1936 B. Planned developments such as townhouses, condominiums and cluster housing. In order to allow
1937 increasing the intensity of use, the plan commission may allow as a conditional use the following
1938 variations from the district requirements:

1939 1. In an approved planned residential development, each dwelling structure need not have an
1940 individual lot or parcel having the requisite size and dimensions normally required in the districts.
1941 However, the size and the entire development parcel divided by the number of dwellings shall be equal
1942 to or larger than the minimum lot area for the district where the site is located,

1943 2. The yard requirements between buildings shall be fixed by the plan commission. Building setbacks
1944 from the perimeter of the site shall comply with the front yard, rear yard and side yard requirements of
1945 the district,

1946 3. Private streets may be approved to serve uses within the site, provided that the site proposed for PD
1947 has frontage on a public street;

1948 C. Home occupations/professional home offices. (Subject to issuance of zoning permit.)

1949 D. The first wireless telecommunications facility located on an alternative support structure only, per
1950 the requirements of Chapter 19.55.

1951 E. Real estate sales offices, subject to the following requirements:

1952 1. May only be placed within a major subdivision with twenty or more lots;

1953 2. Shall occupy a maximum of one building within any major subdivision;

1954 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
1955 ninety days from the date when ninety percent of the lots or units within the subdivision or
1956 development are initially sold or leased, or five years from the date of initial establishment of the use,
1957 whichever comes first;

1958 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
1959 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
1960 sales office is removed or converted to a permitted use in the district;

- 1961 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
 1962 uses open to the public;
 1963 6. Shall be compatible in character, materials, placement, and design with other existing and planned
 1964 buildings within the subdivision;
 1965 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
 1966 19.54.052 of this title.
 1967 F. Bed and breakfast establishments.
 1968 G. Keeping of horses, subject to the standards in Section 19.57.160 of this title.
 1969 (Ord. 1589A § 1, 2005; Ord. 1580A § 2, 2005; Ord. 1499 § 5, 2001; Ord. 1149 § 5, 1988; Ord. 1082 § 5,
 1970 1986; Ord. 994 § 3.6(B), 1982).

1971
 1972 **19.15.040 Lot area.**
 1973 Minimum lot area in the R-1 district is ten thousand square feet.
 1974 (Ord. 1174 § 1, 1990; Ord. 994 § 3.6(C), 1982).

1975
 1976 **19.15.050 Lot width.**
 1977 Minimum lot width in the R-1 district is eighty feet.
 1978 (Ord. 994 § 3.6(D), 1982).

1979
 1980 **19.15.060 Yard Requirements.**
 1981 Minimum yard requirements in the R-1 district are as follows:
 1982 A. Front, twenty-five feet; ~~(not more than 40% of the front yard may be an impervious surface except~~
 1983 ~~as a conditional use).~~
 1984 B. Side, ten feet, corner lot, twenty-five feet; ~~(not more than 40% of the front yard may be an~~
 1985 ~~impervious surface except as a conditional use).~~
 1986 C. Rear, thirty feet; ~~(not more than 40% of the front yard may be an impervious surface except as a~~
 1987 ~~conditional use).~~
 1988 D. Shore, seventy-five feet. ~~(not more than 40% of the yard may be an impervious surface).~~
 1989 (Ord. 994 § 3.6(E), 1982).

1990
 1991 **19.15.065 Off-street Parking.**
 1992 Off-street parking, including both surface parking and enclosed parking, shall conform to the following
 1993 guidelines and shall be reviewed as part of submitted site plans:
 1994 A. All parking areas must be hard surfaced with materials to control dust and drainage, such as asphalt
 1995 or concrete. The use of bricks or pavers will require a conditional use permit. Gravel is not permitted.
 1996 Access, drainage and stormwater management must be considered.
 1997 B. Consideration must be given to the visibility and potential impact on abutting properties. Attractive
 1998 landscaping and screening/fencing must be installed to block light pollution.
 1999 C. If there are three or more unrelated individuals living in a dwelling, parking must be professionally
 2000 striped, numbered, assigned, and curb stops or bollards shall be included along the edge of the surface
 2001 parking area. All cars not in designated spaces will be ticketed.

2002
 2003 For discussion: parking area guidelines and enforcement rules

2004
 2005 **19.15.070 Lot Coverage.**

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2006 Maximum impervious area lot coverage in the R-1 district is ~~thirty-fourty~~ percent, unless a lower
2007 percentage is required by the stormwater ordinance. Any lot with over forty percent of impervious
2008 surface requires stormwater mitigation.
2009 (Ord. 994 § 3.6(F), 1982).

2010

2011 **19.15.080 Building height.**

2012 Maximum building height in the R-1 district is two and one-half stories or thirty-five feet.

2013 (Ord. 994 § 3.6(G), 1982).

2014

2015 **19.15.090 Park fees.**

2016 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2017 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The park
2018 acquisition fee may also be reduced if sufficient land area was provided for park purposes at the time of
2019 subdivision, based on the calculations in section 18.04.030(a)(1) of the Whitewater Municipal Code. The
2020 fee amounts shall be set by the City Council.

2021

2022 **Chapter 19.16 R-1X DISTRICT**

2023 Sections:

2024 19.16.010 R-1 district provisions--Applicability.

2025 19.16.020 Lot area.

2026 19.16.021 Maximum lot coverage.

2027 19.16.030 Lot width.

2028 19.16.040 Yards.

2029 19.16.050 Park fees.

2030

2031 **19.16.005 Purpose.**

2032 The R-1x one-family residence district is established to stabilize and protect the essential characteristics
2033 of residential areas whose density is lower than R-1. A non-family household in R-1X shall be limited to
2034 three unrelated persons.

2035 (Ord. 994 § 3.6(part), 1982).

2036

2037 **19.16.010 R-1x district provisions--Applicability.**

2038 All of the provisions of the R-1 district not in conflict with the requirements of this chapter shall apply in
2039 the R-1X district.

2040 (Ord. 1174 § 2(part), 1990).

2041

2042 **19.16.020 Lot area.**

2043 Minimum lot area in the R-1X district is twelve thousand square feet.

2044 (Ord. 1174 § 2(part), 1990).

2045

2046 **19.16.021 ~~Maximum lot coverage, maximum,~~**

2047 Maximum impervious area lot coverage ~~by buildings~~ in the R-1X district ~~shall be~~ twenty-fourty percent,
2048 unless a lower percentage is required by the stormwater ordinance. Any lot with over forty percent of
2049 impervious surface requires stormwater mitigation.

2050 (Ord. 1364 § 7, 1997).

2051

2052 **19.16.030 Lot width.**

2053 Minimum lot width in the R-1X district is one hundred feet.

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2054 (Ord. 1174 § 2(part), 1990).

2055

2056 **19.16.040 Yard requirements.**

2057 Minimum yard requirements in the R-1X district are:

2058 A. Front, thirty feet ~~(not more than 40% of the yard may be an impervious surface except as a~~
2059 ~~conditional use);~~

2060 B. Side, fifteen feet; corner lot, thirty feet ~~(not more than 40% of the yard may be an impervious~~
2061 ~~surface except as a conditional use);~~

2062 C. Rear, thirty feet ~~(not more than 40% of the yard may be an impervious surface except as a~~
2063 ~~conditional use);~~

2064 D. Shore, seventy-five feet, ~~(not more than 40% of the yard may be an impervious surface except as a~~
2065 ~~conditional use).~~

2066 (Ord. 1174 § 2(part), 1990).

2067

2068 **19.16.045 Off-street Parking.**

2069 Off-street parking, including both surface parking and enclosed parking, shall conform to the following
2070 guidelines and shall be reviewed as part of submitted site plans:

2071 A. All parking areas must be hard surfaced with materials to control dust and drainage, such as asphalt
2072 or concrete. The use of bricks or pavers will require a conditional use permit. Gravel is not permitted.
2073 Access, drainage and stormwater management must be considered.

2074 B. Consideration must be given to the visibility and potential impact on abutting properties. Attractive
2075 landscaping and screening/fencing must be installed to block light pollution.

2076 C. If there are three or more unrelated individuals living in a dwelling, parking must be striped,
2077 numbered, assigned, and curb stops or bollards shall be included along the edge of the surface parking
2078 area.

2079

2080 **19.16.050 Park fees.**

2081 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2082 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued The park
2083 acquisition fee may also be reduced if sufficient land area was provided for park purposes at the time of
2084 subdivision, based on the calculations in section 18.04.030(a)(1) of the Whitewater Municipal Code. The
2085 fee amounts shall be set by the City Council.

2086

2087 **Chapter 19.18 R-2 ONE- AND TWO-FAMILY RESIDENCE DISTRICT**

2088 Sections:

2089 19.18.010 Purpose.

2090 19.18.020 Permitted uses.

2091 19.18.030 Conditional uses.

2092 19.18.040 Lot area.

2093 19.18.050 Lot width.

2094 19.18.060 Yard requirements.

2095 19.18.070 Lot coverage.

2096 19.18.080 Building height.

2097 19.18.090 Park fees.

2098

2099 **19.18.010 Purpose.**

2100 The R-2 two-family residence district is established to provide medium-density residential areas. A
2101 non-family household in R-2 shall be limited to three unrelated persons.
2102 (Ord. 994 § 3.7(part), 1982).

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19.18.020 Permitted uses.

Permitted uses in the R-2 district include:

- A. One-family detached dwellings;
- B. Two-family attached dwellings (except for conversions of single-family to two family dwellings);
- C. Home occupations/professional home offices for non-retail goods and services (defined in this district as businesses that do not require customer access);
- D. The second or greater wireless telecommunications facility located on an alternative support structure already supporting a wireless telecommunications facility or on a pre-existing wireless telecommunications facility, with wireless telecommunications support facilities allowed as permitted accessory uses, all per the requirements of Chapter 19.55.
(Ord. 1499 § 6, 2001; Ord. 1174 § 3(A), 1990; Ord. 1149 § 2, 1988; Ord. 994 § 3.7(A), 1982).

19.18.030 Conditional uses.

Conditional uses in the R-2 district include:

- A. Attached townhouse dwellings, up to four units per building: minimum lot area requirements for such uses shall be regulated by Chapter 19.21;
- B. Conversion of existing single-family dwellings to Two-family attached dwellings;
- C. Planned developments (See Section 19.15.030);
- D. Public and semipublic uses;
- E. Home occupations/professional home offices for retail goods and services (defined in this district as businesses requiring customer access),
- F. The first wireless telecommunications facility located on an alternative support structure only, per the requirements of Chapter 19.55;
- G. Real estate sales offices, subject to the following requirements:
 - 1. May only be placed within a major subdivision with twenty or more lots or a multiple-family residential development with forty or more dwelling units,
 - 2. Shall occupy a maximum of one building within any major subdivision, or one unit within any multiple-family residential development,
 - 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than ninety days from the date when ninety percent of the lots or units within the subdivision or development are initially sold or leased, or five years from the date of initial establishment of the use, whichever comes first,
 - 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than two thousand dollars shall be required, with such deposit or guarantee released by the city once the sales office is removed or converted to a permitted use in the district,
 - 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related uses open to the public,
 - 6. Shall be compatible in character, materials, placement, and design with other existing and planned buildings within the subdivision or development,
 - 7. Signage shall be in accordance with standards for conditional uses in the district, per Section 19.54.052 of this title;
- H. Bed and breakfast establishments;
- I. Keeping of horses, subject to the standards in Section 19.57.160 of this title.
(Ord. 1589A § 2, 2005; Ord. 1580A § 3, 2005; Ord. 1499 § 7, 2001; Ord. 1299 § 1, 1994; Ord. 1174 § 3(B), 1990; Ord. 1149 § 6, 1988; Ord. 1082 § 6, 1986; Ord. 994 § 3.7(b), 1982).

2150 **19.18.040 Lot area.**

2151 Minimum lot area in the R-2 district is:
2152 A. Eight thousand square feet for single-family;
2153 B. Twelve thousand square feet for two-family.
2154 (Ord. 1174 § 3(C), 1990: Ord. 994 § 3.7(C), 1982).

2157 **19.18.050 Lot width.**

2158 Minimum lot width in the R-2 district is:
2159 A. Sixty-six feet for all lots of record at the time of adoption of the ordinance codified in this section;
2160 B. Seventy feet for all new single-family development after the adoption of the ordinance codified in
2161 this section;
2162 C. One hundred feet for all duplexes developed after the adoption of the ordinance codified in this
2163 section.
2164 (Ord. 1174 § 3(D), 1990: Ord. 994 § 3.7(D), 1982).

2166 **19.18.060 Yard requirements.**

2167 Minimum yard requirements in the R-2 district are:
2168 A. Front, twenty-five feet; ~~(not more than 40% of the yard may be an impervious surface)~~
2169 B. Side, ten feet for one family, fifteen feet for two family and multifamily; corner lots, twenty-five feet;
2170 ~~(not more than 40% of the yard may be an impervious surface);~~
2171 C. Rear, thirty feet ~~(not more than 40% of the yard may be an impervious surface);~~
2172 D. Shore, seventy-five feet ~~(not more than 40% of the yard may be an impervious surface);~~
2173 E. For all structures larger than a one-family dwelling unit, the building setback standards established in
2174 the R-3 multifamily residence district shall apply.
2175 (Ord. 1174 § 3E, 1990: Ord. 994 § 3.7(E), 1982).

2177 **19.18.065 Off-street Parking.**

2178 ~~Off-street parking, including both surface parking and enclosed parking, shall conform to City guidelines~~
2179 ~~for parking areas which include materials, access, visibility, potential impact on abutting properties,~~
2180 ~~drainage, stormwater management, screening, and economic viability of the associated use.~~
2181 Off-street parking, including both surface parking and enclosed parking, shall conform to the following
2182 guidelines and shall be reviewed as part of submitted site plans:
2183 A. All parking areas must be hard surfaced with materials to control dust and drainage, such as asphalt
2184 or concrete. The use of bricks or pavers will require a conditional use permit. Gravel is not permitted.
2185 Access, drainage and stormwater management must be considered.
2186 B. Consideration must be given to the visibility and potential impact on abutting properties. Attractive
2187 landscaping and screening/fencing must be installed to block light pollution.
2188 C. If there are three or more unrelated individuals living in a dwelling, parking must be striped,
2189 numbered, assigned, and curb stops or bollards shall be included along the edge of the surface parking
2190 area.

2192 **19.18.070 Lot coverage, maximum.**

2193 Maximum impervious surface lot coverage in the R-2 district is forty percent, unless a lower percentage
2194 is required by the stormwater ordinance. Any lot with over forty percent of impervious surface requires
2195 stormwater mitigation.
2196 (Ord. 994 § 3.7(F), 1982).

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19.18.080 Building height.

Maximum building height in the R-2 district is thirty-five feet, or two and one-half stories. (Ord. 994 § 3.7(G), 1982).

19.18.090 Park fees.

All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The park acquisition fee may also be reduced if sufficient land area was provided for park purposes at the time of subdivision, based on the calculations in Section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

Chapter 19.19 R-2A Residential Increased Occupancy Overlay District

Sections:

19.19.015 Relationship to underlying zoning district classification

19.19.050 Exceptions.

19.19.010 Purpose and intent.

The purpose and intent of the residential occupancy overlay district is to allow increased occupancy in a focused area near campus where housing structures can accommodate higher occupancy.

19.19.015 Relationship to underlying zoning district classification.

Requirements for permitted uses, conditional uses, lot area, lot width, yards, [off-street parking](#), lot coverage, building height, signage, and park fees remain the same as the underlying zoning district to which the overlay zoning is applied unless specifically described in this overlay district.

19.19.020 Overlay zoning district application.

Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the R-2A designation. No party other than the owner of the property or agents of the owner may apply for the R-2A university residential density overlay zoning. Permission will require conformance with the requirements established for the duties of the zoning administrator (section 19.75.061) Applications may also require a conditional use permit. This overlay district is restricted to structures that were in existence as of the adoption date of the creation of this overlay district. Procedures for zoning changes and amendments are further elaborated in section 19.69

19.19.030 Residential occupancy overlay district permitted and conditional uses.

Three unrelated occupants are a permitted use in the R-2A overlay district with no conditional use permit required. A conditional use permit is required for four or five unrelated individuals. The conditional use permit shall take into consideration, among other issues, the size of the building and the original character of the building when bedrooms are being added as part of an internal remodeling or external addition. Occupancy by more than five unrelated individuals requires both a conditional use permit and one of the following:

- 2243 A. Proof that within 2 years of the granting of the zoning permit request a certification, that the
2244 property meets the requirements of the Wisconsin Rental Unit Efficiency Standards (Wis. Stat.
2245 §101.122), has been recorded (The Wisconsin Rental Weatherization Program), or
2246 B. Filing with the City a sworn statement by a state-certified rental weatherization inspector that
2247 the property meets the State of Wisconsin Rental Unit Efficiency Standards.
2248

2249 **19.19.050 Exceptions.**

2250 The limitations in this district overlay for maximum occupancy and parking shall not apply to community
2251 living arrangements allowed by federal and state law (such as foster homes and adult family homes for
2252 the disabled) and those allowed under Wis. Stats. § 62.23 (7) (i)
2253 (Ord. No. 1788A, § 1, 6-1-2010)
2254

2255 **Chapter 19.21 R-3 MULTIFAMILY RESIDENCE DISTRICT**

2256 Sections:

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2264 **19.21.010 Purpose.**

2265 The R-3 multifamily residence district is established to provide high-density residential areas, and to
2266 allow mixing of certain compatible land uses. A non-family household in R-3 shall be limited to five
2267 unrelated persons.
2268 (Ord. 994 § 3.8(part), 1982).
2269

2270 **19.21.020 Permitted uses.**

2271 Permitted uses in the R-3 district include:

- 2272 A. One-family detached dwellings;
2273 B. Two-family attached dwellings (new construction);
2274 C. Multi-family dwellings and attached dwellings, up to four units per building. "Attached dwelling"
2275 means a one-family dwelling attached to two or more one-family dwellings by common vertical walls;
2276 D. Home occupations/professional home offices for non-retail (goods and services for businesses that
2277 do not require customer access);
2278 E. –The second or greater wireless telecommunications facility located on an alternative support
2279 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
2280 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
2281 accessory uses, all per the requirements of Chapter 19.55.
2282 (Ord. 1499 § 8, 2001; 1174 § 4A, 1990; Ord. 1149 § 3, 1988; Ord. 994 § 3.8(A), 1982).
2283

2284 **19.21.030 Conditional uses.**

2285 Conditional uses in the R-3 district include:

- 2286 A. Professional business offices in a building where the principal use is residential;
2287 B. Multifamily dwellings and attached dwellings, over four units (new construction only); and two-
2288 family attached dwellings (existing construction).

2289 C. Walk-in type retail trade (food stores, bookstores, gift shops, galleries, beauty shops and similar
 2290 uses) located in a building where the principal use is residential and fronts on an arterial street;
 2291 (Conditional use approval under this provision shall be granted for a specified use. Any subsequent
 2292 change in use or expansion shall require additional conditional use approval.)
 2293 D. Fraternity or sorority houses and group lodging facilities;
 2294 E. Any building over forty feet;
 2295 F. Planned developments (see Section 19.15.030);
 2296 G. Conversions of existing structures resulting in more dwelling units and conversion of existing units
 2297 with less than 5 bedrooms to 5 or more bedrooms.
 2298 H. Dwelling units with occupancy of six or more unrelated persons
 2299 I. Public and semipublic uses;
 2300 J. Home occupations/professional home office for retail goods and services (businesses requiring
 2301 customer access),
 2302 K. Bed and breakfast establishments;
 2303 L. The first wireless telecommunications facility located on an alternative support structure only, per
 2304 the requirements of Chapter 19.55;
 2305 M. Real estate sales offices, subject to the following requirements:
 2306 1. May only be placed within a major subdivision with twenty or more lots or a multiple-family
 2307 residential development with forty or more dwelling units,
 2308 2. Shall occupy a maximum of one building within any major subdivision, or one unit within any
 2309 multiple-family residential development,
 2310 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
 2311 ninety days from the date when ninety percent of the lots or units within the subdivision or
 2312 development are initially sold or leased, or five years from the date of initial establishment of the use,
 2313 whichever comes first,
 2314 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
 2315 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
 2316 sales office is removed or converted to a permitted use in the district,
 2317 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
 2318 uses open to the public,
 2319 6. Shall be compatible in character, materials, placement, and design with other existing and planned
 2320 buildings within the subdivision or development,
 2321 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
 2322 19.54.052 of this title.
 2323 (Ord. 1668A § 2, 2007; Ord. 1580A §§ 4, 5, 2005; Ord. 1499 § 9, 2001; Ord. 1174 § 4B, 1990; Ord. 1149 §
 2324 7, 1988; Ord. 994 § 3.8(B), 1982).

2325
 2326 **19.21.040 Lot area.**

2327 A. Minimum lot area in the R-3 district is as follows:

2328 TABLE INSET:

2329

1. One-family	8,000 square feet;
2. Two-family	12,000 square feet;
3. Multifamily	15,000 square feet;

2330 Provided, however, that minimum parcel sizes for multifamily dwellings and group lodging facilities may
 2331 be increased if the following ratios indicate a larger parcel size.

2332 B. Ratios to determine minimum parcel size, (to be used if operation of the table indicates parcel size in
 2333 excess of twelve thousand square feet):
 2334 TABLE INSET:
 2335

Type of Unit	Square Feet
Efficiency	2,000
One-bedroom	2,500
Two-bedroom	3,000
Three-bedroom and over	3,500 plus 300 additional square feet for each bedroom over three

2336 C. Minimum lot area for group lodging facilities will be set in conditional use review.
 2337 (Ord. 1174 § 4C, 1990; Ord. 994 § 3.8(C), 1982).

2338
 2339 **19.21.050 Lot width.**

2340 Minimum lot width in the R-3 district is:
 2341 A. One-family and two-family dwellings, sixty-six feet for all improved lots existing at the time of
 2342 adoption of the ordinance codified in this section;
 2343 B. One family, sixty-six feet for all new single-family dwellings constructed after the adoption of the
 2344 ordinance codified in this section;
 2345 C. Two-family, eighty-feet for all newly constructed two-family dwellings;
 2346 D. Multifamily dwellings, one hundred feet.
 2347 (Ord. 1174 § 4D, 1990: Ord. 994 § 3.8(D), 1982).

2348
 2349 **19.21.060 Yard Requirements.**

2350 A. Front, thirty feet first floor; ~~(not more than 40% of the yard may be an impervious surface)~~
 2351 B. Side, fifteen feet; corner lots twenty-five feet ~~(not more than 40% of the yard may be an impervious~~
 2352 ~~surface);~~
 2353 C. Rear, thirty feet ~~(not more than 40% of the yard may be an impervious surface);~~
 2354 D. Shore, seventy-five feet ~~(not more than 40% of the yard may be an impervious surface);~~
 2355 (Ord. 1174 § 4E, 1990: Ord. 994 § 3.8(E), 1982).

2356
 2357 **19.21.065 Off-street Parking.**

2358 Off-street parking, including both surface parking and enclosed parking, shall conform to the following
 2359 guidelines and shall be reviewed as part of submitted site plans;
 2360 A. All parking areas must be hard surfaced with materials to control dust and drainage, such as asphalt
 2361 or concrete. The use of bricks or pavers will require a conditional use permit. Gravel is not permitted.
 2362 Access, drainage and stormwater management must be considered.
 2363 B. Consideration must be given to the visibility and potential impact on abutting properties. Attractive
 2364 landscaping and screening/fencing must be installed to block light pollution.
 2365 C. If there are three or more unrelated individuals living in a dwelling, parking must be striped,
 2366 numbered, assigned, and curb stops or bollards shall be included along the edge of the surface parking
 2367 area.

2368
 2369 **19.21.070 Lot coverage, maximum.**

2370 A. Three hundred fifty square feet of usable open space shall be required for each dwelling unit for
2371 structures with two or more units.

2372 B. Usable Open Space. Usable open space is that part of the ground level of a zoning lot, other than in a
2373 required front or corner side yard, which is unoccupied by driveways, drive aisles, service drives, off-
2374 street parking spaces and/or loading berths and is unobstructed to the sky. This space of minimum
2375 prescribed dimension shall be available to all occupants of the building and shall be usable for greenery,
2376 drying yards, recreational space, gardening and other leisure activities normally carried on outdoors.
2377 Where and to the extent prescribed in these regulations, balconies and roof areas, designed and
2378 improved for outdoor activities, may also be considered as usable open space. The usable open space
2379 shall be planned as an assemblage or singularly designed area that maximizes the size for open space
2380 usage. The only exception to this standard is where the required open space is designed to be a part of
2381 the individual living units in the form of patios or decks.

2382 (Ord. 1174 § 4F, 1990; Ord. 994 § 3.8(F), 1982).

2383 For discussion – lot coverage percentage and stormwater mitigation.

2384

2385 **19.21.080 Building height.**

2386 Maximum building height in the R-3 district is forty-five feet. The maximum building height is also
2387 subject to fire safety limitations. The maximum building height may be increased under the provisions
2388 of a conditional use permit
2389 (Ord. 994 § 3.8(G), 1982).

2390

2391 **19.21.090 Park fees.**

2392 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2393 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The park
2394 acquisition fee may also be reduced if sufficient land area was provided for park purposes at the time of
2395 subdivision, based on the calculations in section 18.04.030(a)(1) of the Whitewater Municipal Code. The
2396 fee amounts shall be set by the City Council.

2397

2398 **Chapter 19.22 R-3A University Residential Density Overlay District**

2399 Sections:

2400

2401

2402

2403 19.22.040 Lot area

2404 19.22.050 Exceptions.

2405

2406 **19.22.010 Purpose and intent.**

2407 The purpose and intent of the university residential density overlay district is to allow increased density
2408 for new housing in a focused area near campus, and therefore reduce the impact of student housing on
2409 lower density neighborhoods.

2410

2411 **19.22.015 Relationship to underlying zoning district classification.**

2412 Requirements for permitted uses, conditional uses, lot width, yards, building height, signage, and park
2413 fees remain the same as the underlying zoning district to which the overlay zoning is applied unless
2414 specifically described in this overlay district. At least 10% of the lot should be usable open space.

2415

2416 **19.22.020 Overlay district application.**

2417 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2418 R-3A designation. To the extent there is a conflict between the restrictions or requirements associated
2419 with the district, the requirements that most restrictively limit the use of the site shall apply. No party
2420 other than the owner of the property or agents of the owner may apply for the R-3A university
2421 residential density overlay zoning. Permission will require conformance with the requirements
2422 established for the duties of the zoning administrator (section 19.75.061) Applications may also require
2423 a conditional use permit. Procedures for zoning changes and amendments are further elaborated in
2424 section 19.69
2425

2426 **19.22.030 University residential density overlay district permitted and conditional uses.**

2427 Within this district, a multifamily building with up to sixteen units is a permitted use for new
2428 construction. More than 16 units per building and up to 32 units per building may be requested as a
2429 conditional use. Among other issues, conditional use permits should consider long term impacts of the
2430 proposal on the surrounding area. More than 32 units per building are not allowed in the district but
2431 may be considered as part of a PD district. Architectural quality shall be subject to the review of the
2432 plan and architectural commission and include consideration of any design and planning criteria as
2433 established by the City, for buildings in this zoning district.
2434

2435 **19.22.040 Lot area.**

2436 The minimum lot area in the R-3A district is shown is as follows:

2437

2438	1. One family	6,400 square feet.
2439	2. Two family	9,600 square feet.
2440	3. Multifamily family	12,000 square feet.

2441

2442 The minimum parcel sizes for multifamily dwellings and group lodging facilities shall be increased if the
2443 following ratios indicate a larger parcel size. The ratios to determine minimum parcel size, (to be used if
2444 operation of the table indicates parcel size in excess of twelve thousand square feet) shall be required
2445 on a per unit basis as follows (based upon a reduction of 20% of the comparable standards indicated in
2446 R-3):

2447

<u>TYPE OF UNIT</u>	<u>SQUARE FEET</u>
2448 1. Efficiency	1,600 square feet.
2449 2. One-bedroom	2,000 square feet
2450 3. Two-bedroom	2,400 square feet
2451 4. Three-bedroom and over	2,800 square feet plus 240 square feet for each bedroom over three

2452

2453 **19.22.050 Exceptions.**

2454 This limitation shall not apply to community living arrangements allowed by federal and state law (such
2455 as foster homes and adult family homes for the disabled) and those allowed under Wis. Stats. § 62.23.
2456 (Ord. No. 1788A, § 1, 6-1-2010 (7)(I))
2457

2458 **Chapter 19.24 R-4 MOBILE HOME DISTRICT**

2459 Sections:

- 2460 [19.24.010 Purpose.](#)
2461 [19.24.020 Permitted uses.](#)
2462 [19.24.030 Conditional uses.](#)
2463 [19.24.040 Lot area.](#)
2464 [19.24.050 Lot width.](#)

2465 [19.24.060 Yard requirements.](#)

2466 [19.24.070 Lot coverage.](#)

2467 [19.24.065 Parking](#)

2468 [-19.24.080 Wrecked or damaged homes.](#)

2469 [19.24.090 Park fees.](#)

2470

2471 **19.24.010 Purpose.**

2472 The R-4 mobile home district is established to provide areas for placing mobile homes and associated
2473 service facilities.

2474 (Ord. 994 § 3.9(part), 1982).

2475

2476 **19.24.020 Permitted uses.**

2477 Permitted uses in the R-4 district include:

2478 A. Single-family mobile home dwellings, and the sanitary, washing, recreational, and office facilities to
2479 service mobile home dwellings;

2480 B. The second or greater wireless telecommunications facility located on an alternative support
2481 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
2482 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
2483 accessory uses, all per the requirements of Chapter 19.55.

2484 (Ord. 1499 § 10, 2001; Ord. 1149 § 4, 1988; Ord. 994 § 3.9(A), 1982).

2485 C. Home occupations/professional home offices for non-retail goods and services (defined in this
2486 district as businesses that do not require customer access);

2487

2488 **19.24.030 Conditional uses.**

2489 Conditional uses in the R-4 district include:

2490 A. Public and semipublic uses;

2491 B. Home occupations/professional home office for retail goods and services (businesses requiring
2492 customer access),

2493 C. The first wireless telecommunications facility located on an alternative support structure only, per
2494 the requirements of Chapter 19.55;

2495 D. Real estate sales offices, subject to the following requirements:

2496 1. May only be placed within a manufactured or mobile home development with twenty or more home
2497 sites,

2498 2. Shall occupy a maximum of one building within any mobile home development,

2499 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
2500 ninety days from the date when ninety percent of the lots or units within the subdivision or
2501 development are initially sold or leased, or five years from the date of initial establishment of the use,
2502 whichever comes first,

2503 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
2504 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
2505 sales office is removed or converted to a permitted use in the district,

2506 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
2507 uses open to the public,

2508 6. Shall be compatible in character, materials, placement, and design with other existing and planned
2509 buildings within the development,

2510 7. Signage shall be in accordance with standards in the district, per Section 19.54.052 of this title.

2511 (Ord. 1580A § 6, 2005; Ord. 1499 § 11, 2001; Ord. 1149 § 8, 1988; Ord. § 3.9(B), 1982).

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19.24.040 Lot area.

Minimum lot area in the R-4 district is:
A. Exterior boundaries, four acres;
B. Mobile home space, three thousand, six hundred square feet.

19.24.050 Lot width.

Minimum lot width in the R-4 district is:
A. Exterior boundaries, two hundred feet;
B. Mobile home space, thirty-six feet.
(Ord. 994 § 3.9(D), 1982).

19.24.060 Yard requirements. Minimum yard requirements in the R-4 district are:

TABLE INSET:

	<u>Front</u>	<u>Side</u>	<u>Rear</u>
A. Exterior boundaries	30	30	30
B. Interior boundaries	10	10	10

2527
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2532

(Ord. 994 § 3.9(E), 1982).

19.24.070 Lot coverage, maximum.

Maximum lot coverage in the R-4 district is as follows:
The mobile home dwelling unit shall not occupy more than fifty percent of the mobile home space.
(Ord. 994 § 3.9(F), 1982).

For discussion – maximum lot coverage percentage and stormwater mitigation.

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19.24.080 Wrecked or damaged homes.

Wrecked, damaged or dilapidated mobile homes shall not be kept or stored on a lot in a mobile home park. The Zoning Administrator shall determine if a mobile home is damaged or dilapidated to a point which makes such mobile home unfit for human occupancy on either a temporary or permanent basis. Whenever such a determination is made, the mobile home shall be vacated and removed from the premises by the owner of the lot within thirty days of formal notice by the Zoning Administrator.
(Ord. 994 § 3.9(G), 1982).

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19.24.090 Park fees.

All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The park acquisition fee may also be reduced if sufficient land area was provided for park purposes at the time of subdivision, based on the calculations in section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

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Chapter 19.25 R-O NON-FAMILY RESIDENTIAL RESTRICTION OVERLAY DISTRICT

Sections:

- [19.25.010 Purpose and intent.](#)
- [19.25.020 Overlay district application.](#)
- [19.25.030 Non-family residential overlay district additional restrictions.](#)

2555 19.25.035 Parking
2556 [19.25.040 Exceptions.](#)
2557 [19.25.050 Non-conforming use and registration.](#)

2558
2559 **19.25.010 Purpose and intent.**

2560 The purpose and intent of the non-family residential overlay district is to stabilize and protect property
2561 values and to provide a mechanism to protect, preserve, and enhance essential characteristics of low-
2562 density single-family residential areas, in particular, areas where due to economic factors and housing
2563 pressure in the immediate area there is the potential for the reduction of family-occupied residences,
2564 and therefore the loss of the single-family character of the neighborhood which will potentially lead to
2565 overcrowding, undue population concentration and lower property values.
2566 (Ord. No. 1788A, § 1, 6-1-2010)

2567
2568 **19.25.020 Overlay district application.**

2569 There is no separate Overlay Permission Area Map for the R-O overlay. Applications for the R-O district
2570 may be made in any residential zoning district. The restrictions set forth herein are in addition to the
2571 restrictions and requirements of the basic district applicable to a particular site. To the extent there is a
2572 conflict between the restrictions or requirements associated with the district, the requirements that
2573 most restrictively limit the use of the site shall apply. Except as noted in this chapter, an R-O overlay
2574 request may be initiated by the City Council or any member thereof, the City Plan Commission, or by
2575 petition of one or more of the owners, lessees, or authorized agents of the of the lessees or owners
2576 of the property within the area proposed to be included within the R-O overlay district. No party other
2577 than the owner of the property may initiate an action for the imposition of R-O non-family residential
2578 zoning on any particular property if such a petition has been made within the previous twelve months.
2579 Procedures for zoning changes and amendments are further elaborated in section 19.69 (Ord. No.
2580 1788A, § 1, 6-1-2010)

2581
2582 **19.25.030 Non-family residential overlay district additional restrictions.**

2583 In all non-family residential overlay districts, the non-family household limitation set forth in
2584 Whitewater Municipal Ordinance [Section] 19.09.520 is reduced from three to two. Therefore, in any
2585 non-family residential overlay district, a non-family household shall be limited to two unrelated persons.
2586 (Ord. No. 1788A, § 1, 6-1-2010)

2587
2588 **19.25.035 Parking**

2589 Parking spaces permitted for units with R-O zoning shall be limited to the number of parking spaces
2590 allowed for the underlying zoning.

2591
2592 **19.25.040 Exceptions.**

2593 This limitation shall not apply to community living arrangements allowed by federal and state law (such
2594 as foster homes and adult family homes for the disabled) and, in particular, those allowed under Wis.
2595 Stats. § 62.23. (7)(i)(Ord. No. 1788A, § 1, 6-1-2010)

2596
2597 **19.25.050 Non-conforming use and registration.**

2598 In order to assist the enforcement of this zoning classification, the owner of any property claiming non-
2599 conforming use status regarding the unrelated persons limitation imposed by R-O zoning shall register
2600 with the city clerk on a form provided by the clerk within ninety days of the imposition of the zoning on
2601 the property. The information required on the registration form shall include the history of the property

2602 that supports its designation as a non-conforming use which shall include the three letter initials and
2603 dates of residency of current tenants (or most recent tenants if not currently occupied), and the three
2604 letter initials and dates of residency of all tenants who resided at the premises for the last one hundred
2605 twenty days. The party claiming the non-conforming use status shall also have a continuing requirement
2606 to update the registration information to provide the initials of current tenants. Failure to register within
2607 ninety days of the imposition of the R-O zoning classification shall cause the non-conforming use status
2608 to terminate. The city shall mail a notice of this requirement to the address on the property's real estate
2609 tax statement within fifteen days of the imposition of the zoning on the property. The non-conforming
2610 use status of any property under this chapter will be subject to the provisions contained in City of
2611 Whitewater Ordinance [Section] 19.60.010, existing non-conforming uses.
2612 (Ord. No. 1788A, § 1, 6-1-2010)

2613
2614

2615 **Chapter 19.27 B-1 COMMUNITY BUSINESS DISTRICT**

2616 Sections:

- 2617 [19.27.010 Purpose.](#)
- 2618 [19.27.020 Permitted uses.](#)
- 2619 [19.27.025 Permitted accessory uses.](#)
- 2620 [19.27.030 Conditional uses.](#)
- 2621 [19.27.040 Lot area.](#)
- 2622 [19.27.050 Lot width.](#)
- 2623 [19.27.060 Yard requirements.](#)
- 2624 [19.27.070 Lot coverage.](#)
- 2625 [19.27.080 Building height.](#)
- 2626 [19.27.090 Plan review.](#)
- 2627 [19.27.100 Park fees.](#)

2628

2629 **19.27.010 Purpose.**

2630 The B-1 community business district is established to accommodate retail shopping and service needs in
2631 a manner compatible with the desired community character. The district should be located in relative
2632 proximity to residential areas and major traffic routes.
2633 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(part), 1982).

2634

2635 **19.27.020 Permitted uses.**

2636 Permitted uses in the B-1 district include:

- 2637 A. Art, music and school supply stores and galleries;
- 2638 B. Antique, hobby and craft shops;
- 2639 C. Automotive and related parts stores, without servicing;
- 2640 D. Hotels and motels;
- 2641 E. Small appliance repair stores, computer or software sales and service;
- 2642 F. Barbershops and beauty parlors;
- 2643 G. Banks and other financial institutions without drive-through facilities;
- 2644 H. Camera and photographic supply stores;
- 2645 I. Caterers;
- 2646 J. Clothing and shoe stores and repair shops;
- 2647 K. Clinics, medical and dental;
- 2648 L. Department stores;
- 2649 M. Drugstores;
- 2650 N. Florist shops;

- 2651 O. Food and convenience stores without gasoline pumps;
- 2652 P. Furniture stores;
- 2653 Q. Hardware stores;
- 2654 R. Insurance agencies;
- 2655 S. Jewelry stores;
- 2656 T. Liquor stores without drive-through facilities;
- 2657 U. Meat markets;
- 2658 V. Resale shops;
- 2659 W. Paint, wallpaper, interior decorating and floor covering stores;
- 2660 X. Professional offices;
- 2661 Y. Restaurants without drive-through facilities;
- 2662 Z. Self-service laundries and drycleaning establishments;
- 2663 AA. Sporting goods stores;
- 2664 BB. Stationery stores, retail office supply stores;
- 2665 CC. Variety stores;
- 2666 DD. Movie theaters;
- 2667 EE. Charitable or nonprofit institutions and facilities;
- 2668 FF. Tourist homes and bed and breakfasts;
- 2669 GG. Existing residences regulated by R-2 dimensional standards;
- 2670 HH. New residential uses meeting the standards of the R-3 district, when mixed with permitted uses
- 2671 in a unified project;
- 2672 II. Any other similar uses not specifically listed above that are consistent with the purpose of this
- 2673 district;
- 2674 JJ. The second or greater wireless telecommunications facility located on an alternative support
- 2675 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
- 2676 telecommunications facility, per the requirements of Chapter 19.55.
- 2677 (Ord. 1499 § 12, 2001; 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(A), 1982).
- 2678 KK. Light assembly uses including electronics, pottery, printing, contractor shops (heating, electrical,
- 2679 plumbing, general contracting) provided that there are no significant environmental emissions (odor and
- 2680 waste)
- 2681
- 2682 **19.27.025 Permitted accessory uses.**
- 2683 Permitted accessory uses in the B-1 district include:
- 2684 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
- 2685 principal use on the lot;
- 2686 B. Off-street parking and loading areas, subject to landscaping and screening requirements where
- 2687 applicable;
- 2688 C. Outside storage and trash Dumpsters where located outside of the required yards in Section
- 2689 19.27.060 of this chapter and enclosed by a decorative opaque fence, wall or landscaping designed to
- 2690 provide a total visual screen;
- 2691 D. Outside display of merchandise, which may be subject to limitations as part of site plan review;
- 2692 E. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
- 2693 the sale, repair or servicing of such motor vehicles. No vehicle in inoperable condition shall be stored for
- 2694 greater than thirty days;
- 2695 F. Up to two vending machines for dispensing of a product, but only if accessory to a commercial
- 2696 business use. Vending machines may be lit only when the principal use on the lot is in operation, unless
- 2697 such machines are screened from the public right-of-way and adjacent properties;
- 2698 G. Outdoor seating for restaurants within designated areas;

2699 H. Temporary retail uses, such as seasonal and special event sales, subject to the approval of the zoning
2700 administrator, who may set specific time and area limitations;
2701 I. Essential services;
2702 J. Wireless telecommunications support facilities, per the requirements of Chapter 19.55.
2703 (Ord. 1499 § 13, 2001; 1452 § 1(part), § 4(part), 2000).
2704

2705 **19.27.030 Conditional uses.**

2706 Conditional uses in the B-1 district include:

2707 A. Entertainment establishments, including clubs, but excluding adult entertainment;
2708 B. All uses with drive-in and drive-through facilities; (for which the conditions shall, among other issues,
2709 maintain visual continuity and attractive pedestrian movement along the street fronts)
2710 C. Automobile and small engine vehicle sales or rental facilities, including incidental repair and service
2711 within the principal building;
2712 D. Automobile repair and service within the principal building;
2713 E. Car washes;
2714 F. Private recreation uses;
2715 G. Public and semipublic uses;
2716 H. Taverns and other places selling alcoholic beverages by the drink; for which consideration shall be
2717 given but is not limited to conditions regarding, the following issues:
2718 1. parking
2719 2. type of business
2720 3. signage
2721 4. outdoor seating
2722 5. provisions for avoiding noise and lighting nuisances
2723 6. buffering and fencing;
2724 7. compatibility with the immediately surrounding neighborhood or district
2725 I. New residential uses meeting the standards of the R-3 district, when mixed with conditional uses in a
2726 unified project;
2727 J. Light assembly/retail uses not permitted elsewhere in this district
2728 Subject to the following restrictions:
2729 a. No environmental emission (noise, odor, waste),
2730 b. All truck delivery during weekdays,
2731 c. All of the requirements of Chapter 19.51, Traffic, Parking and Access, and Chapter 19.57, General
2732 Performance Standards, to be met;
2733 K. Gasoline service stations, including incidental repair and service within the principal building;
2734 L. Day care centers, adult and child;
2735 M. Funeral homes and crematory services;
2736 N. Veterinary clinics, provided that no service including animal boarding is offered outdoors;
2737 O. More than one principal structure on a lot;
2738 P. Large retail and commercial service developments, as described and regulated in Chapter 19.485.
2739 Q. The first wireless telecommunications facility located on an alternative support structure only, per
2740 the requirements of Chapter 19.55.
2741 (Ord. 1499 § 14, 2001; 1452 § 1(part), § 4(part), 2000; Ord. 1379 § 1, 1997; Ord. 1314 § 1, 1995; Ord.
2742 1296 § 2(part), 1994; Ord. 994 § 13.10(B), 1982).
2743 (Ord. No. 1796A, § 1, 8-3-2010)

2744
2745 **19.27.040 Lot area.**

2746 Minimum lot area in the B-1 district is seven thousand square feet for lots existing at the time of
2747 adoption of the ordinance codified in this chapter, and fifteen thousand square feet for all other lots.
2748 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(C), 1982).

2749

2750 **19.27.050 Lot width.**

2751 Minimum lot width in the B-1 district is fifty feet
2752 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.19(D), 1982).

2753

2754 **19.27.060 Yard requirements.**

2755 Minimum required yards for principal buildings, outside storage, and Dumpsters in the B-1 district are:
2756 A. Front and street side, fifteen feet (but may be greater if needed to meet fire safety requirements);
2757 B. Interior side, ten feet, except that no side yard will be required for buildings designed for common
2758 wall construction;
2759 C. Rear, twenty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
2760 feet under a conditional use;
2761 D. Shore yard, seventy-five feet;
2762 E. Any yard abutting a residential district or residential use, thirty feet or the height of the nearest
2763 principal building or structure on the lot being developed, whichever is greater. Such yards shall be
2764 subject to the landscape buffer yard requirements of Section 19.57.140, except where abutting a
2765 railroad right-of-way with the approval of the plan and architectural review commission;
2766 F. There shall be no parking areas, circulation drives or accessory buildings within the required front
2767 yard setback.
2768 (Ord. 1460 § 2, 2000; Ord. 1452 § 1(part), § 4(part), 2000; Ord. 994 § 3.10(E), 1982).

2769

2770 **19.27.070 Lot coverage, maximum.**

2771 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
2772 for landscape, circulation, and other site planning considerations. + Building size, coverage, and locations
2773 must still conform to the other regulations including stormwater management. Landscape and
2774 environmental features shall follow principles of sustainability and environmental quality and locate
2775 landscape elements in highly visible locations, especially in the fronts of buildings, and should include
2776 canopy trees, understory and/or evergreen trees, and shrubs.
2777 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(F), 1982).

2778 **For discussion – lot coverage percentage and stormwater mitigation.**

2779

2780

2781 **19.27.080 Building height.**

2782 Maximum building height in the B-1 district is five stories or 100 feet (whichever is greater), with the
2783 exception that the maximum building height is three stories within 100' of a residential use or a
2784 property zoned as a residential district. The maximum building height is also subject to fire safety
2785 limitations. The maximum building height may be increased under the provisions of a conditional use
2786 permit which will include, but is not limited to, consideration of issues regarding shadows cast by
2787 buildings, views, impacts on neighbors, and microclimate.
2788 (Ord. 1580A § 7, 2005: Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(G), 1982).

2789

2790 **19.27.090 Plan review.**

2791 Plan review in accordance with Chapter 19.63 shall be required for any development in the B-1 district.
2792 Building design shall be consistent with the recommendations of the city's comprehensive (master) plan;

2793 contribute to the uniqueness and character of the neighborhood, district and community; and include
2794 materials, colors, styles and features tailored to the building's site and context. Substantial modifications
2795 to standardized prototype and corporate franchise designs may be required to meet these criteria.
2796 Landscaping shall be consistent with the recommendations of the city's comprehensive (master) plan;
2797 generous in quantity; aesthetically pleasing; appropriate to the site, community and region; and in
2798 accordance with accepted professional standards.
2799 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(H), 1982).

2800
2801 **19.27.100 Park fees.**

2802 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2803 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
2804 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
2805 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
2806 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
2807 was provided for park purposes at the time of subdivision, based on the calculations in section
2808 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.
2809

2810 **Chapter 19.28 B-1A University Mixed-Use Neighborhood Overlay District**

2811 Sections:

2812
2813
2814
2815 19.28.040 Parking.

2816
2817 **19.28.010 Purpose and intent.**

2818 The purpose and intent of the university mixed-use neighborhood overlay district is to provide multi-
2819 family housing options within an active, pedestrian friendly neighborhood, and with residential units
2820 located on upper floors while the ground level contains non-residential uses. Development and uses
2821 should attract university students on a daily basis and provide year-round activities to encourage
2822 students to remain in the City on weekends and summers. The district provides an opportunity for
2823 mixed housing and commercial uses, serving both students and adjacent residents.
2824

2825 **19.28.015 Relationship to underlying zoning district classification.**

2826 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
2827 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
2828 zoning is applied unless specifically described in this overlay district.
2829

2830 **19.28.020 Overlay district application.**

2831 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2832 B-1A designation. No party other than the owner of the property or agents of the owner may apply for
2833 the B-1A university mixed-use neighborhood overlay zoning. Applications may also require a conditional
2834 use permit. Procedures for zoning changes and amendments are further elaborated in section 19.69
2835

2836 **19.28.030 University mixed-use neighborhood overlay district permitted and conditional**
2837 **uses.**

2838 Within this district, In addition to the permitted and conditional uses for B-1 a multifamily residential
2839 building or a mixed-use building (a) with up to twelve residential units is a permitted use for new

2840 construction and (b) more than twelve residential units per building and up to twenty-four residential
2841 units per building may be requested as a conditional use. More than twenty-four residential units per
2842 building are not allowed in the district. Residential units shall be limited to no more than four bedrooms
2843 and have a minimum of two bathrooms. Architectural quality shall be subject to the review of the plan
2844 and architectural commission and include application of any architectural standards as established by
2845 the City, for buildings in this zoning district.

2846
2847 **19.28.040 Off-street Parking.**
2848 Off-street parking, including both surface parking and enclosed parking, shall conform to the following
2849 guidelines and shall be reviewed as part of submitted site plans:

2850 A. All parking areas must be hard surfaced with materials to control dust and drainage, such as asphalt
2851 or concrete. The use of bricks or pavers will require a conditional use permit. Gravel is not permitted.
2852 Access, drainage and stormwater management must be considered.

2853 B. Consideration must be given to the visibility and potential impact on abutting properties. Attractive
2854 landscaping and screening/fencing must be installed to block light pollution.

2855 C. If there are three or more unrelated individuals living in a dwelling, parking must be striped,
2856 numbered, assigned, and curb stops or bollards shall be included along the edge of the surface parking
2857 area.

2858
2859 **Chapter 19.30 B-2 CENTRAL BUSINESS DISTRICT***

2860 **Sections:**

2861 [19.30.010 Purpose.](#)

2862 [19.30.020 Permitted uses.](#)

2863 [19.30.025 Permitted accessory uses.](#)

2864 [19.30.030 Conditional uses.](#)

2865 [19.30.040 Development standards.](#)

2866 [19.30.050 Park fees.](#)

2867 * Prior ordinance history: Ords. 994, 1296 and 1481.

2868

2869 **19.30.010 Purpose.**

2870 The B-2 district is established in the city's historic downtown area to accommodate retail, service, office,
2871 community, and support residential uses for citywide and regional benefit; and to advance the city's
2872 downtown revitalization objectives as expressed in adopted city plans.
2873 (Ord. 1611A § 1(part), 2006).

2874

2875 **19.30.020 Permitted uses.**

2876 Permitted uses in the B-2 district include:

2877 A. Art and school supply stores;

2878 B. Arts and crafts galleries;

2879 C. Automotive parts sales stores, automobile sales lot and show rooms and lots;

2880 D. Antique or collectible shops;

2881 E. Bakeries or candy stores, with products for sale on premises only;

2882 F. Catalog and e-commerce sales outlets;

2883 G. Hotels and motels;

2884 H. Appliance repair stores, including computer sales and service;

2885 I. Barbershops, day spas, and beauty parlors;

2886 J. Banks and other financial institutions;

2887 K. Bookstores, stationery stores, retail office supply stores, and newsstands;

- 2888 L. Caterers;
- 2889 M. Clothing and shoe sales and repair shops;
- 2890 N. Clinics, medical and dental;
- 2891 O. Coffee shops;
- 2892 P. Cultural arts centers and museums;
- 2893 Q. Department stores;
- 2894 R. Drug stores;
- 2895 S. Florist or garden shops;
- 2896 T. Gift shops;
- 2897 U. Grocery stores;
- 2898 V. Hardware stores;
- 2899 W. Insurance, real estate, or similar agencies;
- 2900 X. Interior decorating shops;
- 2901 Y. Jewelry stores;
- 2902 Z. Paint stores;
- 2903 AA. Offices;
- 2904 BB. Post offices;
- 2905 CC. Public parking lots;
- 2906 DD. Restaurants, ice cream shops, and cafes;
- 2907 EE. Sporting goods shops;
- 2908 FF. Tourist information and hospitality centers;
- 2909 GG. Toy stores;
- 2910 HH. Travel agencies;
- 2911 II. Variety stores;
- 2912 JJ. Dance studios;
- 2913 KK. Movie theaters;
- 2914 LL. Charitable or nonprofit institutions and facilities; MM. Tourist homes and bed and breakfasts;
- 2915 NN. Residential uses above the first floor, limited to non-family household sizes applicable in the R-1 and R-2 districts (see Section 19.09.520);
- 2916 and R-2 districts (see Section 19.09.520);
- 2917 OO. Existing residences regulated by R-2 standards;
- 2918 PP. Any other similar uses not specifically listed above.
- 2919 (Ord. 1611A § 1(part), 2006).

2920
 2921 **19.30.025 Permitted accessory uses.**

- 2922 Permitted accessory uses in the B-2 district include:
- 2923 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
 - 2924 principal use on the lot;
 - 2925 B. Off-street parking and loading areas, subject to landscaping and screening requirements where
 - 2926 applicable;
 - 2927 C. Outside storage or trash dumpsters where enclosed by a decorative opaque fence, wall and/or
 - 2928 landscaping designed to provide a total visual screen;
 - 2929 D. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
 - 2930 the sale, repair, or servicing of such motor vehicles. No vehicle in an inoperable condition shall be stored
 - 2931 outdoors for greater than thirty days;
 - 2932 E. Outdoor seating for restaurants, coffee shops, cafes, taverns, or similar uses, within areas designated
 - 2933 by site plan review or other city approval processes;
 - 2934 F. Essential services.
 - 2935 (Ord. 1611A § 1(part), 2006).

2936

2937 **19.30.030 Conditional uses.**

2938 Conditional uses in the B-2 district include:

2939 A. Drive-in or drive-through type establishments;

2940 B. Entertainment establishments, not including adult entertainment establishments;

2941 C. Taverns and other places selling alcoholic beverages by the drink; including expansion of existing
2942 uses for which consideration shall be given but is not limited to, conditions regarding the following
2943 issues:

2944 1. parking

2945 2. type of business

2946 3. signage

2947 4. outdoor seating

2948 5. provisions for avoiding noise and lighting nuisances

2949 6. buffering and fencing;

2950 7. compatibility with the immediately surrounding neighborhood or district

2951 D. Liquor or tobacco stores;

2952 E. Public and semipublic uses, except for parking;

2953 F. Automotive servicing and repairs;

2954 G. First floor residential uses are allowed as a conditional use; except as provided below:

2955 First floor residential uses are prohibited in any building located in the area within the boundary of
2956 Whitewater Creek on the east (prohibited on west side of creek only), North Street on the north
2957 (prohibited on south side of street only), Fremont Street on the west (prohibited on east side of street
2958 only), Whitewater Street on the south (prohibited on north side of street only), and the portion of West
2959 Main Street from the intersection of Whitewater Street east to the Whitewater Creek (prohibited on
2960 north side of street only).

2961 H. Light industrial/retail uses such as:

2962 1. Electronics,

2963 2. Pottery,

2964 3. Craft/woodwork,

2965 4. Printing,

2966 5. Contractor shops (heating, electrical, plumbing, general contractor office),

2967 6. Lumberyards,

2968 7. Other similar uses,

2969

2970 Subject to the following restrictions:

2971 1. No outside storage, unless screened as to Chapter 19.57.140,

2972 2. No environmental emission,

2973 3. All truck delivery during weekdays,

2974 4. All dumpster locations outdoors must be screened by a fence and landscaping,

2975 5. All of the requirements of Chapter 19.51, Traffic, Parking and Access, and Chapter 19.57, General
2976 Performance Standards, to be met;

2977 I. Laundromats or dry cleaning;

2978 J. Hospitals;

2979 K. Wholesale trade of durable and nondurable goods.

2980 (Ord. 1611A § 1(part), 2006).

2981 (Ord. No. 1681A, 5-20-2008)

2982

2983 **19.30.040 Architectural design standards.**

2984 Within the B-2 district, there shall be no minimum required ordinance design and dimensional standards
2985 or setbacks. This is being done to allow the most flexibility in the reuse and redevelopment of the
2986 downtown. Because of the lack of predefined architectural design standards, all proposed construction
2987 and remodeling activities requiring a zoning permit shall require the design review and approval of the
2988 city plan and architectural review commission in compliance with Chapter 19.63, Plan Review. Also
2989 within the B-2 district, all uses are exempted from the parking requirements of Section 19.51.130,
2990 except if off-street parking is specifically required for a particular conditional use under Section
2991 19.30.030.

2992 (Ord. 1611A § 1(part), 2006).

2993

2994 **19.30.050 Park fees.**

2995 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2996 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
2997 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
2998 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
2999 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
3000 was provided for park purposes at the time of subdivision, based on the calculations in Section
3001 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

3002

3003 **Chapter 19.31 B-2A Downtown Housing Overlay District**

3004 Sections:

3005

3006

3007

3008 19.31.040 Parking.

3009

3010 **19.31.010 Purpose and intent.**

3011 The purpose and intent of downtown housing overlay district is to provide multi-family housing options
3012 adjacent to downtown that can spur additional investment in the area.

3013

3014 **19.31.015 Relationship to underlying zoning district classification.**

3015 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
3016 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
3017 zoning is applied unless specifically described in this overlay district.

3018

3019 **19.31.020 Overlay district application.**

3020 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
3021 B-2A designation. No party other than the owner of the property or agents of the owner may apply for
3022 the B-2A downtown housing overlay zoning. Permission will require conformance with the
3023 requirements established for the duties of the zoning administrator (section 19.75.061) Applications
3024 may also require a conditional use permit. Procedures for zoning changes and amendments are further
3025 elaborated in section 19.69

3026

3027 **19.31.030 Downtown housing overlay district permitted and conditional uses**

3028 Multi-family buildings with up to four units per building are a permitted use for new construction
3029 provided that the units shall be limited to no more than four bedrooms, have a minimum of two
3030 bathrooms, and have individual entries. Multi-family building plans shall demonstrate the inclusion or
3031 availability of adequate parking for the occupants and building users. In addition, the design of such
3032 units shall be reviewed by the Plan and Architectural Review Commission as limited to the following
3033 issues: the design can easily accommodate both student and non-student housing; the design
3034 exemplifies high quality site planning and architecture; quality open space features, or garden yards
3035 are integrated to serve as an amenity for residents.

3036
3037 **19.31.040 Off-street Parking.**

3038 Off-street parking, including both surface parking and enclosed parking, shall conform to the following
3039 guidelines and shall be reviewed as part of submitted site plans:

3040 A. All parking areas must be hard surfaced with materials to control dust and drainage, such as asphalt
3041 or concrete. The use of bricks or pavers will require a conditional use permit. Gravel is not permitted.
3042 Access, drainage and stormwater management must be considered.

3043 B. Consideration must be given to the visibility and potential impact on abutting properties. Attractive
3044 landscaping and screening/fencing must be installed to block light pollution.

3045 C. If there are three or more unrelated individuals living in a dwelling, parking must be striped,
3046 numbered, assigned, and curb stops or bollards shall be included along the edge of the surface parking
3047 area.

3049 **Chapter 19.33 B-3 HIGHWAY COMMERCIAL AND LIGHT INDUSTRIAL DISTRICT**

3050 Sections:

3051 19.33.010 Purpose.

3052 19.33.020 Permitted uses.

3053 19.33.025 Permitted accessory uses.

3054 19.33.030 Conditional uses.

3055 19.33.040 Lot area.

3056 19.33.050 Lot width.

3057 19.33.060 Yard requirements.

3058 19.33.070 Lot coverage.

3059 19.33.080 Building height.

3060 19.33.090 Plan review.

3061 19.33.100 Park fees.

3062

3063 **19.33.010 Purpose.**

3064 The B-3 highway commercial and light industrial district is established to accommodate nonnuisance
3065 type industrial commercial uses that are highway oriented or have large land area requirements. To
3066 ensure a minimum of disruption to residential neighborhoods, no development within this district shall
3067 take direct access to a local residential street, except by conditional use permit. ^N
3068 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(part), 1982).

3069

3070 **19.33.020 Permitted uses.**

3071 Permitted uses in the B-3 district include:

3072 A. All uses listed as permitted uses in the B-1 district;

3073 B. Agricultural services;

3074 C. General contracting shops;

3075 D. Lumberyards, building supply stores, and greenhouses;

3076 E. Private recreation facilities;

- 3077 F. Mini-warehouses;
- 3078 G. Public and semipublic uses;
- 3079 H. Other similar uses not specifically listed in this section that are consistent with the purpose of this
- 3080 district;
- 3081 I. The second or greater wireless telecommunications facility located on an alternative support
- 3082 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
- 3083 telecommunications facility, per the requirements of Chapter 19.55.
- 3084 (Ord. 1499 § 15, 2001; Ord. 1452 § 1(part), § 5(part), 2000; Ord. 1082 § 7, 1986; Ord. 994 § 3.12(A),
- 3085 1982).

3086

3087 **19.33.025 Permitted accessory uses.**

3088 Permitted accessory uses in the B-3 district include:

- 3089 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
- 3090 principal use on the lot;
- 3091 B. Off-street parking and loading areas, subject to landscaping and screening requirements if
- 3092 applicable;
- 3093 C. Outside storage and trash Dumpsters, which may be subject to screening as part of site plan review;
- 3094 D. Outside display of merchandise, which may be subject to limitations as part of site plan review;
- 3095 E. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
- 3096 the sale, repair, or servicing of such motor vehicles. No vehicle in inoperable condition shall be stored
- 3097 for greater than thirty days;
- 3098 F. Outdoor seating for restaurants within designated areas;
- 3099 G. Temporary retail uses, such as seasonal and special event sales, subject to the approval of the zoning
- 3100 administrator, who may require specific time and area limitations;
- 3101 H. Vending machines for dispensing of a product, but only if accessory to a commercial business use. If
- 3102 more than two vending machines are accessory to one business use, such vending machines shall be
- 3103 screened from the public right-of-way and adjacent properties. Vending machines may be lit only when
- 3104 the principal use on the lot is in operation, unless such machines are completely screened from the
- 3105 public right-of-way and adjacent properties;
- 3106 I. Essential services;
- 3107 J. Wireless telecommunications support facilities, per the requirements of Chapter 19.55.
- 3108 (Ord. 1499 § 16, 2001; 1452 § 1(part), § 5(part), 2000).

3109

3110 **19.33.030 Conditional uses.**

3111 Conditional uses in the B-3 district include:

- 3112 A. Taverns and other establishments selling alcoholic beverages by the drink;
- 3113 for which consideration shall be given but is not limited to, conditions regarding the following issues:
 - 3114 1. parking
 - 3115 2. type of business
 - 3116 3. signage
 - 3117 4. outdoor seating
 - 3118 5. provisions for avoiding noise and lighting nuisances
 - 3119 6. buffering and fencing;
 - 3120 7. compatibility with the immediately surrounding neighborhood or district
- 3121 B. All uses with drive-through facilities;
- 3122 C. More than one principal structure on a lot;
- 3123 D. New residential uses in conformance with the standards of the R-3 multifamily residence district;

- 3124 E. Automobile repair and service within a principal or accessory building;
- 3125 F. Automobile, boat, trailer and small engine vehicle sales and rental facilities, including incidental
- 3126 repair and service within a principal or accessory building;
- 3127 G. Car washes;
- 3128 H. Entertainment establishments, including clubs, but excluding adult entertainment;
- 3129 I. Funeral homes and crematory services;
- 3130 J. Gasoline service stations, including incidental repair and service within the principal building;
- 3131 K. Light industry;
- 3132 L. Motor freight transportation;
- 3133 M. Veterinary clinics, provided that no service including animal boarding is offered outdoors;
- 3134 N. Warehousing;
- 3135 O. Wholesale trade of durable and nondurable goods;
- 3136 P. Large retail and commercial service developments, as described and regulated in Chapter 19.485.
- 3137 Q. Light manufacturing and retail uses
- 3138 R. All nonresidential uses with vehicular access onto a local (not a collector or arterial) street that is
- 3139 intended to provide access to mostly residential uses;
- 3140 S. The first wireless telecommunications facility located on an alternative support structure only, per
- 3141 the requirements of Chapter 19.55.
- 3142 (Ord. 1499 § 17, 2001; 1452 § 1(part), § 5(part), 2000: Ord. 1380 § 1, 1997; Ord. 994 § 3.12(B), 1982).
- 3143 (Ord. No. 1796A, § 2, 8-3-2010)

3144
3145 **19.33.040 Lot area.**

3146 Minimum lot area in the B-3 district is ten thousand square feet.

3147
3148 **19.33.050 Lot width.**

3149 Minimum lot width in the B-3 district is one hundred feet.

3150 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(D), 1982).

3151
3152 **19.33.060 Yard requirements.**

- 3153 Minimum required yards for principal buildings, outside storage, and Dumpsters in the B-3 district are:
- 3154 A. Front and street side, fifteen feet (but may be greater if needed to meet fire safety requirements);
 - 3155 B. Interior side, fifteen feet;
 - 3156 (but may be greater if needed to meet fire safety requirements);
 - 3157 C. Rear, twenty feet, except the rear
 - 3158 yard setback to any railroad right-of-way shall be fifteen feet under a conditional use;
 - 3159 (but may be greater if needed to meet fire safety requirements);
 - 3160 D. Shore yard, seventy-five feet;
 - 3161 E. Any yard abutting a residential district or use, thirty feet or the height of the nearest principal
 - 3162 building or structure being developed, whichever is greater. Such yards shall be subject to the landscape
 - 3163 buffer yard requirements of Section 19.57.140, except where abutting a railroad right-of-way with the
 - 3164 approval of the plan and architectural review commission.
 - 3165 (Ord. 1460 § 1, 2000; Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(E), 1982).

3166
3167 **19.33.070 Lot coverage.**

3168 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed

3169 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations

3170 must still conform to the other regulations including stormwater management. Landscape and

3171 environmental features shall follow principles of sustainability and environmental quality and shall give
3172 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
3173 include canopy trees, understory and/or evergreen trees, and shrubs.

3174

3175 **19.33.080 Building height.**

3176 Maximum building height in the B-3 district is five stories or 100 feet (whichever is greater), with the
3177 exception that the maximum building height is three stories within 100' of a residential use or property
3178 zoned as a residential district. The maximum building height is also subject to fire safety limitations.
3179 The maximum building height may be increased under the provisions of a conditional use permit which
3180 will include, but is not limited to, consideration of issues regarding shadows cast by buildings, views,
3181 impacts on neighbors, and microclimate.

3182 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(G), 1982).

3183

3184 **19.33.090 Plan review.**

3185 Plan review in accordance with Chapter 19.63 shall be required for any development in the B-3 district.
3186 Building design shall be consistent with the recommendations of the city's comprehensive (master) plan
3187 and include materials, colors, styles, and features tailored to the building's site and context. Landscaping
3188 shall be consistent with the recommendations of the city's comprehensive (master) plan; appropriate to
3189 the site, community and region; and in accordance with accepted professional standards

3190 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(H), 1982).

3191

3192 **19.33.100 Park fees.**

3193 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
3194 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
3195 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
3196 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
3197 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
3198 was provided for park purposes at the time of subdivision, based on the calculations in section
3199 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

3200

3201 **Chapter 19.36 M-1 GENERAL MANUFACTURING DISTRICT**

3202 Sections:

3203 [19.36.010 Purpose.](#)

3204 [19.36.020 Permitted uses.](#)

3205 [19.36.030 Conditional uses.](#)

3206 [19.36.040 Lot area.](#)

3207 [19.36.050 Lot width.](#)

3208 [19.36.060 Yard requirements.](#)

3209 [19.36.070 Lot coverage.](#)

3210 [19.36.080 Building height.](#)

3211 [19.36.090 Buffer screening.](#)

3212

3213 **19.36.010 Purpose.**

3214 The M-1 general manufacturing district is established to accommodate a wide range of
3215 industrial uses, and to preserve and protect lands for future industrial use.

3216 (Ord. 994 § 3.13(part), 1982).

3217

3218 **19.36.020 Permitted uses.**

3219 Permitted uses in the M-1 district include:
3220 A. Manufacturing, fabrication, packing, packaging and assembly of products from furs, glass, leather,
3221 metals, paper, plaster, plastics, textiles, clays and woods, and similar materials;
3222 B. Freight terminals, truck servicing and parking, warehousing and inside storage;
3223 C. Research facilities;
3224 D. Offices;
3225 E. Retail sales and services that are linked to a manufacturing or warehousing use;
3226 F. More than one principal structure on a lot when the additional building is a material and direct part of
3227 the primary business
3228 G. Any similar uses not specifically listed that can comply with the performance standards listed in
3229 Chapter 19.57;
3230 H. The second or greater wireless telecommunications facility located on an alternative support
3231 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
3232 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
3233 accessory uses, all per the requirements of Chapter 19.55.
3234 (Ord. 1499 § 18, 2001; Ord. 994 § 3.13(A), 1982).
3235
3236 **19.36.030 Conditional uses.**
3237 Conditional uses in the M-1 district include:
3238 A. Wireless telecommunications facilities, per the requirements of Chapter 19.55.
3239 (Ord. 1499 § 19, 2001; Ord. 1315 § 1, 1995; Ord. 994 § 3.13(B), 1982).
3240 B. Salvage yards;
3241 C. Day care facilities
3242
3243 **19.36.040 Lot area.**
3244 Minimum lot area in the M-1 district is twenty thousand square feet.
3245 (Ord. 994 § 3.13(C), 1982).
3246
3247 **19.36.050 Lot width.**
3248 Minimum lot width in the M-1 district is one hundred fifty feet.
3249 (Ord. 994 § 3.13(D), 1982).
3250
3251 **19.36.060 Yard requirements.**
3252 Minimum yard requirements for the M-1 district are:
3253 A. Front, thirty feet;
3254 B. Side, fifteen feet, corner lots thirty feet;
3255 C. Rear, thirty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
3256 feet under a conditional use;
3257 D. Shore, seventy-five feet.
3258 (Ord. 1460 § 3, 2000; Ord. 994 § 3.13(E), 1982).
3259
3260 **19.36.070 Lot coverage.**
3261 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
3262 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations
3263 must still conform to the other regulations including stormwater management. Landscape and
3264 environmental features shall follow principles of sustainability and environmental quality and shall

3265 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
3266 include canopy trees, understory and/or evergreen trees, and shrubs.
3267 (Ord. 994 § 3.13(F), 1982).

3268
3269 **19.36.080 Building height.**

3270 Maximum building height in the M-1 district is 100 feet., with the exception that the maximum building
3271 height is three stories within 100' of a residential use or a property zoned as a residential district., The
3272 maximum building height is also subject to fire safety limitations. The maximum building height may be
3273 increased under the provisions of a conditional use permit which will include, but is not limited to,
3274 consideration of issues regarding shadows cast by buildings, views, impacts on neighbors, and
3275 microclimate.
3276 (Ord. 994 § 3.13(G), 1982).

3277
3278 **19.36.090 Buffer screening.**

3279 Where the M-1 district boundaries adjoin any residential district boundary, a screen or buffer yard as
3280 described in Section 19.57.140 shall be required. This provision shall be applied to new construction and
3281 alterations to existing structures or uses that result in an increase in the level of nuisance. Only the area
3282 of the nuisance shall require screening.
3283 (Ord. 994 § 3.13(H), 1982).

3284
3285 **19.36.100 Architectural review.**

3286 No building or improvements shall be erected, placed or altered on any building site in an M-1 district
3287 park until the plans and use for such building or improvements (including site plans, landscaping plans,
3288 accommodation of environmental features, building plans, and specifications) have been approved
3289 through the architectural review process. The plan and architectural review commission's functions
3290 under Chapter 19.63 shall be delegated to the Community Development Authority or its designee as
3291 approved by the City Council.

3292
3293 **Chapter 19.37 M-2 MANUFACTURING AND MISCELLANEOUS USE DISTRICT**

- 3294 Sections:
3295 [19.37.010 Purpose.](#)
3296 [19.37.020 Permitted uses.](#)
3297 [19.37.030 Conditional uses.](#)
3298 [19.37.040 Lot area.](#)
3299 [19.37.050 Lot width.](#)
3300 [19.37.060 Yard requirements.](#)
3301 [19.37.070 Lot coverage.](#)
3302 [19.37.080 Building height.](#)
3303 [19.37.090 Buffer screening.](#)

3304
3305 **19.37.010 Purpose.**

3306 The M-2 manufacturing and miscellaneous use district is established to accommodate a wide range of
3307 industrial uses, to preserve and protect lands for future industrial use, and to provide an opportunity for
3308 miscellaneous uses set forth herein which are not specifically allowed in other districts. Adult-oriented
3309 establishments shall only be allowed in the M-2 district.
3310 (Ord. 1613A § 1(part), 2006).

3311
3312 **19.37.020 Permitted uses.**

3313 Permitted uses in M-2 district include:
3314 A. All uses listed as permitted uses in the M-1 district;
3315 B. Adult-oriented establishments as defined in Section 19.09.025.
3316 (Ord. 1613A § 1(part), 2006).

3317
3318 **19.37.030 Conditional uses.**

3319 Conditional uses in the M-2 district include:
3320 A. All uses listed as conditional uses in the M-1 district.
3321 (Ord. 1613A § 1(part), 2006).

3322
3323 **19.37.040 Lot area.**

3324 Minimum lot area in the M-2 district is twenty thousand square feet. The Community
3325 Development Authority can decrease the minimum lot area for adult-oriented establishments if it finds
3326 that a decrease is appropriate.
3327 (Ord. 1613A § 1(part), 2006).

3328
3329 **19.37.050 Lot width.**

3330 Minimum lot width in the M-2 district is one hundred fifty feet. The Community Development
3331 Authority can decrease the minimum lot width for adult-oriented establishments if it finds that a
3332 decrease is appropriate.
3333 (Ord. 1613A § 1(part), 2006).

3334
3335 **19.37.060 Yard requirements.**

3336 Minimum yard requirements for the M-2 district are:
3337 A. Front, thirty feet;
3338 B. Side, fifteen feet; corner lots, thirty feet;
3339 C. Rear, thirty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
3340 feet under a condition use;
3341 D. Shore, seventy-five feet.
3342 (Ord. 1613A § 1(part), 2006).

3343
3344 **19.37.070 Lot coverage.**

3345 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
3346 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations
3347 must still conform to the other regulations including stormwater management. Landscape and
3348 environmental features shall follow principles of sustainability and environmental quality and shall
3349 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
3350 include canopy trees, understory and/or evergreen trees, and shrubs.

3351
3352 **19.37.080 Building height.**

3353 Maximum building height in the M-2 district is 100 feet, with the exception that the maximum
3354 building height is three stories within 100' of a residential use or a property zoned as a residential
3355 district., The maximum building height is also subject to fire safety limitations. The maximum building
3356 height may be increased under the provisions of a conditional use permit which will include, but is not
3357 limited to, consideration of issues regarding shadows cast by buildings, views, impacts on neighbors, and
3358 microclimate.
3359 (Ord. 1613A § 1(part), 2006).

3360

3361 **19.37.090 Buffer screening.**

3362 Where the M-2 district boundaries adjoin any residential district boundary, a screen or buffer
3363 yard as described in Section 19.57.140 shall be required. This provision shall be applied to new
3364 construction and alterations to existing structures or uses that result in an increase in the level of
3365 nuisance. Only the area of the nuisance shall require screening.
3366 (Ord. 1613A § 1(part), 2006).

3367

3368 **19.37.100 Architectural review.**

3369 No building or improvements shall be erected, placed or altered on any building site in an M-2 district
3370 park until the plans and use for such building or improvements (including site plans, landscaping plans,
3371 accommodation of environmental features, building plans, and specifications) have been approved
3372 through the architectural review process. The plan and architectural review commission's functions
3373 under Chapter 19.63 shall be delegated to the Community Development Authority or its designee as
3374 approved by the City Council.

3375

3376

3377 **Chapter 19.38 WHITEWATER UNIVERSITY TECHNOLOGY PARK DISTRICT (WUTP DISTRICT)**

3378 [19.38.010 Purpose.](#)

3379 [19.38.020 Creation of architectural review committee.](#)

3380 [19.38.030 Permitted uses.](#)

3381 [19.38.040 Conditional uses.](#)

3382 [19.38.050 Lot area and lot width requirements.](#)

3383 [19.38.060 Floor area ratio.](#)

3384 [19.38.070 Yard requirements.](#)

3385 [19.38.090 Lot coverage.](#)

3386 [19.38.100 Building height.](#)

3387 [19.38.110 Development standards.](#)

3388

3389 **19.38.010 Purpose.**

3390 The WUTP district is established to provide an aesthetically attractive working environment
3391 exclusively for and conducive to the development and protection of offices; research, testing, and
3392 development institutions; and certain specialized manufacturing establishments compatible with an
3393 office and research setting, all of a non-nuisance-type and public parks. The essential purpose of this
3394 district is to achieve development which is practical, feasible and economical and an asset to the
3395 owners, neighbors and the community and to promote and maintain desirable economic development
3396 activities in a park like setting with well designed sites and buildings.
3397 (Ord. No. 1747A, § 1, 9-15-2009)

3398

3399 **19.38.020 Creation of architectural review committee.**

3400 Upon the mapping of any WUTP district, there shall be established an architectural review
3401 committee for the district. No building or improvements shall be erected, placed or altered on any
3402 building site in the technology park until the plans and use for such building or improvements, including
3403 site plans, landscaping plans, building plans, and specifications have been approved by the WUTP
3404 architectural review committee (ARC). Zoning permit applicants in the WUTP district are subject to all
3405 plan review requirements set forth in Chapter 19.63 of the Whitewater Municipal Code. The plan and
3406 architectural review commission's functions under Chapter 19.63 shall be delegated to the architectural
3407 review commission. The ARC shall consist of one city council member, a member of the plan and
3408 architectural review commission of the City of Whitewater to be appointed annually by the plan

3409 commission, the City Manager of the City of Whitewater, the Chancellor of the University of Wisconsin-
3410 Whitewater, two members appointed by the Chancellor of the University of Wisconsin-Whitewater, two
3411 citizens of the City of Whitewater appointed by the city council of the City of Whitewater, and one
3412 member of the community development authority of the City of Whitewater to be appointed by the
3413 CDA. The ARC shall organize and adopt rules for its own governance. Officers shall be elected from the
3414 membership for terms of one year. Meetings shall be open to the public unless closed for appropriate
3415 legal reasons, and shall be held at the call of the chairman. Minutes shall be kept showing actions taken,
3416 and shall be a public record. Quorum shall be five members, and all actions shall require the concurring
3417 vote of at least five members. In cases where the ARC has not been formed or is unable to act on the
3418 matter, all actions normally assigned to the ARC shall be reassigned to the City of Whitewater Plan and
3419 Architectural Review Commission. The City of Whitewater Plan and Architectural Review Commission
3420 shall retain the exclusive authority to grant and review or deny conditional use permits in the WUTP
3421 district, where required.

3422 (Ord. No. 1747A, § 1, 9-15-2009)

3423

3424 **19.38.030 Permitted uses.**

3425 Permitted uses in the WUTP district include:

3426 1. Production, or processing, cleaning, servicing, testing or repair of materials, goods or products,
3427 limited to the following uses, products, components, or circumstances:

3428 a. Electronic and electrical products and instruments, such as transistors, semiconductors, small
3429 computers, scanners, monitors and compact communication devices.

3430 b. High technology products related to the fields of physics, oceanography, astrophysics, metallurgy,
3431 chemistry, biology, or other scientific field offered for study at the University of Wisconsin-Whitewater.

3432 c. Laser technology, radiology, X-ray and ultrasound products, manufacturing and assembly.

3433 d. Medical and dental supplies.

3434 e. Optical, fiber optical and photographic products and equipment.

3435 f. Orthopedic and medical appliances, such as artificial limbs, brace supports and stretchers.

3436 g. Products related to process design, process simulation, computer hardware and software
3437 development, and safety engineering.

3438 h. Scientific and precision instruments and components, including robotics.

3439 2. Research, development and testing laboratories, including testing facilities and equipment.

3440 3. Business and professional offices.

3441 4. Pilot plants or other facilities for the testing of manufacturing, processing or fabrication methods, or
3442 for the testing of products or materials.

3443 5. Telecommunication centers (not including wireless telecommunication facilities as regulated in
3444 Section 19.55).

3445 6. Accessory uses, (which shall be accessory uses to principal use on-site), including the following:

3446 a. Educational or training centers or institutions.

3447 b. Nursery schools or day care centers for children of employees on the site.

3448 c. Temporary buildings for construction purposes, for a period not to exceed the duration of such
3449 construction.

3450 d. Reproduction processes related to a primary function including printing, blueprinting, photostating,
3451 lithographing, engraving, stereotyping, publishing and bookbinding.

3452 e. Wholesaling of goods and merchandise manufactured or produced on the premises.

3453 f. The generation of power via a local energy system, with the primary purpose of supplying energy to
3454 the principal use being conducted on the lot.

3455 g. The fabrication of products in conjunction with a research, development, or testing laboratory as the
3456 principal use.

- 3457 h. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
- 3458 principal use on the lot;
- 3459 i. Off-street parking and loading areas, subject to landscaping and screening requirements where
- 3460 applicable;
- 3461 j. Trash dumpsters where located outside of the required yards in Section 19.38.070 of this chapter and
- 3462 enclosed by a decorative opaque fence, wall or landscaping designed to provide a total visual screen;
- 3463 k. Outdoor seating for restaurants within designated areas;
- 3464 l. Outdoor eating and recreation areas;
- 3465 m. Essential services;
- 3466 n. Health clubs, banks and other financial institutions, medical, dental and optical clinics, barbershops,
- 3467 beauty parlors, or similar retail establishments;
- 3468 o. Conference centers.
- 3469 7. Restaurants, without drive-up or drive-through service.
- 3470 8. Colleges and universities (not including housing or residential uses).
- 3471 9. Public parks and public recreation use facilities, including but not limited to Moraine View Park and
- 3472 the planned athletic facilities, trail and possible playground therein.
- 3473 (Ord. No. 1747A, § 1, 9-15-2009)

3474

3475 **19.38.040 Conditional uses.**

3476 Conditional uses in the WUTP district include:

- 3477 1. Parking facilities, open and accessory, for the storage of private passenger automobiles only, when
- 3478 located elsewhere than on the same zoning lot as the principal use served.
- 3479 2. Public utility and public service uses as follows:
- 3480 a. Bus turnarounds (off-street), bus transfer points.
- 3481 b. Electric substations.
- 3482 c. Gas regulator stations, mixing stations and gate stations.
- 3483 d. Radio, television, and telecommunication towers and wireless telecommunication facilities meeting
- 3484 the standards of Section 19.55.
- 3485 e. Railroad passenger stations.
- 3486 f. Railroad rights-of-way.
- 3487 g. Sewerage system lift stations.
- 3488 h. Telephone exchanges, microwave relay towers, telephone transmission equipment buildings and
- 3489 service yards.
- 3490 i. Electric generator which serves a principal use located on the zoning lot and is capable of providing
- 3491 electricity for off-site use provided:
- 3492 (a). The electric output is less than three thousand kilowatts and said generator is operated no more
- 3493 than two hundred hours per year;
- 3494 (b). The location of every generator shall be not less than twenty feet from any zoning lot which
- 3495 permits residential uses; and,
- 3496 (c). Said generator shall be located and screened so as to reduce the visual impact of the generator
- 3497 from neighboring property and to be compatible with neighboring structures and the character of the
- 3498 community. This may include screening with materials similar in appearance to those used for the
- 3499 principal structure on the zoning lot, and landscaping or fencing as approved by the architectural review
- 3500 committee.
- 3501 j. Water pumping stations and reservoirs.
- 3502 3. Any production, or processing, cleaning, servicing, testing or repair of materials, goods or products,
- 3503 limited to the following uses, products, components, or circumstances:
- 3504 a. Cameras and other photographic equipment.

- 3505 b. Ceramic products, such as pottery, figurines and small glazed tiles.
- 3506 c. Cosmetics and toiletries, drugs, perfumes, and perfumed soaps.
- 3507 d. Drugs and pharmaceutical products.
- 3508 e. Electrical appliances, such as lighting fixtures, irons, fans and toasters.
- 3509 f. Electrical equipment assembly, such as home radio and television receivers and home movie
- 3510 equipment, but not including electrical machinery.
- 3511 g. Electrical supplies manufacturing and assembly, such as wire and cable assembly, switches, lamps,
- 3512 insulation and dry cell batteries.
- 3513 h. Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork,
- 3514 feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious and semiprecious stones,
- 3515 rubber, shell, wood (but not including a planing mill) and yarn.
- 3516 i. Products related to material research and development in such areas as prepared glass, ceramics,
- 3517 carbon fiber, metals, textiles, polymers, plastics, chemical foams and inorganic chemicals such as liquid
- 3518 crystals, and synthetic fuels.
- 3519 j. Small-scale products (finished weight not exceeding fifty pounds) related to energy, environmental,
- 3520 telecommunications, or satellite applications.
- 3521 k. Small-scale products (finished weight not exceeding fifty pounds) related to the resource industries
- 3522 of agriculture and food production, forestry, petrochemicals and mining.
- 3523 l. Specific products not listed above but similar in intent and character and which may be defined as
- 3524 being produced or assembled manually or by a light industrial process by virtue of the use of only light
- 3525 machinery; being conducted entirely within enclosed substantially constructed buildings; in which the
- 3526 open area around such buildings is not used for storage of raw materials or manufactured products, or
- 3527 for any industrial purpose other than loading and unloading operations; which are not noxious or
- 3528 offensive by reason of emission of smoke, dust, fumes, odors, noise, or vibrations beyond the confines
- 3529 of the building.
- 3530 5. Outside storage areas, subject to the development standards in Section 19.38.110.
- 3531 6. Day care centers.
- 3532 7. Other uses substantially consistent with or linked to the goals of the WUTP including
- 3533 retail sales and services and food and beverage sales and services.
- 3534 (
- 3535 Ord. No. 1747A, § 1, 9-15-2009)

3536
3537 **19.38.050 Lot area and lot width requirements.**

3538 In the WUTP district, there shall be provided a lot area of not less than one acre and a lot width
3539 of not less than one hundred feet.
3540 (Ord. No. 1747A, § 1, 9-15-2009)

3541
3542 **19.38.060 Floor area ratio.**

3543 In the WUTP district, the floor area ratio shall not exceed 3.0.
3544 (Ord. No. 1747A, § 1, 9-15-2009)

3545
3546 **19.38.070 Yard requirements.**

3547 Minimum required yards for principal buildings, outside storage areas, parking lots, and
3548 dumpsters in the WUTP district are:

- 3549 1. Front yard--Twenty-five feet, except as indicated on the city's official map.
- 3550 2. Side yard--Each side, fifteen feet. On corner lots, twenty-five feet for side yard adjoining an arterial
- 3551 highway and twenty-five feet for side yard adjoining other streets.

- 3552 3. Rear yard--Thirty feet.
3553 4. Environmental corridor or wetland yard. Adjacent to any mapped environmental corridor, as defined
3554 by the Southeastern Wisconsin Regional Planning Commission, or a delineated wetland as approved by
3555 the agency with jurisdiction--Thirty feet.
3556 5. Parking lots and associated circulation drive aisles may extend into normal interior side or rear yard
3557 setbacks, but not into front or street side yard setbacks.
3558 (Ord. No. 1747A, § 1, 9-15-2009)

3559
3560 **19.38.090 Lot coverage.**

3561 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
3562 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations
3563 must still conform to the other regulations including stormwater management. Landscape and
3564 environmental features shall follow principles of sustainability and environmental quality and shall
3565 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
3566 include canopy trees, understory and/or evergreen trees, and shrubs.
3567 (Ord. No. 1747A, § 1, 9-15-2009)

3568
3569 **19.38.100 Building height.**

3570 Maximum building height in the WUTP district is 100 feet, except as may be otherwise approved
3571 by the architectural review committee upon the finding that such increased height will not be
3572 detrimental to the character of the park or adjoining buildings and uses.
3573 (Ord. No. 1747A, § 1, 9-15-2009)

3574
3575 **19.38.110 Development standards.**

3576 In the WUTP district, the following development standards shall apply, in addition to any
3577 standards that may be required by covenant:

- 3578 1. Building design and materials. The exterior appearance of any building constructed in this district
3579 shall be compatible with that of adjoining structures within the district, especially as it relates to
3580 rooflines and building materials. Permitted materials shall include masonry, concrete, stone, Exterior
3581 Insulation and Finish System (EIFS), Dry-vit, glass, and decorative architectural grade metal as a design
3582 detail, except where other quality materials are also allowed by the architectural review committee.
3583 2. Accessory off-street parking and loading. Accessory off-street parking lots, loading berths, and access
3584 driveways shall be located, designed and improved so as to provide for safe and convenient access from
3585 adjoining streets, safe and convenient circulation within the site, and an aesthetically pleasing site
3586 design. Parking lots and access driveways shall be designed and located so that such facilities do not
3587 provide a direct unlandscaped view from the street to the parking lot or access driveway.
3588 3. Landscaping and site development. To provide a park-like setting, all lots shall be landscaped,
3589 including the provision of canopy-type shade trees. When adjacent, connected, or within 30 feet of an
3590 environmental corridor or environmental corridor buffer : all existing mature, healthy trees shall be
3591 retained and protected , where possible, during construction as per City of Whitewater Forestry
3592 Guidelines. All land areas not covered by buildings, structures, storage areas, parking lots, loading areas
3593 and driveways, shall be landscaped and maintained. Landscaping shall mean decorative plazas, mounds,
3594 environmental preserves, enhancements of wetlands, stormwater features designed as landscape
3595 enhancements, features incorporated into the landscape for the purpose of improving sustainability of
3596 the site, pools or the planting of grass, shrubs, trees and other plant materials or other comparable
3597 surface cover.

3598 4. Storage areas. All storage, except for licensed motor vehicles in operable condition, shall be within
3599 completely enclosed buildings or effectively screened from adjoining properties and public rights-of-way
3600 by an opaque screening wall or fence with such wall or fence not less than six feet nor more than eight
3601 feet in height, and no materials stored shall exceed the height of such screening wall or fence. All
3602 outside storage areas shall be located to the rear of buildings and shall be limited to not more than five
3603 percent of the total lot area. Landscaping shall be required on the outside of the opaque screen wall or
3604 fence.
3605 5. Signs. All signs shall meet applicable standards in Chapter 19.54, and the specific requirements set
3606 forth for the M-1 district in the table contained in 19.54.052.
3607 a. No ground sign shall exceed a maximum height of eight feet and a maximum gross area of forty-eight
3608 square feet. All ground signs shall be incorporated in the landscape plan, including the provision of plant
3609 materials at the base of such signs.
3610 6. Prohibited site uses. No use shall be so conducted as to cause the harmful discharge of any waste
3611 materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any
3612 water system or water, or into the atmosphere. All uses shall be conducted in such a manner so as to
3613 preclude any nuisance, hazard, or commonly recognized offensive conditions or characteristics,
3614 including creation or emission of dust, gas, smoke, noise, fumes, odors, vibrations, particulate matter,
3615 chemical compounds, electrical disturbance, humidity, heat, cold, glare, or night illumination. 7. Uses
3616 required to be enclosed. All business, servicing, or processing shall be conducted within completely
3617 enclosed buildings, except for the following:
3618 a. Off-street parking and off-street loading;
3619 b. Drive-up service windows for banks and other financial institutions.
3620 8. Truck parking. Parking of trucks as an accessory use, when used in the operation of a permitted
3621 business, shall be limited to vehicles of not over one and one-half tons of capacity when located within
3622 one hundred fifty feet of a residential district boundary line.
3623 (Ord. No. 1747A, § 1, 9-15-2009)

3624
3625

Chapter 19.39 PD PLANNED DEVELOPMENT DISTRICT*

Sections:

3628 [19.39.010 Purpose and intent.](#)

3629 [19.39.020 Permitted uses.](#)

3630 [19.39.030 Lot, building, yard and parking requirements.](#)

3631 [19.39.040 Proposed developments--Criteria for approval.](#)

3632 [19.39.050 Procedures for rezoning, general development plan, and specific implementation plan approval.](#)

3633 [19.39.055 Design standards for traditional neighborhood developments \(PCD-TND\).](#)

3634 [19.39.060 Modifications and changes.](#)

3635 [19.39.070 Park fees.](#)

3636 * Prior Ordinance History: Ords. 994, 1452, and 1481.

3637

19.39.010 Purpose and intent.

3639 A. The planned development (PD) district is established to promote improved environmental design
3640 and innovative uses of land in the city. To this intent, this district allows variation in the relationship of
3641 uses, structures and open spaces in developments conceived and implemented as cohesive, unified
3642 projects.

3643 B. The PD District is intended to allow desirable innovative development activities that demonstrate
3644 cohesive site planning higher quality urban design, architectural design, and public places. This district is
3645 also intended to facilitate developments which would add substantially to the net economic value of the
3646 community (as determined by measuring the expected short-term and long-term costs and revenues).

3647 This district is not intended solely to simply circumvent the intent of other zoning districts, or to seek
3648 variance from other district regulations, or to avoid practices consistent with the general health and
3649 social and economic value of the neighborhood or immediate context.
3650 C. New residential development shall follow the occupancy regulations of the underlying zoning district
3651 unless expressly modified by the PD district.

3652

3653 **19.39.020 Permitted uses.**

3654 In the PD District, any permitted or conditional use in any of the other districts in this title, or
3655 mix of uses, may be permitted subject to the criteria listed below. Any plans, uses, or requirements
3656 approved by the city as part of a PD general development plan or specific implementation plan shall be
3657 construed to be and enforced as part of this title.
3658 (Ord. 1511 § 2(part), 2002).

3659

3660 Permitted uses, subject to the criteria listed below, also include large retail and commercial service
3661 developments (with 80,000 square feet or more on the ground floor). All large format retail
3662 developments shall address the issues in Chapter 19.485 for Large Retail and Commercial Service
3663 Development Standards, and shall include, as part of the PD, specific plans for short-term and long-term
3664 redevelopment of the PD if and when the initial retail development should diminish in economic activity
3665 and value. Diminishment of economic activity and value shall include: (a) vacancy of 25% or more of the
3666 primary buildings, (b) new uses of the primary buildings which result in a significant reduction of
3667 property value, and (c) new uses which result in a material decrease in use of the buildings by customers
3668 and thereby reduce the viability of surrounding economic activities. Such plans should be achievable
3669 with no significant cost to the City and in a manner that protects the economic value of adjacent
3670 development.

3671

3672 **19.39.030 Lot, building, yard and parking requirements.**

3673 In the PD District, there shall be no specified lot area, lot width, yard, height, parking or open
3674 space requirements. Recommendations to be discussed are defined by Sections 19.39.040. Any lot,
3675 building, yard, or parking requirements approved by the city as part of a PD general development plan
3676 or specific implementation plan shall be construed to be and enforced as part of this title.
3677 (Ord. 1511 § 2(part), 2002).

3678

3679 **19.39.040 Proposed developments--issues for consideration.**

3680 As a basis for determining the acceptability of applications for rezoning to the PD District, and
3681 with regard to the principles of Traditional Neighborhood Development the following criteria shall be
3682 considered in the review of the proposed development. These issues are not mandatory guidelines nor
3683 requirements, but issues to be discussed and considered by all parties involved in the PD review and
3684 approval process and subject to negotiation and variations for each individual proposal and components
3685 of proposals:

3686 A. Compatibility with vegetation and topography and with the visual character of the surrounding
3687 buildings in the neighborhood or district context .

3688 B. The value of The proposed project to the community aesthetically and the way in which The
3689 buildings blend, harmonize, improve, and/or complement the surrounding neighborhood.

3690 C. Impact on traffic or parking with regard to the surrounding area, proposed facilities, The width and
3691 location of streets, the appropriateness of paving and lighting relative to proposed uses and the
3692 surrounding area, and public safety as determined by the city.

- 3693 D. Impact of The proposed development upon the city's water supply, sanitary sewer and storm
3694 water drainage systems.
3695 E. Impact of the proposed development on existing businesses in the immediate area as well as other
3696 businesses outside the immediate area that are likely to be impacted by the new development
3697 F. provisions for the long-term preservation and maintenance of open space.
3698 G. Compactness of the development
3699 H. Integration of different uses, including residential, commercial, civic, and open space; the desirable
3700 proximity of uses to one another; the degree to which the mix of uses accommodates the needs of a
3701 variety of people, ages, and social groups
3702 I. Preservation and/or reuse of existing buildings and buildings with historical or architectural features
3703 that enhance the visual character of the community;
3704 J. Incorporation of significant environmental features into the design; and
3705 K. General consistency with the City of Whitewater's comprehensive (master) plan.
3706 (Ord. 1511 § 2(part), 2002).
3707

3708 **19.39.050 Procedures for rezoning, general development plan (GDP), and specific**
3709 **implementation plan (SIP) approval.**

- 3710 A. Step 1: Procedure for Rezoning.
3711 1. The procedure for rezoning to the PD District shall be the same as for any other zoning district
3712 change (see Chapter 19.69), except that in addition, twenty copies of a general development plan (GDP)
3713 shall be submitted to and approved by the city council following a recommendation by the plan
3714 commission. The general development plan of the proposed project shall include the following.
3715 a. A site inventory and analysis map with topography at two foot contours to identify site assets,
3716 resources, and constraints, including but not limited to floodplains, wetlands, soils with limitations for
3717 building development, utility easements, slopes greater than fifteen percent, and existing trees over
3718 four inches in diameter;
3719 b. A conceptual site plan or neighborhood development plan, at a scale of no less than one inch equals
3720 one hundred feet, which indicates proposed building outlines within the context of the surrounding
3721 streets and blocks, location of streets, options (if any) for cross-easements, driveways, parking areas
3722 (including options, if any, for shared parking), sidewalks and bicycle paths, service access areas for
3723 receiving material and trash removal, and other impervious surfaces;
3724 c. A utility feasibility analysis, including a map showing the general locations of proposed public utility
3725 connections;
3726 d. The location of recreational and open space areas reserved or dedicated to the public;
3727 e. A conceptual landscape plan showing general locations and types of proposed landscaping, including
3728 maintenance of existing vegetation where appropriate;
3729 f. A phasing plan, where applicable;
3730 g. A conceptual stormwater management plan identifying the proposed patterns of major stormwater
3731 run-off, locations of stormwater infiltration areas, and other significant stormwater management
3732 features;
3733 h. Typical proposed building elevations identifying the architectural style(s) of the development shown
3734 in the context of street elevations that depict several of the buildings on each side of the proposed
3735 building ;
3736 i. A written report that provides general information about the site conditions, development objectives,
3737 covenants, conservation easements, or agreements that will influence the use and maintenance of the
3738 proposed development may be required for larger or more complex projects;
3739 j. Any other data required by the plan commission in order to evaluate the development.

3740 2. Upon city council approval and adoption of the general development plan and associated zoning
3741 change to the PD District, all plans submitted as well as other commitments, conditions of approval,
3742 restrictions and other factors pertinent to assuring that the project will be carried out as presented, shall
3743 be filed with the zoning administrator and shall be referred to in regard to enforcement or modification
3744 of the general development plan.

3745 3. If applicant does not submit and have approved at least one specific implementation plan for a
3746 planned development within two years of city approval of a rezoning to the planned development
3747 District, the previously approved general development plan shall be considered null and void. A new
3748 petition and approval process shall be required to obtain approval of the same or a revised general
3749 development plan.

3750 B. Step 2: Specific Implementation Plan Approval.

3751 1. Detailed plans, described below under the Specific Implementation Plan (SIP) submittal
3752 requirements, are not required to be submitted at the time the PD zoning is approved; however, the
3753 GDP and SIP review process may be combined and made faster by doing so. Before any building permit
3754 is issued, the plan commission shall review and approve a SIP. If the approved GDP specified that
3755 development of the site would proceed in phases, the plan commission may approve an SIP covering
3756 only a portion of the previously approved GDP area. The applicant shall file twenty copies of the SIP with
3757 the plan commission. In addition to meeting all application requirements for plan review under Section
3758 19.63.020, the SIP application shall include the following:

3759 a. Where a land division or lot consolidation is proposed, a final plat or Certified Survey Map (CSM) of
3760 the entire development area included in the SIP, meeting all requirements of Chapter 18, the city's land
3761 division and subdivision regulations;

3762 b. For multi-lot PD's, a detailed neighborhood development plan showing the arrangement, design, and
3763 uses of different lots, buildings, driveways, parking areas, parks and open spaces, and paths.

3764 c. Typical elevations or detailed design standards for single- and two-family residential buildings and
3765 detailed elevations of all proposed non-residential, mixed use, and multi-family residential buildings.
3766 Such detailed elevations shall meet the requirements of Section 19.63.020 and identify all wall signs; the
3767 percentage of ground floor commercial facade in windows; and the location, height and materials for
3768 screening walls and fences, including those proposed to surround outdoor trash and recyclable storage
3769 areas, electrical, mechanical and gas metering equipment, and rooftop equipment; where building
3770 construction is not imminent, detailed design standards that will apply to all non-residential buildings
3771 may substitute for detailed elevations, if approved by the zoning administrator;

3772 d. Signage plans demonstrating a unified or compatible sign design theme for major signage in the PD;

3773 e. A detailed storm water management and erosion control plan;

3774 f. Arrangements, bylaws, provisions or covenants which govern the organizational structure, use,
3775 architectural standards, maintenance and continued protection of the planned development.

3776 2. At a regular meeting, the plan commission shall approve, conditionally approve with changes
3777 consistent with the approved general development plan, or reject the SIP. An SIP for a PD development
3778 that is consistent with the GDP and meets other applicable ordinance provisions shall be entitled to
3779 approval or conditional approval. A final plat or certified survey map associated with the development
3780 may also be subject to city council approval under the provisions of Chapter 18. Upon final approval of
3781 the SIP, it shall be filed with the zoning administrator, and shall be referred to in regard to enforcement
3782 of modification of the development plans. All covenants, restrictions or contractual agreements with the
3783 city shall be recorded with the register of deeds before final issuance of building permits.

3784 3. If an applicant does not commence construction within one year after city approval of an SIP for a
3785 planned development, or complete construction within two years of approval of the SIP, the previously
3786 approved SIP shall be considered null and void; except where the plan commission approves an

3787 alternative phasing plan with the SIP. A new petition and approval process shall be required to obtain
3788 SIP approval.
3789 (Ord. 1511 § 2(part), 2002).
3790 [Click here](#)[Click here](#)[Click here](#)

3791
3792 **19.39.060 Modifications and changes.**

3793 Any subsequent change of use of any parcel of land or addition or modification of any approved
3794 development plans should be submitted to the plan commission for approval. Minor changes can be
3795 granted by the plan commission. Major changes that involve changes to the general intent of the project
3796 as expressed in the approved GDP shall be made by the city council as specified in Chapter 19.69. A
3797 conditional use permit will be required if the total building coverage of a new or remodeled single-family
3798 detached dwelling, including the garage, exceeds sixty percent of the lot area within a PD District.
3799 (Ord. 1511 § 2(part), 2002).

3800
3801 **19.39.070 Park fees.**

3802 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling
3803 unit and a park improvement fee of \$505.00 per dwelling unit, payable before a building permit is
3804 issued. The amount of these fees may be reduced by any fee amount previously paid or credited at the
3805 time of subdivision, or by fifty percent (50%) if the new housing units are created as a result of the
3806 conversion or remodeling of a preexisting building. The park acquisition fee may also be reduced if
3807 sufficient land area was provided for park purposes at the time of subdivision, based on the calculations
3808 in section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City
3809 Council.

3810
3811 **Chapter 19.42 AT AGRICULTURAL TRANSITION DISTRICT**

3812 Sections:

3813 [19.42.010 Purpose.](#)
3814 [19.42.020 Permitted uses.](#)
3815 [19.42.030 Conditional uses.](#)
3816 [19.42.040 Lot area.](#)
3817 [19.42.050 Yard requirements.](#)
3818 [19.42.060 Building height.](#)
3819 [19.42.070 Existing residences.](#)

3820
3821 **19.42.010 Purpose.**

3822 The purposes of the AT agricultural transition district are to provide for the orderly transition of
3823 agricultural land to other uses in areas planned for eventual city expansion. This district is generally
3824 intended to apply to lands located in the city where such lands are predominantly in agricultural or open
3825 space use but where conversion to nonagricultural use is expected to occur in the foreseeable future.
3826 (Ord. 994 § 3.15(part), 1982).

3827
3828 **19.42.020 Permitted uses.**

3829 Permitted uses in the AT district include:

- 3830 A. Dairying, floriculture, orchards, plant nurseries, truck farming, sod farming, horticulture, grazing,
3831 greenhouses, forest and game management, livestock and poultry raising (except for commercial
3832 operations), road-side stands not exceeding one per farm, and similar agricultural uses;
3833 B. Two single-family dwelling units for resident owner/operators and their children, siblings, and
3834 parents or laborers principally engaged in conducting a permitted or approved conditional use;

3835 C. The second or greater wireless telecommunications facility located on an alternative support
3836 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
3837 telecommunications facility, per the requirements of Chapter 19.55.
3838 (Ord. 1499 § 20, 2001; 994 § 3.15(A), 1982).

3839

3840 **19.42.030 Conditional uses.**

3841 Conditional uses in the AT district include:

3842 A. Fish and fur farms, beekeeping, commercial livestock and poultry operations, livestock sales
3843 facilities, veterinary services for farm animals, and similar agricultural uses;

3844 B. Housing for seasonal farm laborers;

3845 C. Airports;

3846 D. Mineral extraction;

3847 E. More than two single-family dwelling units for residential owner/operators and their children,
3848 siblings, and parents or laborers principally engaged in conducting a permitted approved conditional
3849 use;

3850 F. The first wireless telecommunications facility located on an alternative support structure only, per
3851 the requirements of Chapter 19.55.

3852 (Ord. 1499 § 21, 2001; 994 § 3.15(B), 1982).

3853

3854 **19.42.040 Lot area.**

3855 Minimum lot area in the AT district is as follows:

3856 A. Farm units, minimum thirty-five acres;

3857 B. Additional farm-related housing, minimum twenty thousand square feet.

3858 (Ord. 994 § 3.15(C), 1982).

3859

3860 **19.42.050 Yard requirements.**

3861 Minimum yard requirements for the AT district are as follows:

3862 A. Additional farm-related housing shall comply with the provisions of the R-1 residential district;

3863 B. Farm buildings:

3864 1. Side yard, minimum fifty feet;

3865 2. Rear yard, minimum fifty feet.

3866 (Ord. 994 § 3.15(D), 1982).

3867

3868 **19.42.060 Building height.**

3869 Maximum building height for the AT district is two times their distance from adjacent lot lines.

3870 (Ord. 994 § 3.15(E), 1982).

3871

3872 **19.42.070 Existing residences.**

3873 Pre-existing residences in the agricultural transition district that do not conform to district
3874 standards may be continued in residential use and are not subject to the limitations of Chapter 19.60,
3875 Nonconforming Uses.

3876 (Ord. 994 § 3.15(F), 1982).

3877

3878 **Chapter 19.45 C-1 SHORELAND WETLAND DISTRICT**

3879 Sections:

3880 [19.45.010 Purpose.](#)

3881 [19.45.020 Permitted uses.](#)

3882 [19.45.030 Conditional uses.](#)

3883 [19.45.040 Prohibited uses.](#)

3884

3885 **19.45.010 Purpose.**

3886 The C-1 shoreland wetland district is intended to preserve, protect, and enhance the ponds,
3887 streams, and wetland areas within the shoreland jurisdiction of the city. The preservation, protection,
3888 and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and
3889 improve water quality, both ground and surface; prevent flood damage; control storm water runoff;
3890 protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife
3891 habitat; protect native plant communities; avoid the location of structures on soils which are generally
3892 not suitable for use; and protect the water-based recreation resources of the city.

3893 The C-1 shoreland wetland district, as shown on the zoning map, includes all wetlands within the
3894 shorelands, as defined in this title, in the city. The boundaries were determined from the Wisconsin
3895 Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and stamped "FINAL."
3896 (Ord. 1196 § 1(part), 1990).

3897

3898 **19.45.020 Permitted uses.**

3899 Permitted uses in the C-1 district are limited to the following:

- 3900 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;
3901 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
3902 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
3903 filling, flooding, draining, dredging, ditching, tiling, or excavating;
3904 C. Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling,
3905 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
3906 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
3907 impact on silvicultural activities if not corrected;
3908 D. Construction and maintenance of fences;
3909 E. Agricultural crops and grazing provided that they do not involve extension of cultivated areas,
3910 extension of or creation of new drainage systems, and further provided that they do not substantially
3911 disturb or impair the natural fauna, flora, topography, or water regimen;
3912 F. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
3913 only to the extent necessary to maintain the level of drainage required to continue the existing use;
3914 G. The construction and maintenance of piers, docks, and walkways, including those built on pilings;
3915 H. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
3916 (Ord. 1196 § 1(part), 1990).

3917

3918 **19.45.030 Conditional uses.**

3919 The following uses are conditional uses in the C-1 shoreland wetland district and may be
3920 permitted as specified. The city plan commission shall transmit a copy of each application for a
3921 conditional use in the C-1 shoreland wetland district to the Wisconsin Department of Natural Resources
3922 (DNR) at least ten days prior to the public hearing. Final action on the application shall not be taken for
3923 thirty days or until the DNR has made its recommendation, whichever comes first. A copy of all C-1
3924 shoreland wetland district conditional use permits shall be transmitted to the DNR within ten days
3925 following the decision:

- 3926 A. The construction of streets which are necessary for the continuity of the city street system,
3927 necessary for the provision of essential utility and public safety services, or necessary to provide access
3928 to permitted open space uses in the C-1 district; provided that:
3929 1. The street cannot as a practical matter be located outside the conservancy district;

3930 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
3931 wetland as listed in Section 11.1308(B) of the Wisconsin Statutes;
3932 3. The street is designed and constructed with the minimum cross-section practical to serve the
3933 intended use;
3934 4. The street construction activities are carried out in the immediate area of the roadbed only; and
3935 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
3936 for the construction or maintenance of the street.
3937 B. The construction and maintenance of nonresidential buildings used solely in conjunction with raising
3938 of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose
3939 which is compatible with wetland preservation, provided that:
3940 1. The building cannot as a practical matter be located outside the conservancy district;
3941 2. The building is not designed for human habitation and does not exceed five hundred square feet in
3942 area; and
3943 3. Only limited filling or excavating necessary to provide structural support is conducted.
3944 C. The establishment and development of public and private parks and recreation areas, recreation
3945 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
3946 refuges, game preserves, and private habitat areas; provided, that:
3947 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
3948 2. No filling is to be done; and
3949 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
3950 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
3951 otherwise enhance the value of a wetland or other natural resource.
3952 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
3953 distribution lines, and related facilities; provided, that:
3954 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
3955 outside the conservancy district; and
3956 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
3957 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
3958 and other adverse impacts upon the natural functions of the conservancy area.
3959 E. The construction and maintenance of railroad lines; provided, that:
3960 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
3961 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
3962 construction or maintenance of the railroad, and must be done in a manner designed to minimize
3963 flooding and other adverse impacts upon the natural functions of the conservancy area.
3964 (Ord. 1196 § 1(part), 1990).

3965

3966 **19.45.040 Prohibited uses.**

3967 Any use not listed as a permitted use or a conditional use is prohibited unless the C-1 district
3968 lands concerned are first rezoned into another district. Furthermore, the use of a boathouse for human
3969 habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary
3970 highwater mark of any navigable water are prohibited.
3971 (Ord. 1196 § 1(part), 1990).

3972

3973 **Chapter 19.451 C-2 NONSHORELAND WETLAND DISTRICT**

3974 **Sections:**

3975 [19.451.010 Purpose.](#)

3976 [19.451.020 Permitted uses.](#)

3977 [19.451.030 Conditional uses.](#)

3978 [19.451.040 Prohibited uses.](#)

3979

3980 **19.451.010 Purpose.**

3981 The C-2 nonshoreland wetland district is intended to preserve, protect, and enhance the ponds,
3982 streams, and wetland areas of the city located beyond the statutorily defined limits of shorelands. The
3983 preservation, protection, and enhancement of these areas will serve to maintain safe and healthful
3984 conditions; maintain and improve water quality, both ground and surface; prevent flood damage;
3985 control storm water runoff; protect stream banks from erosion; protect groundwater recharge and
3986 discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of
3987 structures on soils which are generally not suitable for use; and protect the water-based recreation
3988 resources of the city.

3989 The C-2 nonshoreland wetland district, as shown on the zoning map, includes those wetlands
3990 not located within the shoreland jurisdiction in the city. The boundaries were initially determined from
3991 the Wisconsin Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and stamped
3992 "FINAL."

3993 (Ord. 1196 § 1(part), 1990).

3994

3995 **19.451.020 Permitted uses.**

3996 Permitted uses in the C-2 district are limited to the following:

- 3997 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;
3998 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
3999 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
4000 filling, flooding, draining, dredging, ditching, tiling, or excavating;
4001 C. Silviculture, including the planting, thinning, and harvesting of timber; provided, that no filling,
4002 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
4003 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
4004 impact on silvicultural activities if not corrected;
4005 D. Construction and maintenance of fences;
4006 E. Agricultural crops and grazing; provided, that they do not involve extension of cultivated areas,
4007 extension of or creation of new drainage systems; and further provided, that they do not substantially
4008 disturb or impair the natural fauna, flora, topography, or water regimen;
4009 F. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
4010 only to the extent necessary to maintain the level of drainage required to continue the existing use;
4011 G. The construction and maintenance of piers, docks, and walkways, including those built on pilings;
4012 H. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
4013 (Ord. 1196 § 1(part), 1990).

4014

4015 **19.451.030 Conditional uses.**

4016 The following uses are conditional uses in the C-2 nonshoreland wetland district and may be
4017 permitted as specified:

- 4018 A. The construction of streets which are necessary for the continuity of the city street system,
4019 necessary for the provision of essential utility and public safety services, or necessary to provide access
4020 to permitted open space uses in the C-2 district; provided, that:
4021 1. The street cannot as a practical matter be located outside the conservancy district;
4022 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
4023 wetland as listed in Section 11.1308(B) of the Wisconsin Statutes;

4024 3. The street is designed and constructed with the minimum cross-section practical to serve the
4025 intended use;
4026 4. The street construction activities are carried out in the immediate area of the roadbed only; and
4027 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
4028 for the construction or maintenance of the street.
4029 B. The construction and maintenance of nonresidential buildings used solely in conjunction with raising
4030 of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose
4031 which is compatible with wetland preservation; provided, that:
4032 1. The building cannot as a practical matter be located outside the conservancy district;
4033 2. The building is not designed for human habitation and does not exceed five hundred square feet in
4034 area; and
4035 3. Only limited filling or excavating necessary to provide structural support is conducted.
4036 C. The establishment and development of public and private parks and recreation areas, recreation
4037 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
4038 refuges, game preserves, and private habitat areas; provided, that:
4039 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
4040 2. No filling is to be done; and
4041 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
4042 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
4043 otherwise enhance the value of a wetland or other natural resource.
4044 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
4045 distribution lines, and related facilities; provided, that:
4046 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
4047 outside the conservancy district; and
4048 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4049 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
4050 and other adverse impacts upon the natural functions of the conservancy area.
4051 E. The construction and maintenance of railroad lines; provided, that:
4052 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
4053 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4054 construction or maintenance of the railroad, and must be done in a manner designed to minimize
4055 flooding and other adverse impacts upon the natural functions of the conservancy area.
4056 (Ord. 1196 § 1(part), 1990).

4057

19.451.040 Prohibited uses.

4058 Any use not listed as a permitted use or a conditional use is prohibited unless the C-2 district
4059 lands concerned are first rezoned into another district. Furthermore, the use of a boathouse for human
4060 habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary
4061 high water mark of any navigable water are prohibited.
4062 (Ord. 1196 § 1(part), 1990).

4063

4064

Chapter 19.46 FLOODPLAIN REGULATIONS*

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4066

4067

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***Editor's note:** Ord. No. 1724A, § 1, adopted April 8, 2009, repealed the former Ch. 19.46, and
enacted a new Ch. 19.46. Prior to inclusion of said ordinance, Ch. 19.46, pertained to similar subject
matter. See also the Code Comparative Table and Disposition List.

4071 Sections:
4072 [19.46.010 Statutory authorization, finding of fact, statement of purpose, title and general provisions.](#)
4073 [19.46.020 General standards applicable to all floodplain districts.](#)
4074 [19.46.030 Floodway district \(FW\).](#)
4075 [19.46.040 Floodfringe district \(FF\).](#)
4076 [19.46.050 Other floodplain districts.](#)
4077 [19.46.060 Nonconforming uses.](#)
4078 [19.46.070 Administration.](#)
4079 [19.46.080 Amendments.](#)
4080 [19.46.090 Enforcement and penalties.](#)
4081 [19.46.100 Definitions.](#)
4082
4083 **19.46.010 Statutory authorization, finding of fact, statement of purpose, title and general**
4084 **provisions.**
4085 A. Statutory authorization. This chapter is adopted pursuant to the authorization in ss. 61.35 and 62.23,
4086 for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.
4087 B. Finding of fact. Uncontrolled development and use of the floodplains and rivers of this municipality
4088 would impair the public health, safety, convenience, general welfare and tax base.
4089 C. Statement of purpose. This chapter is intended to regulate floodplain development to:
4090 1. Protect life, health and property;
4091 2. Minimize expenditures of public funds for flood control projects;
4092 3. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
4093 4. Minimize business interruptions and other economic disruptions;
4094 5. Minimize damage to public facilities in the floodplain;
4095 6. Minimize the occurrence of future flood blight areas in the floodplain;
4096 7. Discourage the victimization of unwary land and homebuyers;
4097 8. Prevent increases in flood heights that could increase flood damage and result in conflicts between
4098 property owners; and
4099 9. Discourage development in a floodplain if there is any practicable alternative to locate the activity,
4100 use or structure outside of the floodplain.
4101 D. Title. This chapter shall be known as the Floodplain Zoning Ordinance for the City of Whitewater,
4102 Wisconsin.
4103 E. General provisions.
4104 1. Areas to be regulated. This chapter regulates all areas that would be covered by the regional flood or
4105 base flood.
4106 Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study.
4107 Regional flood elevations may be derived from other studies. Areas covered by the base flood are
4108 identified as A-Zones on the Flood Insurance Rate Map.
4109 2. Official maps and revisions. The boundaries of all floodplain districts are designated as floodplains or
4110 A-Zones on the maps listed below and the revisions in the City of Whitewater Floodplain Appendix. Any
4111 change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance
4112 Rate Map (FIRM) must be reviewed and approved by the DNR and the Federal Emergency Management
4113 Agency (FEMA) before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps
4114 shall be effective until approved by the DNR. These maps and revisions are on file in the office of the
4115 Public Works Department, City of Whitewater. If more than one map or revision is referenced, the most
4116 restrictive information shall apply.
4117 Official maps: Based on the FIS.
4118 a. For Jefferson County Flood Insurance Rate Maps (FIRM), panel numbers 55055C0432E, 55055C0451E
4119 and 55055C0455E, dated June 2, 2009, with corresponding profiles based on the Flood Insurance Study

4120 (FIS) dated June 2, 2009 volume number 55055CV000A; updated maps with revised panel numbers may
4121 be available.

4122 b. For Walworth County Flood Insurance Rate Maps (FIRM), panel numbers 55127C0009D,
4123 55127C0017D, 55127C0028D, and 55127C0029D, dated October 2, 2009, with corresponding profiles
4124 based on the Flood Insurance Study (FIS) dated October 2, 2009, volume number 55127CV000A; ;
4125 updated maps with revised panel numbers may be available.

4126 3. Establishment of districts. The regional floodplain areas are divided into three districts as follows:

4127 a. The floodway district (FW) is the channel of a river or stream and those portions of the floodplain
4128 adjoining the channel required to carry the regional floodwaters.

4129 b. The floodfringe district (FF) is that portion of the floodplain between the regional flood limits and the
4130 floodway.

4131 c. The general floodplain district (GFP) is those areas that have been or may be covered by floodwater
4132 during the regional flood.

4133 d. The flood storage district (FSD) is that area of the floodplain where storage of floodwaters is
4134 calculated to reduce the regional flood discharge.

4135 4. Locating floodplain boundaries. Discrepancies between boundaries on the official floodplain zoning
4136 map and actual field conditions shall be resolved using the criteria in subsections a. or b. below. If a
4137 significant difference exists, the map shall be amended according to section 19.46.080. The zoning
4138 administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit,
4139 whether or not a map amendment is required. The zoning administrator shall be responsible for
4140 documenting actual pre-development field conditions and the basis upon which the district boundary
4141 was determined and for initiating any map amendments required under this section. Disputes between
4142 the zoning administrator and an applicant over the district boundary line shall be settled according to
4143 subsection 19.46.070C.3. and the criteria in a. and b. below.

4144 a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary.
4145 The regional or base flood elevations shall govern if there are any discrepancies.

4146 b. Where flood profiles do not exist, the location of the boundary shall be determined by the map
4147 scale, visual on-site inspection and any information provided by the department.

4148 Note: Where the flood profiles are based on established base flood elevations from a FIRM,
4149 FEMA must also approve any map amendment pursuant to subsection 19.46.080A.6.

4150 5. Removal of lands from floodplain. Compliance with the provisions of this chapter shall not be
4151 grounds for removing land from the floodplain unless it is filled at least two feet above the regional or
4152 base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended
4153 pursuant to section 19.46.080.

4154 Note: This procedure does not remove the requirements for the mandatory purchase of flood
4155 insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

4156 6. Compliance. Any development or use within the areas regulated by this chapter shall be in
4157 compliance with the terms of this chapter, and other applicable local, state, and federal regulations.

4158 7. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages,
4159 towns, and counties are required to comply with this chapter and obtain all necessary permits. State
4160 agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction,
4161 maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation
4162 is exempt when s. 30.2022, Stats., applies.

4163 8. Abrogation and greater restrictions.

4164 a. This chapter supersedes all the provisions of any municipal zoning ordinance enacted under ss.
4165 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; or s. 61.35 for villages; or s. 87.30, Stats., which
4166 relate to floodplains. If another ordinance is more restrictive than this chapter, that ordinance shall
4167 continue in full force and effect to the extent of the greater restrictions, but not otherwise.

4168 b. This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants
4169 or easements. If this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
4170 9. Interpretation. In their interpretation and application, the provisions of this chapter are the
4171 minimum requirements liberally construed in favor of the governing body and are not a limitation on or
4172 repeal of any other powers granted by the Wisconsin Statutes. If a provision of this chapter, required by
4173 ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in
4174 effect on the date of the adoption of this chapter or in effect on the date of the most recent text
4175 amendment to this chapter.

4176 10. Warning and disclaimer of liability. The flood protection standards in this chapter are based on
4177 engineering experience and scientific research. Larger floods may occur or the flood height may be
4178 increased by man-made or natural causes. This chapter does not imply or guarantee that nonfloodplain
4179 areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this chapter
4180 create liability on the part of, or a cause of action against, the municipality or any officer or employee
4181 thereof for any flood damage that may result from reliance on this chapter.

4182 11. Severability. Should any portion of this chapter be declared unconstitutional or invalid by a court of
4183 competent jurisdiction, the remainder of this chapter shall not be affected.

4184 12. Annexed areas for cities and villages. The Walworth and Jefferson County floodplain zoning
4185 provisions in effect on the date of annexation shall remain in effect and shall be enforced by the
4186 municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets
4187 the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP).
4188 These annexed lands are described on the municipality's official zoning map. County floodplain zoning
4189 provisions are incorporated by reference for the purpose of administering this section and are on file in
4190 the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional
4191 flood elevation and the location of the floodway.

4192 13. General development standards. The community shall review all permit applications to determine
4193 whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a
4194 floodprone area, all new construction and substantial improvements shall be designed or modified and
4195 adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from
4196 hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be
4197 constructed by methods and practices that minimize flood damages; and be constructed with electrical,
4198 heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed
4199 and/or located so as to prevent water from entering or accumulating within the components during
4200 conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All
4201 subdivision proposals (including manufactured home parks) shall include regional flood elevation and
4202 floodway data for any development that meets the subdivision definition of this chapter.

4203 Ord. No. 1724A, § 1(1.0), 4-8-2009; Ord. No. 1741A, § 1, 8-4-2009)

4204

4205 **19.46.020 General standards applicable to all floodplain districts.**

4206 A. Hydraulic and hydrologic analyses.

4207 1. Except as allowed in subsection 3. below, no floodplain development shall:

4208 a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with
4209 other development, increasing regional flood height; or

4210 b. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

4211 2. The zoning administrator shall deny permits if it is determined the proposed development will
4212 obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM
4213 or other adopted map, unless the provisions of subsection 3. are met.

4214 3. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments
4215 are made to this chapter, the official floodplain zoning maps, floodway lines and water surface profiles,
4216 in accordance with section 19.46.080.

4217 Note: This section refers to obstructions or increases in base flood elevations as shown on the
4218 officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by
4219 FEMA and the DNR.

4220 B. Watercourse alterations. No land use permit to alter or relocate a watercourse in a mapped
4221 floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the
4222 department and FEMA regional offices and required the applicant to secure all necessary state and
4223 federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

4224 As soon as is practicable, but not later than six months after the date of the watercourse
4225 alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting
4226 appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise
4227 the FIRM, risk premium rates and floodplain management regulations as required.

4228 C. Chapter 30. 31, Wis. Stats., development. Development which requires a permit from the
4229 department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and
4230 navigational aids, may be allowed if the necessary permits are obtained and amendments to the
4231 floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially
4232 adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according
4233 to section 19.24.080.

4234 D. Public or private campgrounds. Public or private campgrounds shall have a low flood damage
4235 potential and shall meet the following provisions:

4236 1. The campground is approved by the Department of Health and other state agencies with regulatory
4237 authority regarding campgrounds..

4238 2. A land use permit for the campground is issued by the zoning administrator.

4239 3. The character of the river system and the elevation of the campground is such that a seventy-two-
4240 hour warning of an impending flood can be given to all campground occupants.

4241 4. There is an adequate flood warning procedure for the campground that offers the minimum notice
4242 required under this section to all persons in the campground. This procedure shall include a written
4243 agreement between the campground owner, the municipal emergency government coordinator and the
4244 chief law enforcement official which specifies the flood elevation at which evacuation shall occur,
4245 personnel responsible for monitoring flood elevations, types of warning systems to be used and the
4246 procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the
4247 evacuation.

4248 5. This agreement shall be for no more than one calendar year, at which time the agreement shall be
4249 reviewed and updated - by the officials identified in subsection 4. - to remain in compliance with all
4250 applicable regulations, including those of the state department of health and family services and all
4251 other applicable regulations.

4252 6. Only camping units are allowed.

4253 7. The camping units may not occupy any site in the campground for more than one hundred eighty
4254 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum
4255 of twenty-four hours.

4256 8. All camping units that remain on site for more than thirty days shall be issued a limited authorization
4257 by the campground operator, a written copy of which is kept on file at the campground. Such
4258 authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty
4259 days and shall ensure compliance with all the provisions of this section.

4260 9. The municipality shall monitor the limited authorizations issued by the campground operator to
4261 assure compliance with the terms of this section.

4262 10. All camping units that remain in place for more than one hundred eighty consecutive days must
4263 meet the applicable requirements in either section 19.46.030 or section 19.46.040 for the floodplain
4264 district in which the structure is located.

4265 11. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the
4266 procedures for evacuation when a flood warning is issued.

4267 12. All service facilities, including but not limited to refuse collection, electrical service, natural gas
4268 lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or
4269 floodproofed to the flood protection elevation.
4270 (Ord. No. 1724A, § 1(2.0), 4-8-2009)

4271

4272 **19.46.030 Floodway district (FW).**

4273 A. Applicability. This section applies to all floodway areas on the floodplain zoning maps and those
4274 identified pursuant to subsection 19.46.050A.4.

4275 B. Permitted uses. The following open space uses are allowed in the floodway district and the floodway
4276 areas of the general floodplain district, if

4277 - They are not prohibited by any other ordinance;
4278 - They meet the standards in subsection 19.46.030C. and 19.46.030D.; and
4279 - All permits or certificates have been issued according to subsection 19.46.070A.:

4280 1. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop
4281 harvesting.

4282 2. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport
4283 landing strips.

4284 3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds,
4285 boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries,
4286 shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails,
4287 subject to the fill limitations of subsection 19.46.030C.4.

4288 4. Uses or structures accessory to open space uses, or classified as historic structures that comply with
4289 subsections 19.46.030C. and 19.46.030C.4.

4290 5. Extraction of sand, gravel or other materials that comply with subsection 19.46.030C.4.

4291 6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts,
4292 navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31,
4293 Stats.

4294 7. Public utilities, streets and bridges that comply with subsection 19.46.030C.3.

4295 C. Standards for developments in floodway areas.

4296 1. General.

4297 a. Any development in floodway areas shall comply with section 19.46.020 and have a low flood
4298 damage potential.

4299 b. Applicants shall provide the following data to determine the effects of the proposal according to
4300 subsection 19.46.020A.:

4301 i. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the
4302 proposed development will obstruct flow; or
4303 ii. An analysis calculating the effects of this proposal on regional flood height.

4304 c. The zoning administrator shall deny the permit application if the project will increase flood
4305 elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection b.
4306 above.

4307 2. Structures. Structures accessory to permanent open space uses or functionally dependent on a
4308 waterfront location may be allowed by permit if the structures comply with the following criteria:

4309 a. The structure is not designed for human habitation and does not have a high flood damage potential;

4310 b. it must be anchored to resist flotation, collapse and lateral movement;
4311 c. mechanical and utility equipment must be elevated or floodproofed to or above the flood protection
4312 elevation; and
4313 d. it must not obstruct the flow of flood waters or cause any increase in flood levels during the
4314 occurrence of the regional flood.
4315 3. Public utilities, streets and bridges. Public utilities, streets and bridges may be allowed by permit, if:
4316 a. Adequate floodproofing measures are provided to the flood protection elevation; and
4317 b. Construction meets the development standards of subsection 19.46.020A.
4318 4. Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:
4319 a. The requirements of subsection 19.46.020A. are met;
4320 b. No material is deposited in the navigable channel unless a permit is issued by the Department
4321 pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act,
4322 Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this
4323 section are met;
4324 c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or
4325 bulkheading; and
4326 d. The fill is not classified as a solid or hazardous material.
4327 D. Prohibited uses. All uses not listed as permitted uses in subsection 19.46.020B. are prohibited,
4328 including the following uses:
4329 1. Habitable structures, structures with high flood damage potential, or those not associated with
4330 permanent open-space uses;
4331 2. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or
4332 human, animal, plant, fish or other aquatic life;
4333 3. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
4334 4. Any private or public sewage systems, except portable latrines that are removed prior to flooding
4335 and systems associated with recreational areas and Department-approved campgrounds that meet the
4336 applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;
4337 5. Any public or private wells which are used to obtain potable water, except those for recreational
4338 areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
4339 6. Any solid or hazardous waste disposal sites;
4340 7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis.
4341 Adm. Code;
4342 8. Any sanitary sewer or water supply lines, except those to service existing or proposed development
4343 located outside the floodway which complies with the regulations for the floodplain area occupied.
4344 (Ord. No. 1724A, § 1(3.0), 4-8-2009)

4345

4346 **19.46.040 Floodfringe district (FF).**

4347 A. Applicability. This section applies to all floodfringe areas shown on the floodplain zoning maps and
4348 those identified pursuant to subsection 19.46.050A.4.

4349 B. Permitted uses. Any structure, land use, or development is allowed in the floodfringe district if the
4350 standards in subsection 19.46.040C. are met, the use is not prohibited by this or any other ordinance or
4351 regulation and all permits or certificates specified in subsection 19.46.070A. have been issued.

4352 C. Standards for development in floodfringe areas. Subsection 19.46.020A. shall apply in addition to the
4353 following requirements according to the use requested.

4354 1. Residential uses. Any habitable structure, including a manufactured home, which is to be erected,
4355 constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the
4356 following standards;

4357 a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood
4358 protection elevation on fill. The fill shall be one foot or more above the regional flood elevation
4359 extending at least fifteen feet beyond the limits of the structure. The department may authorize other
4360 floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical;
4361 b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to
4362 the flood protection elevation. No basement or crawlway floor is allowed below the regional flood
4363 elevation;
4364 c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain,
4365 except as provided in subsection d.
4366 d. In developments where existing street or sewer line elevations make compliance with subsection c.
4367 impractical, the municipality may permit new development and substantial improvements where access
4368 roads are at or below the regional flood elevation, if:
4369 i. The municipality has written assurance from police, fire and emergency services that rescue and
4370 relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
4371 ii. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the
4372 Department.
4373 2. Accessory structures or uses.
4374 a. Except as provided in subsection b., an accessory structure which is not connected to a principal
4375 structure may be constructed with its lowest floor at or above the regional flood elevation.
4376 b. An accessory structure which is not connected to the principal structure and which is less than six
4377 hundred square feet in size and valued at less than \$10,000.00 may be constructed with its lowest floor
4378 no more than two feet below the regional flood elevation if it is subject to flood velocities of no more
4379 than two feet per second and it meets all of the provisions of sections 3.3 (2) (a), (b), (c) and (d) and 4.3
4380 (5) below.
4381 3. Commercial uses. Any commercial structure which is erected, altered or moved into the floodfringe
4382 area shall meet the requirements of subsection 19.46.040C.1. Subject to the requirements of section
4383 19.46.040C.5., storage yards, surface parking lots and other such uses may be placed at lower elevations
4384 if an adequate warning system exists to protect life and property.
4385 4. Manufacturing and industrial uses. Any manufacturing or industrial structure which is erected,
4386 altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill,
4387 levees, floodwalls, or other floodproofing measures in subsection 19.46.070E. Subject to the
4388 requirements of subsection 19.46.040C.E., storage yards, surface parking lots and other such uses may
4389 be placed at lower elevations if an adequate warning system exists to protect life and property.
4390 5. Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property,
4391 water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection
4392 elevation or floodproofed in compliance with subsection 19.46.070E. Adequate measures shall be taken
4393 to ensure that such materials will not enter the water body during flooding.
4394 6. Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be
4395 compatible with comprehensive floodplain development plans; and
4396 a. When failure of public utilities, streets and bridges would endanger public health or safety, or where
4397 such facilities are deemed essential, construction of and substantial improvements to such facilities may
4398 only be permitted if they are floodproofed in compliance with subsection 19.46.070E. to the flood
4399 protection elevation;
4400 b. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to
4401 withstand flood forces to the regional flood elevation.
4402 7. Sewage systems. All on-site sewage disposal systems shall be floodproofed, pursuant to subsection
4403 19.46.070E., to the flood protection elevation and shall meet the provisions of all local ordinances and
4404 ch. COMM 83, Wis. Adm. Code.

4405 8. Wells. All wells shall be floodproofed, pursuant to subsection 19.46.070E., to the flood protection
4406 elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
4407 9. Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
4408 10. Deposition of materials. Any deposited material must meet all the provisions of this chapter.
4409 11. Manufactured homes.
4410 a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate
4411 surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan,
4412 indicating vehicular access and escape routes, with local emergency management authorities.
4413 b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and
4414 substantially improved homes shall:
4415 i. Have the lowest floor elevated to the flood protection elevation; and
4416 ii. Be anchored so they do not float, collapse or move laterally during a flood.
4417 c. Outside of existing manufactured home parks, including new manufactured home parks and all single
4418 units outside of existing parks, all new, replacement and substantially improved manufactured homes
4419 shall meet the residential development standards for the floodfringe in subsection 19.46.040C.1.
4420 12. Mobile recreational vehicles. All mobile recreational vehicles that are on site for one hundred
4421 eighty consecutive days or more or are not fully licensed and ready for highway use shall meet the
4422 elevation and anchoring requirements in subsections 19.46.040C.11.b. and c. A mobile recreational
4423 vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by
4424 quick-disconnect utilities and security devices and has no permanently attached additions.
4425 (Ord. No. 1724A, § 1(4.0), 4-8-2009)
4426

4427 **19.46.050 Other floodplain districts.**

4428 Other floodplain districts may be established under the ordinance and reflected on the
4429 floodplain zoning map. These districts may include general floodplain districts and flood storage
4430 districts.

4431 A. General floodplain district (GFP).

4432 1. Applicability. The provisions for this district shall apply to all floodplains for which flood profiles are
4433 not available or where flood profiles are available but floodways have not been delineated. Floodway
4434 and floodfringe districts shall be delineated when adequate data is available.

4435 2. Permitted uses. Pursuant to subsection 19.46.050A.4., it shall be determined whether the proposed
4436 use is located within a floodway or floodfringe area. Those uses permitted in floodway (subsection
4437 19.46.030B.) and floodfringe areas (subsection 19.46.040B) are allowed within the general floodplain
4438 district, according to the standards of subsection 19.46.050C., provided that all permits or certificates
4439 required under subsection 19.46.070A. have been issued.

4440 3. Standards for development in the general floodplain district. Section 19.46.030 applies to floodway
4441 areas, section 19.46.040 applies to floodfringe areas. The rest of this chapter applies to either district.

4442 4. Determining floodway and floodfringe limits. Upon receiving an application for development within
4443 the general floodplain district, the zoning administrator shall:

4444 a. Require the applicant to submit two copies of an aerial photograph or a plan which shows the
4445 proposed development with respect to the general floodplain district limits, stream channel, and
4446 existing floodplain developments, along with a legal description of the property, fill limits and
4447 elevations, building floor elevations and floodproofing measures;

4448 b. Require the applicant to furnish any of the following information deemed necessary by the
4449 department to evaluate the effects of the proposal upon flood height and flood flows, regional flood
4450 elevation and to determine floodway boundaries:

4451 i. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the
4452 channel, the cross-sectional area to be occupied by the proposed development, and all historic high
4453 water information;

4454 ii. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage
4455 elevations; size, location and layout of all proposed and existing structures on the site; location and
4456 elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;

4457 iii. Profile showing the slope of the bottom of the channel or flow line of the stream;

4458 iv. Specifications for building construction and materials, floodproofing, filling, dredging, channel
4459 improvement, storage, water supply and sanitary facilities.

4460 c. Transmit one copy of the information described in subsections 1. and 2. to the department regional
4461 office along with a written request for technical assistance to establish regional flood elevations and,
4462 where applicable, floodway data. Where the provisions of subsection 19.46.070A.2.c. apply, the
4463 applicant shall provide all required information and computations to delineate floodway boundaries and
4464 the effects of the project on flood elevations.

4465 B. Flood storage district. The flood storage district delineates that portion of the floodplain where
4466 storage of floodwaters has been taken into account and is relied upon to reduce the regional flood
4467 discharge. The district protects the flood storage areas and assures that any development in the storage
4468 areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

4469 1. Applicability. The provisions of this section apply to all areas within the flood storage district (FSD),
4470 as shown on the official floodplain zoning maps.

4471 2. Permitted uses. Any use or development which occurs in a flood storage district must meet the
4472 applicable requirements in subsection 19.46.040C.

4473 3. Standards for development in flood storage districts.

4474 a. Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a
4475 foot in the height of the regional flood.

4476 b. No development shall be allowed which removes flood storage volume unless an equal volume of
4477 storage as defined by the pre-development ground surface and the regional flood elevation shall be
4478 provided in the immediate area of the proposed development to compensate for the volume of storage
4479 which is lost, (compensatory storage). Excavation below the groundwater table is not considered to
4480 provide an equal volume of storage.

4481 c. If compensatory storage cannot be provided, the area may not be developed unless the entire area
4482 zoned as flood storage district - on this waterway - is rezoned to the floodfringe district. This must
4483 include a revision to the floodplain study and map done for the waterway to revert to the higher
4484 regional flood discharge calculated without flood plain storage, as per section 19.46.080A. of this
4485 chapter.

4486 d. No area may be removed from the flood storage district unless it can be shown that the area has
4487 been filled to the flood protection elevation and is contiguous to other lands lying outside of the
4488 floodplain.

4489 (Ord. No. 1724A, § 1(5.0), 4-8-2009)

4490

4491 **19.46.060 Nonconforming uses.**

4492 A. General.

4493 1. Applicability. If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h),
4494 Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use
4495 or structure and to the use of any structure or premises which was lawful before the passage of this
4496 chapter or any amendment thereto.

4497 2. The existing lawful use of a structure or its accessory use which is not in conformity with the
4498 provisions of this chapter may continue subject to the following conditions:

4499 a. No modifications or additions to a nonconforming use or structure shall be permitted unless they
4500 comply with this chapter. The words "modification" and "addition" include, but are not limited to, any
4501 alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use,
4502 structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension,
4503 modification or addition; these include painting, decorating, paneling and the replacement of doors,
4504 windows and other nonstructural components and the maintenance, repair or replacement of existing
4505 private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs
4506 do not include any costs associated with the repair of a damaged structure.

4507 The construction of a deck that does not exceed two hundred square feet and that is adjacent to
4508 the exterior wall of a principal structure is not an extension, modification or addition. The roof of the
4509 structure may extend over a portion of the deck in order to provide safe ingress and egress to the
4510 principal structure.

4511 b. If a nonconforming use or the use of a nonconforming structure is discontinued for twelve
4512 consecutive months, it is no longer permitted and any future use of the property, and any structure or
4513 building thereon, shall conform to the applicable requirements of this chapter;

4514 c. The municipality shall keep a record which lists all nonconforming uses and nonconforming
4515 structures, their present equalized assessed value, the cost of all modifications or additions which have
4516 been permitted, and the percentage of the structure's total current value those modifications represent;

4517 d. No modification or addition to any nonconforming structure or any structure with a nonconforming
4518 use, which over the life of the structure would equal or exceed fifty percent of its present equalized
4519 assessed value, shall be allowed unless the entire structure is permanently changed to a conforming
4520 structure with a conforming use in compliance with the applicable requirements of this chapter.
4521 Contiguous dry land access must be provided for residential and commercial uses in compliance with
4522 subsection 19.46.040C.1. The costs of elevating a nonconforming building or a building with a
4523 nonconforming use to the flood protection elevation are excluded from the fifty percent provisions of
4524 this subsection;

4525 e. i. Except as provided in subsection ii., if any nonconforming structure or any structure with a
4526 nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or
4527 rebuilt unless the use and the structure meet the current ordinance requirements. A structure is
4528 considered substantially damaged if the total cost to restore the structure to its pre-damaged condition
4529 equals or exceeds fifty percent of the structure's present equalized assessed value.

4530 ii. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or
4531 reconstruction of any such nonconforming building may be permitted in order to restore it after the
4532 nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements
4533 under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

4534 f. A nonconforming historic structure may be altered if the alteration will not preclude the structures
4535 continued designation as a historic structure, the alteration will comply with subsection 19.46.030C.1.,
4536 flood resistant materials are used, and construction practices and floodproofing methods that comply
4537 with subsection 19.46.070E. are used.

4538 B. Floodway areas.

4539 1. No modification or addition shall be allowed to any nonconforming structure or any structure with a
4540 nonconforming use in a floodway area, unless such modification or addition:

4541 a. Has been granted a permit or variance which meets all ordinance requirements;

4542 b. Meets the requirements of 19.46.060A.;

4543 c. Will not increase the obstruction to flood flows or regional flood height;

4544 d. Any addition to the existing structure shall be floodproofed, pursuant to subsection 19.46.070E., by
4545 means other than the use of fill, to the flood protection elevation;

4546 e. If any part of the foundation below the flood protection elevation is enclosed, the following
4547 standards shall apply:

- 4548 i. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient
4549 entry and exit of flood waters without human intervention. A minimum of two openings must be
4550 provided with a minimum net area of at least one square inch for every one square foot of the enclosed
4551 area. The lowest part of the opening can be no more than twelve inches above the adjacent grade;
- 4552 ii. The parts of the foundation located below the flood protection elevation must be constructed of
4553 flood-resistant materials;
- 4554 iii. Mechanical and utility equipment must be elevated or floodproofed to or above the flood
4555 protection elevation; and
- 4556 iv. The use must be limited to parking or limited storage.

4557 2. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system,
4558 except where an addition has been ordered by a government agency to correct a hazard to public
4559 health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-
4560 site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal
4561 ordinances and ch. COMM 83, Wis. Adm. Code.

4562 3. No new well or modification to an existing well used to obtain potable water shall be allowed in a
4563 floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet
4564 the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

4565 C. Floodfringe areas.

- 4566 1. No modification or addition shall be allowed to any nonconforming structure or any structure with a
4567 nonconforming use unless such modification or addition has been granted a permit or variance by the
4568 municipality, and the modification or addition shall be placed on fill or floodproofed to the flood
4569 protection elevation in compliance with the standards for that particular use in subsections 19.46.040C
4570 and 19.46.070E., except where subsection 19.46.060C.2. is applicable.
- 4571 2. Where compliance with the provisions of subsection 1. would result in unnecessary hardship and
4572 only where the structure will not be used for human habitation or be associated with a high flood
4573 damage potential, the board of adjustment/appeals, using the procedures established in subsection
4574 19.46.070C., may grant a variance from those provisions of subsection 1. for modifications or additions,
4575 using the criteria listed below. Modifications or additions which are protected to elevations lower than
4576 the flood protection elevation may be permitted if:
 - 4577 a. No floor is allowed below the regional flood elevation for residential or commercial structures;
 - 4578 b. Human lives are not endangered;
 - 4579 c. Public facilities, such as water or sewer, will not be installed;
 - 4580 d. Flood depths will not exceed two feet;
 - 4581 e. Flood velocities will not exceed two feet per second; and
 - 4582 f. The structure will not be used for storage of materials as described in subsection 19.46.040.6.
- 4583 3. If neither the provisions of subsection 1. or 2. above can be met, one addition to an existing room in
4584 a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if
4585 the addition:
 - 4586 a. Meets all other regulations and will be granted by permit or variance;
 - 4587 b. Does not exceed sixty square feet in area; and
 - 4588 c. In combination with other previous modifications or additions to the building, does not equal or
4589 exceed fifty percent of the present equalized assessed value of the building.
- 4590 4. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a
4591 private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch.
4592 COMM 83, Wis. Adm. Code.

4593 5. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable
4594 provisions of this chapter and ch. NR 811 and NR 812, Wis. Adm. Code.
4595 D. Flood storage areas. No modifications or additions shall be allowed to any nonconforming structure
4596 in a flood storage area unless the standards outlined in 5.2(3) are met.
4597 (Ord. No. 1724A, § 1(6.0), 4-8-2009)
4598

4599 **19.46.070 Administration.**

4600 Where a zoning administrator, planning agency or a board of adjustment/appeals has already
4601 been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats.,
4602 these officials shall also administer this chapter.

4603 A. Zoning administrator.

4604 1. The zoning administrator is authorized to administer this chapter and shall have the following duties
4605 and powers:

4606 a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals,
4607 and assure that the regional flood elevation for the proposed development is shown on all permit
4608 applications.

4609 b. Issue permits and inspect properties for compliance with provisions of this chapter, and issue
4610 certificates of compliance where appropriate.

4611 c. Inspect all damaged floodplain structures and perform a substantial damage assessment to
4612 determine if substantial damage to the structures has occurred.

4613 d. Keep records of all official actions such as:

4614 i. All permits issued, inspections made, and work approved;

4615 ii. Documentation of certified lowest floor and regional flood elevations for floodplain development;

4616 iii. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and
4617 structures including changes, appeals, variances and amendments.

4618 iv. All substantial damage assessment reports for floodplain structures.

4619 e. Submit copies of the following items to the department regional office:

4620 i. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text
4621 interpretations, and map or text amendments;

4622 ii. Copies of any case-by-case analyses, and any other information required by the department
4623 including an annual summary of the number and types of floodplain zoning actions taken.

4624 iii. Copies of substantial damage assessments performed and all related correspondence concerning
4625 the assessments.

4626 iv. Investigate, prepare reports, and report violations of this chapter to the municipal zoning agency
4627 and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.

4628 g. Submit copies of text and map amendments and biennial reports to the FEMA regional office.

4629 2. Land use permit. A land use permit shall be obtained before any new development or any repair or
4630 change in the use of a building or structure, including sewer and water facilities, may be initiated.

4631 Application to the zoning administrator shall include:

4632 a. General information.

4633 i. Name and address of the applicant, property owner and contractor;

4634 ii. Legal description, proposed use, and whether it is new construction or a modification;

4635 b. Site development plan. A site plan drawn to scale shall be submitted with the permit application
4636 form and shall contain:

4637 i. Location, dimensions, area and elevation of the lot;

4638 ii. Location of the ordinary highwater mark of any abutting navigable waterways;

4639 iii. Location of any structures with distances measured from the lot lines and street center lines;

4640 iv. Location of any existing or proposed on-site sewage systems or private water supply systems;

4641 v. Location and elevation of existing or future access roads;
4642 vi. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
4643 vii. The elevation of the lowest floor of proposed buildings and any fill using vertical datum from the
4644 adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum
4645 (NAVD);
4646 viii. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the
4647 development and to determine whether or not the requirements of sections 19.46.030 or 19.46.040 are
4648 met; and
4649 ix. Data to determine if the proposed development will cause an obstruction to flow or an increase in
4650 regional flood height or discharge according to subsection 19.46.020A. This may include any of the
4651 information noted in subsection 19.46.030C.1.
4652 c. Data requirements to analyze developments.
4653 i. The applicant shall provide all survey data and computations required to show the effects of the
4654 project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision"
4655 is defined in s. 236, Stats., and other proposed developments exceeding five acres in area or where the
4656 estimated cost exceeds \$125,000.00. The applicant shall provide:
4657 (A) An analysis of the effect of the development on the regional flood profile, velocity of flow and
4658 floodplain storage capacity;
4659 (B) A map showing location and details of vehicular access to lands outside the floodplain; and
4660 (C) A surface drainage plan showing how flood damage will be minimized.
4661 The estimated cost of the proposal shall include all structural development, landscaping, access
4662 and road development, utilities, and other pertinent items, but need not include land costs.
4663 d. Expiration. All permits issued under the authority of this chapter shall expire three hundred sixty-five
4664 days after issuance.
4665 3. Certificate of compliance. No land shall be occupied or used, and no building which is hereafter
4666 constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a
4667 certificate of compliance is issued by the zoning administrator, except where no permit is required,
4668 subject to the following provisions:
4669 a. The certificate of compliance shall show that the building or premises or part thereof, and the
4670 proposed use, conform to the provisions of this chapter;
4671 b. Application for such certificate shall be concurrent with the application for a permit;
4672 c. If all ordinance provisions are met, the certificate of compliance shall be issued within ten days after
4673 written notification that the permitted work is completed;
4674 d. The applicant shall submit a certification signed by a registered professional engineer or registered
4675 land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit
4676 issued. Floodproofing measures also require certification by a registered professional engineer or
4677 registered architect that floodproofing measures meet the requirements of subsection 19.46.070E.
4678 4. Other permits. The applicant must secure all necessary permits from federal, state, and local
4679 agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal
4680 Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.
4681 B. Zoning agency.
4682 1. The City of Whitewater Plan and Architectural review commission shall:
4683 a. Oversee the functions of the office of the zoning administrator; and
4684 b. Review and advise the governing body on all proposed amendments to this chapter, maps and text.
4685 2. This zoning agency shall not:
4686 a. Grant variances to the terms of the ordinance in place of action by the board of adjustment/appeals;
4687 or
4688 b. Amend the text or zoning maps in place of official action by the governing body.

4689 C. Board of adjustment/appeals. The board of adjustment/appeals, created under s. 59.694, Stats., for
4690 counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act
4691 for the purposes of this chapter. The board shall exercise the powers conferred by Wisconsin Statutes
4692 and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the
4693 board.

4694 1. Powers and duties. The board of adjustment/appeals shall:

4695 a. Appeals -- Hear and decide appeals where it is alleged there is an error in any order, requirement,
4696 decision or determination made by an administrative official in the enforcement or administration of
4697 this chapter.

4698 b. Boundary disputes -- Hear and decide disputes concerning the district boundaries shown on the
4699 official floodplain zoning map.

4700 c. Variances -- Hear and decide, upon appeal, variances from the ordinance standards.

4701 2. Appeals to the board.

4702 a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the
4703 municipality affected by any decision of the zoning administrator or other administrative officer. Such
4704 appeal shall be taken within thirty days unless otherwise provided by the rules of the board, by filing
4705 with the official whose decision is in question, and with the board, a notice of appeal specifying the
4706 reasons for the appeal. The official whose decision is in question shall transmit to the board all records
4707 regarding the matter appealed.

4708 b. Notice and hearing for appeals including variances.

4709 i. Notice -- The board shall:

4710 (A) Fix a reasonable time for the hearing;

4711 (B) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and
4712 subject of the hearing;

4713 (C) Assure that notice shall be mailed to the parties in interest and the department regional office at
4714 least ten days in advance of the hearing.

4715 ii. Hearing -- Any party may appear in person or by agent. The board shall:

4716 (A) Resolve boundary disputes according to subsection 19.46.070C.3.

4717 (B) Decide variance applications according to subsection 19.46.070C.4.

4718 (C) Decide appeals of permit denials according to subsection 19.46.070D.

4719 c. Decision: The final decision regarding the appeal or variance application shall:

4720 i. Be made within a reasonable time;

4721 ii. Be sent to the department regional office within ten days of the decision;

4722 ii. Be a written determination signed by the chairman or secretary of the board;

4723 iv. State the specific facts which are the basis for the board's decision;

4724 v. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in
4725 whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

4726 vi. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in
4727 the case of a variance, clearly stated in the recorded minutes of the board proceedings.

4728 3. Boundary disputes. The following procedure shall be used by the board in hearing disputes
4729 concerning floodplain district boundaries:

4730 a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the
4731 flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be
4732 examined.

4733 b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to
4734 present arguments and technical evidence to the board.

4735 c. If the boundary is incorrectly mapped, the board should inform the zoning committee or the person
4736 contesting the boundary location to petition the governing body for a map amendment according to
4737 section 19.46.080.
4738 4. Variance.
4739 a. The board may, upon appeal, grant a variance from the standards of this chapter if an applicant
4740 convincingly demonstrates that:
4741 i. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
4742 ii. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not
4743 common to adjacent lots or premises. In such case the ordinance or map must be amended;
4744 ii. The variance is not contrary to the public interest; and
4745 iv. The variance is consistent with the purpose of this chapter in subsection 19.46.010C.
4746 b. In addition to the criteria in subsection a., to qualify for a variance under FEMA regulations, the
4747 following criteria must be met:
4748 i. The variance may not cause any increase in the regional flood elevation;
4749 ii. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing
4750 structures constructed below the RFE;
4751 iii. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum
4752 relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for
4753 rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
4754 c. A variance shall not:
4755 i. Grant, extend or increase any use prohibited in the zoning district.
4756 ii. Be granted for a hardship based solely on an economic gain or loss.
4757 iii. Be granted for a hardship which is self-created.
4758 iv. Damage the rights or property values of other persons in the area.
4759 v. Allow actions without the amendments to this chapter or map(s) required in subsection 19.46.090A.
4760 vi. Allow any alteration of an historic structure, including its use, which would preclude its continued
4761 designation as an historic structure.
4762 d. When a floodplain variance is granted the board shall notify the applicant in writing that it may
4763 increase flood insurance premiums and risks to life and property. A copy shall be maintained with the
4764 variance record.
4765 (D) To review appeals of permit denials.
4766 1. The zoning agency (s. 7.2) or board shall review all data related to the appeal. This may include:
4767 a. Permit application data listed in subsection 19.46.070A.2.
4768 b. Floodway/floodfringe determination data in subsection 19.46.050A.4.
4769 c. Data listed in subsection 19.46.030C.1.b. where the applicant has not submitted this information to
4770 the zoning administrator.
4771 d. Other data submitted with the application, or submitted to the board with the appeal.
4772 2. For appeals of all denied permits the board shall:
4773 a. Follow the procedures of subsection 19.46.010C.;;
4774 b. Consider zoning agency recommendations; and
4775 c. Either uphold the denial or grant the appeal.
4776 3. For appeals concerning increases in regional flood elevation the board shall:
4777 a. Uphold the denial where the board agrees with the data showing an increase in flood elevation.
4778 Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and
4779 map and all appropriate legal arrangements are made with all adversely affected property owners.
4780 b. Grant the appeal where the board agrees that the data properly demonstrates that the project does
4781 not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
4782 E. Floodproofing.

- 4783 1. No permit or variance shall be issued until the applicant submits a plan certified by a registered
4784 professional engineer or architect that the floodproofing measures will protect the structure or
4785 development to the flood protection elevation.
- 4786 2. Floodproofing measures shall be designed to:
- 4787 a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood
4788 factors;
- 4789 b. Protect structures to the flood protection elevation;
- 4790 c. Anchor structures to foundations to resist flotation and lateral movement; and
- 4791 d. Insure that structural walls and floors are watertight to the flood protection elevation, and the
4792 interior remains completely dry during flooding without human intervention.
- 4793 3. Floodproofing measures could include:
- 4794 a. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
- 4795 b. Adding mass or weight to prevent flotation.
- 4796 c. Placing essential utilities above the flood protection elevation.
- 4797 d. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor
4798 pressures.
- 4799 e. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
- 4800 f. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.
- 4801 F. Public information.
- 4802 1. Place marks on structures to show the depth of inundation during the regional flood.
- 4803 2. All maps, engineering data and regulations shall be available and widely distributed.
- 4804 3. All real estate transfers should show what floodplain zoning district any real property is in.
4805 (Ord. No. 1724A, § 1(7.0), 4-8-2009)

4806

4807 **19.46.080 Amendments.**

4808 A. General. The governing body may change or supplement the floodplain zoning district boundaries
4809 and this chapter in the manner provided by law. Actions which require an amendment include, but are
4810 not limited to, the following:

- 4811 1. Any change to the official floodplain zoning map, including the floodway line or boundary of any
4812 floodplain area.
- 4813 2. Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- 4814 3. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood
4815 protection elevation and is contiguous to land lying outside the floodplain.
- 4816 4. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or
4817 more.
- 4818 5. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or
4819 otherwise required by law, or for changes by the municipality.
- 4820 6. All channel relocations and changes to the maps to alter floodway lines or to remove an area from
4821 the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior
4822 approval by FEMA.

4823 Note: Consult the FEMA web site -- www.fema.gov -- for the map change fee schedule.

4824 B. Procedures. Ordinance amendments may be made upon petition of any interested party according
4825 to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions
4826 shall include all necessary data required by subsections 19.46.050A.4. and 19.46.070A.2.

- 4827 1. The proposed amendment shall be referred to the zoning agency for a public hearing and
4828 recommendation to the governing body. The amendment and notice of public hearing shall be
4829 submitted to the department regional office for review prior to the hearing. The amendment procedure
4830 shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.

- 4831 2. No amendments shall become effective until reviewed and approved by the department.
4832 3. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height
4833 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all
4834 adversely affected property owners and notify local units of government before the amendment can be
4835 approved by the governing body.
4836 4. For amendments in areas with no water surface profiles, the zoning agency or board shall consider
4837 data submitted by the department, the zoning administrator's visual on-site inspections and other
4838 available information. (See subsection 19.46.010E.4.)
4839 (Ord. No. 1724A, § 1(8.0), 4-8-2009)

4840

4841 **19.46.090 Enforcement and penalties.**

4842 Any violation of the provisions of this chapter by any person shall be unlawful and shall be
4843 referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall,
4844 upon conviction, forfeit to the municipality a penalty of not less than \$200.00 and not more than
4845 \$300.00, together with a taxable cost of such action. Each day of continued violation shall constitute a
4846 separate offense. Every violation of this chapter is a public nuisance and the creation may be enjoined
4847 and the maintenance may be abated by action at suit of the municipality, the state, or any citizen
4848 thereof pursuant to s. 87.30, Stats. (I BELIEVE WE DECIDED TO LEAVE THIS AS IS)
4849 (Ord. No. 1724A, § 1(9.0), 4-8-2009)

4850

4851 **19.46.100 Definitions.**

4852 Unless specifically defined, words and phrases in this chapter shall have their common law
4853 meaning and shall be applied in accordance with their common usage. Words used in the present tense
4854 include the future, the singular number includes the plural and the plural number includes the singular.
4855 The word "may" is permissive, "shall" is mandatory and is not discretionary.

4856 1) "A Zones" means those areas shown on the official floodplain zoning map which would be inundated
4857 by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may
4858 not be reflective of flood profiles, depending on the availability of data for a given area.

4859 2) "Accessory structure or use" means a facility, structure, building or use which is accessory or
4860 incidental to the principal use of a property, structure or building.

4861 3) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any
4862 given year, as published by FEMA as part of a FIS and depicted on a FIRM.

4863 4) "Basement" means any enclosed area of a building having its floor sub-grade, i.e., below ground
4864 level, on all sides.

4865 5) "Building." See Structure.

4866 6) "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by
4867 a municipal ordinance and approved by the department pursuant to s. 30.11, Stats., and which allows
4868 limited filling between this bulkhead line and the original ordinary highwater mark, except where such
4869 filling is prohibited by the floodway provisions of this chapter.

4870 7) "Campground" means any parcel of land which is designed, maintained, intended or used for the
4871 purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is
4872 advertised or represented as a camping area.

4873 8) "Camping unit" means any portable device, no more than four hundred square feet in area, used as
4874 a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck,
4875 tent or other mobile recreational vehicle.

4876 9) "Certificate of compliance" means a certification that the construction and the use of land or a
4877 building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions
4878 of this chapter.

4879 10) "Channel" means a natural or artificial watercourse with definite bed and banks to confine and
4880 conduct normal flow of water.

4881 11) "Crawlways" or "crawl space" means an enclosed area below the first usable floor of a building,
4882 generally less than five feet in height, used for access to plumbing and electrical utilities.

4883 12) "Deck" means an unenclosed exterior structure that has no roof or sides, but has a permeable floor
4884 which allows the infiltration of precipitation.

4885 13) "Department" means the Wisconsin Department of Natural Resources.

4886 14) "Development" means any artificial change to improved or unimproved real estate, including, but
4887 not limited to, the construction of buildings, structures or accessory structures; the construction of
4888 additions or alterations to buildings, structures or accessory structures; the repair of any damaged
4889 structure or the improvement or renovation of any structure, regardless of percentage of damage or
4890 improvement; the placement of buildings or structures; subdivision layout and site preparation; mining,
4891 dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction
4892 of materials or equipment; and the installation, repair or removal of public or private sewage disposal
4893 systems or water supply facilities.

4894 15) "Dryland access" means a vehicular access route which is above the regional flood elevation and
4895 which connects land located in the floodplain to land outside the floodplain, such as a road with its
4896 surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

4897 16) "Encroachment" means any fill, structure, equipment, building, use or development in the
4898 floodway.

4899 17) "Existing manufactured home park or subdivision" means a parcel of land, divided into two or more
4900 manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is
4901 completed before the effective date of this chapter. At a minimum, this would include the installation of
4902 utilities, the construction of streets and either final site grading or the pouring of concrete pads.

4903 18) "Expansion to existing mobile/manufactured home park" means the preparation of additional sites
4904 by the construction of facilities for servicing the lots on which the manufactured homes are to be
4905 affixed. This includes installation of utilities, construction of streets and either final site grading, or the
4906 pouring of concrete pads.

4907 19) "Federal Emergency Management Agency (FEMA)" means the federal agency that administers the
4908 National Flood Insurance Program.

4909 20) "Flood insurance rate map" (FIRM) means a map of a community on which the Federal Insurance
4910 Administration has delineated both special flood hazard areas (the floodplain) and the risk premium
4911 zones applicable to the community. This map can only be amended by the Federal Emergency
4912 Management Agency.

4913 21) "Flood" or "flooding" means A general and temporary condition of partial or complete inundation
4914 of normally dry land areas caused by one of the following conditions:
4915 The overflow or rise of inland waters,
4916 The rapid accumulation or runoff of surface waters from any source,
4917 The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the
4918 shore of Lake Michigan or Lake Superior, or
4919 The sudden increase caused by an unusually high water level in a natural body of water, accompanied by
4920 a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual
4921 event.

4922 22) "Flood frequency" means the probability of a flood occurrence which is determined from statistical
4923 analyses. The frequency of a particular flood event is usually expressed as occurring, on the average,
4924 once in a specified number of years or as a percent (%) chance of occurring in any given year.

4925 23) "Floodfringe" means that portion of the floodplain outside of the floodway which is covered by
4926 flood waters during the regional flood and associated with standing water rather than flowing water.

4927 24) "Flood hazard boundary map" means a map designating approximate flood hazard areas. Flood
4928 hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional
4929 flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National
4930 Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate
4931 Map.

4932 25) "Flood insurance study" means a technical engineering examination, evaluation, and determination
4933 of the local flood hazard areas. It provides maps designating those areas affected by the regional flood
4934 and provides both flood insurance rate zones and base flood elevations and may provide floodway lines.
4935 The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate
4936 Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the
4937 insurance aspects of the National Flood Insurance Program.

4938 26) "Floodplain" means land which has been or may be covered by flood water during the regional
4939 flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas
4940 for regulatory purposes.

4941 27) "Floodplain island" means a natural geologic land formation within the floodplain that is
4942 surrounded, but not covered, by floodwater during the regional flood.

4943 28) "Floodplain management" means policy and procedures to ensure wise use of floodplains,
4944 including mapping and engineering, mitigation, education, and administration and enforcement of
4945 floodplain regulations.

4946 29) "Flood profile" means a graph or a longitudinal profile line showing the relationship of the water
4947 surface elevation of a flood event to locations of land surface elevations along a stream or river.

4948 30) "Floodproofing" means any combination of structural provisions, changes or adjustments to
4949 properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for
4950 the purpose of reducing or eliminating flood damage.

4951 31) "Flood protection elevation" means an elevation of two feet of freeboard above the water surface
4952 profile elevation designated for the regional flood. (Also see: Freeboard.)

4953 32) "Flood storage" means those floodplain areas where storage of floodwaters has been taken into
4954 account during analysis in reducing the regional flood discharge.

4955 33) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining
4956 the channel required to carry the regional flood discharge.

4957 34) "Freeboard" means a safety factor expressed in terms of a specified number of feet above a
4958 calculated flood level. Freeboard compensates for any factors that cause flood heights greater than
4959 those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings
4960 and floodways, the effects of watershed urbanization, loss of flood storage areas due to development
4961 and aggregation of the river or stream bed.

4962 35) "Habitable structure" means any structure or portion thereof used or designed for human
4963 habitation.

4964 36) "Hearing notice" means publication or posting meeting the requirements of Ch. 985, Stats. For
4965 appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required.
4966 For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week
4967 consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may
4968 require additional notice, exceeding these minimums.

4969 37) "High flood damage potential" means damage that could result from flooding that includes any
4970 danger to life or health or any significant economic loss to a structure or building and its contents.
4971 38) "Historic structure" means any structure that is either:
4972 Listed individually in the National Register of Historic Places or preliminarily determined by the
4973 Secretary of the Interior as meeting the requirements for individual listing on the National Register,
4974 Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical
4975 significance of a registered historic district or a district preliminarily determined by the Secretary to
4976 qualify as a registered historic district,
4977 Individually listed on a state inventory of historic places in states with historic preservation programs
4978 which have been approved by the Secretary of the Interior, or
4979 Individually listed on a local inventory of historic places in communities with historic preservation
4980 programs that have been certified either by an approved state program, as determined by the Secretary
4981 of the Interior; or by the Secretary of the Interior in states without approved programs.
4982 39) "Increase in regional flood height" means a calculated upward rise in the regional flood elevation,
4983 equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed
4984 conditions which is directly attributable to development in the floodplain but not attributable to
4985 manipulation of mathematical variables such as roughness factors, expansion and contraction
4986 coefficients and discharge.
4987 40) "Land use" means any nonstructural use made of unimproved or improved real estate. (Also see
4988 development.)
4989 41) "Manufactured home" means a structure transportable in one or more sections, which is built on a
4990 permanent chassis and is designed to be used with or without a permanent foundation when connected
4991 to required utilities. The term "manufactured home" includes a mobile home but does not include a
4992 "mobile recreational vehicle."
4993 42) "Mobile recreational vehicle" means a vehicle which is built on a single chassis, four hundred
4994 square feet or less when measured at the largest horizontal projection, designed to be self-propelled,
4995 carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if
4996 registration is required and is designed primarily not for use as a permanent dwelling, but as temporary
4997 living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or
4998 carried onto a parcel of land, but do not remain capable of being towed or carried, including park model
4999 homes, do not fall within the definition of "mobile recreational vehicles."
5000 43) "Municipality" or "municipal" means the county, city or village governmental units enacting,
5001 administering and enforcing this zoning ordinance.
5002 44) "NAVD" or "North American Vertical Datum" means Elevations referenced to mean sea level
5003 datum, 1988 adjustment.
5004 45) "NGVD" or "National Geodetic Vertical Datum" means Elevations referenced to mean sea level
5005 datum, 1929 adjustment.
5006 46) "New construction" means for floodplain management purposes, "new construction" means
5007 structures for which the start of construction commenced on or after the effective date of floodplain
5008 zoning regulations adopted by this community and includes any subsequent improvements to such
5009 structures. For the purpose of determining flood insurance rates, it includes any structures for which the
5010 "start of construction" commenced on or after the effective date of an initial FIRM or after December
5011 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
5012 47) "Nonconforming structure" means an existing lawful structure or building which is not in
5013 conformity with the dimensional or structural requirements of this chapter for the area of the floodplain
5014 which it occupies. (For example, an existing residential structure in the floodfringe district is a
5015 conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure
5016 is nonconforming.)

5017 48) "Nonconforming use" means an existing lawful use or accessory use of a structure or building which
5018 is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies.
5019 (Such as a residence in the floodway.)
5020 49) "Obstruction to flow" means any development which blocks the conveyance of floodwaters such
5021 that this development alone or together with any future development will cause an increase in regional
5022 flood height.
5023 50) "Official floodplain zoning map" means that map, adopted and made part of this chapter, as
5024 described in subsection 19.46.010E.2., which has been approved by the department and FEMA.
5025 51) "Open space use" means those uses having a relatively low flood damage potential and not
5026 involving structures.
5027 52) "Ordinary highwater mark" means the point on the bank or shore up to which the presence and
5028 action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or
5029 prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized
5030 characteristic.
5031 53) "Person" means an individual, or group of individuals, corporation, partnership, association,
5032 municipality or state agency.
5033 54) "Private sewage system" means a sewage treatment and disposal system serving one structure
5034 with a septic tank and soil absorption field located on the same parcel as the structure. It also means an
5035 alternative sewage system approved by the Department of Commerce, including a substitute for the
5036 septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system
5037 located on a different parcel than the structure.
5038 55) "Public utilities" means those utilities using underground or overhead transmission lines such as
5039 electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer
5040 and storm sewer.
5041 56) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage
5042 structures to be removed from the special flood hazard area and that any subsurface waters related to
5043 the base flood will not damage existing or proposed buildings.
5044 57) "Regional flood" means a flood determined to be representative of large floods known to have
5045 occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or
5046 exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
5047 58) "Start of construction" means the date the building permit was issued, provided the actual start of
5048 construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was
5049 within one hundred eighty days of the permit date. The actual start means either the first placement of
5050 permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the
5051 construction of columns, or any work beyond initial excavation, or the placement of a manufactured
5052 home on a foundation. Permanent construction does not include land preparation, such as clearing,
5053 grading and filling, nor does it include the installation of streets and/or walkways, nor does it include
5054 excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does
5055 it include the installation on the property of accessory buildings, such as garages or sheds not occupied
5056 as dwelling units or not part of the main structure. For an alteration, the actual start of construction
5057 means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not
5058 that alteration affects the external dimensions of the building.
5059 59) "Structure" means any manmade object with form, shape and utility, either permanently or
5060 temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not
5061 limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
5062 60) "Subdivision" means has the meaning given in s. 236.02(12), Wis. Stats.

5063 61) "Substantial damage" means damage of any origin sustained by a structure, whereby the cost of
5064 restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the
5065 equalized assessed value of the structure before the damage occurred.
5066 62) "Unnecessary hardship" means where special conditions affecting a particular property, which
5067 were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage,
5068 height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
5069 63) "Variance" means an authorization by the board of adjustment or appeals for the construction or
5070 maintenance of a building or structure in a manner which is inconsistent with dimensional standards
5071 (not uses) contained in the floodplain zoning ordinance.
5072 64) "Violation" means the failure of a structure or other development to be fully compliant with the
5073 floodplain zoning ordinance. A structure or other development without required permits, lowest floor
5074 elevation documentation, floodproofing certificates or required floodway encroachment calculations is
5075 presumed to be in violation until such time as that documentation is provided.
5076 65) "Watershed" means the entire region contributing runoff or surface water to a watercourse or
5077 body of water.
5078 66) "Water surface profile" means a graphical representation showing the elevation of the water
5079 surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A
5080 water surface profile of the regional flood is used in regulating floodplain areas.
5081 67) "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or
5082 other methods, to obtain groundwater regardless.
5083 (Ord. No. 1724A, § 1(10.0), 4-8-2009)

5084
5085 **Chapter 19.461 FWW FLOODWAY/WETLAND DISTRICT**

5086 Sections:

5087 [19.461.010 Purpose.](#)

5088 [19.461.020 Permitted uses.](#)

5089 [19.461.030 Conditional uses.](#)

5090 [19.461.040 Maintenance of drainageways.](#)

5091 [19.461.050 Dumping and filling prohibited.](#)

5092 [19.461.060 Dangerous materials storage prohibited.](#)

5093 [19.461.070 Incompatible use prohibited.](#)

5094 [19.461.080 Mobile homes prohibited.](#)

5095

5096 **19.461.010 Purpose.**

5097 The FWW floodway/wetland district is intended to preserve, protect, and enhance the ponds,
5098 streams, and wetland areas within the floodplains of the city. The preservation, protection, and
5099 enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve
5100 water quality, both ground and surface; prevent flood damage; control stormwater runoff; protect
5101 stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat;
5102 protect native plant communities; avoid the location of structures on soils which are generally not
5103 suitable for use; and protect the water-based recreation resources of the city. In delineating the FWW
5104 district, the effects of development within the associated floodfringe shall be computed, as regulated
5105 under Chapter 19.46 of this title. No floodway/wetland district changes shall be permitted that are not
5106 consistent with the wetland preservation shoreland protection objectives of Section 144.26 of the
5107 Wisconsin Statutes as set forth in Section 19.69.066(B) of this code.

5108 The FWW floodway/wetland district, as shown on the zoning map, includes those wetlands that
5109 are shown on the Wisconsin Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and
5110 stamped "FINAL;" which are also shown within the one hundred-year recurrence interval floodplain as
5111 shown on the official Floodplain Zoning Map.

5112 (Ord. 1600 § 4, 2006: Ord. 1196 § 1(part), 1990).

5113

5114 **19.461.020 Permitted uses.**

5115 Permitted uses in the FWW district are limited to the following:

- 5116 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;
- 5117 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
- 5118 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
- 5119 filling, flooding, draining, dredging, ditching, tiling, or excavating;
- 5120 C. Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling,
- 5121 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
- 5122 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
- 5123 impact on silvicultural activities if not corrected;
- 5124 D. Agricultural crops and grazing provided that they do not involve extension of cultivated areas,
- 5125 extension of or creation of new drainage systems, and further provided that they do not substantially
- 5126 disturb or impair the natural fauna, flora, topography, or water regimen;
- 5127 E. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
- 5128 only to the extent necessary to maintain the level of drainage required to continue the existing use;
- 5129 F. The construction and maintenance of piers, docks, and walkways, including those built on pilings;
- 5130 G. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
- 5131 (Ord. 1196 § 1(part), 1990).
- 5132

5133

5133 **19.461.030 Conditional uses.**

5134 The following uses are conditional uses in the FWW floodway/wetland district and may be

5135 permitted as specified. The city plan commission shall transmit a copy of each application for a

5136 conditional use in the FWW floodway/wetland district to the Wisconsin Department of Natural

5137 Resources (DNR) at least ten days prior to the public hearing. Final action on the application shall not be

5138 taken for thirty days or until the DNR has made its recommendation, whichever comes first. A copy of all

5139 FWW Floodway/wetland district conditional use permits shall be transmitted to the DNR within ten days

5140 following the decision:

- 5141 A. The construction of streets which are necessary for the continuity of the city street system,
- 5142 necessary for the provision of essential utility and public safety services, or necessary to provide access
- 5143 to permitted open space uses in the FWW district; provided, that:
- 5144 1. The street cannot as a practical matter be located outside the conservancy district;
- 5145 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
- 5146 wetland as listed in Section 19.69.066(B) of this code;
- 5147 3. The street is designed and constructed with the minimum cross-section practical to serve the
- 5148 intended use;
- 5149 4. The street construction activities are carried out in the immediate area of the roadbed only; and
- 5150 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
- 5151 for the construction or maintenance of the street. Filling in the FWW district shall not be permitted if
- 5152 the effect will be to increase flood stage by 0.01 foot or more, except as otherwise provided in this
- 5153 chapter.
- 5154 B. The establishment and development of public and private parks and recreation areas, recreation
- 5155 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
- 5156 refuges, game preserves, and private habitat areas; provided, that:
- 5157 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
- 5158 2. No structures shall be erected;

5159 3. No filling is to be done; and
5160 4. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
5161 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
5162 otherwise enhance the value of a wetland or other natural resource.
5163 C. The construction and maintenance of fences; provided, that:
5164 1. All fences shall have at least fifty percent of their surface area open for free passage of light, air, and
5165 floodwaters; and
5166 2. All fences shall be firmly anchored to prevent them from floating away and restricting bridge
5167 openings.
5168 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
5169 distribution lines, and related facilities; provided, that:
5170 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
5171 outside the floodway/wetland district;
5172 2. All utilities shall be firmly anchored to prevent flotation;
5173 3. All utilities shall be floodproofed to an elevation at least two feet above the 100-year recurrence
5174 interval flood, and shall be designed to eliminate or minimize infiltration of floodwater into the utility;
5175 and
5176 4. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
5177 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
5178 and other adverse impacts upon the natural functions of the conservancy area. Filling in the FWW
5179 district shall not be permitted if the effect will be to increase flood stage by 0.01 foot or more, except as
5180 otherwise provided in this chapter.
5181 E. The construction and maintenance of railroad lines; provided, that:
5182 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
5183 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
5184 construction or maintenance of the railroad, and must be done in a manner designed to minimize
5185 flooding and other adverse impacts upon the natural functions of the conservancy area.
5186 (Ord. 1196 § 1(part), 1990).
5187
5188 **19.461.040 Maintenance of drainageways.**
5189 No development in the FWW floodway/wetland district shall adversely affect the channels,
5190 floodways, or shorelands of Whitewater Creek, Spring Brook, any tributaries thereto, drainage ditches,
5191 or other lands lying outside the floodlands.
5192 (Ord. 1196 § 1(part), 1990).
5193
5194 **19.461.050 Dumping and filling prohibited.**
5195 Lands lying within the FWW floodway/wetland district shall not be used for dumping or be filled.
5196 (Ord. 1196 § 1(part), 1990).
5197
5198 **19.461.060 Dangerous materials storage prohibited.**
5199 Lands lying within the FWW floodway/wetland district shall not be used for the storage of
5200 materials that are buoyant, flammable, explosive, or injurious to human, animal, or plant life.
5201 (Ord. 1196 § 1(part), 1990).
5202
5203 **19.461.070 Incompatible use prohibited.**
5204 A. Lands lying within the FWW floodway/wetland district shall not be used for any solid waste disposal
5205 site or onsite soil absorption sanitary sewerage system site, or the construction of any well which is used

5206 to obtain water for ultimate human consumption. Sewage treatment plants and treatment ponds shall
5207 not be constructed in the FWW floodway/wetland district.
5208 B. Any use not listed as a permitted use or a conditional use in the FWW floodway/wetland district is
5209 prohibited unless the FWW district lands concerned are first rezoned into another district. Furthermore,
5210 the use of a boathouse for human habitation and the construction or placement of a boathouse or fixed
5211 houseboat below the ordinary highwater mark of any navigable water are prohibited.
5212 (Ord. 1196 § 1(part), 1990).

5213
5214 **19.461.080 Mobile homes prohibited.**

5215 No mobile home, manufactured home, mobile home park, or trailer camp shall be placed or
5216 moved onto lands lying in the FWW floodway/wetland district.
5217 (Ord. 1196 § 1(part), 1990).

5218
5219 **Chapter 19.48 I INSTITUTIONAL DISTRICT**

5220 Sections:

- 5221 [19.48.010 Purpose.](#)
- 5222 [19.48.020 Permitted uses.](#)
- 5223 [19.48.030 Conditional uses.](#)
- 5224 [19.48.040 Lot area.](#)
- 5225 [19.48.050 Lot width.](#)
- 5226 [19.48.060 Building height.](#)
- 5227 [19.48.070 Yard requirements.](#)
- 5228 [19.48.080 Number of structures on one lot.](#)

5229
5230 **19.48.010 Purpose.**

5231 The I institutional district is established to provide a community review and approval process for
5232 certain institutional uses that have a potential impact on surrounding land uses and/or the city as a
5233 whole.
5234 (Ord. 1364 § 8, 1997; Ord. 994 § 3.17(part), 1982).

5235
5236 **19.48.020 Permitted uses.**

5237 Permitted uses in the I district include:

- 5238 A. Colleges;
- 5239 B. Universities and their associated residential, educational and service facilities, Except that new
5240 structures and/or exterior remodeling of existing structures which are within one hundred fifty feet of
5241 any other zoning district boundary (includes surface parking areas for more than twenty vehicles) shall
5242 be a conditional use as indicated below. The uses stated in Section 19.48.030 shall be conditional uses;
- 5243 C. The second or greater wireless telecommunication facility located on an alternative support
5244 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
5245 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
5246 accessory uses, all per the requirements of Chapter 19.55.
5247 (Ord. 1499 § 22, 2001; 1364 § 9, 1997; Ord. 994 § 3.17(A), 1982).

5248
5249 **19.48.030 Conditional uses.**

5250 Conditional uses in the I district include:

- 5251 A. New structures and/or exterior remodeling or existing structures within one hundred fifty feet of
5252 any other zoning district boundary (includes surface parking areas for more than twenty vehicles);
- 5253 B. Gymnasiums, sport stadiums, auditoriums, and similar places of general public assembly;

- 5254 C. Parking structures and surface parking areas for more than one hundred vehicles;
5255 D. The first wireless telecommunications facility located on an alternative support structure only, per
5256 the requirements of Chapter 19.55;
5257 E. Fraternity or sorority houses.
5258 (Ord. 1668A § 3, 2007; Ord. 1499 § 23, 2001; Ord. 994 § 3.17(B), 1982).
5259

5260 **19.48.040 Lot area.**

5261 Minimum total lot area in the I district is one acre.
5262 (Ord. 994 § 3.17(C), 1982).
5263

5264 **19.48.050 Lot width.**

5265 Minimum lot width in the I district is one hundred twenty feet.
5266 (Ord. 994 § 3.17(D), 1982).
5267

5268 **19.48.060 Building height.**

5269 Maximum building height in the institutional district shall be one hundred feet. Mechanical
5270 penthouses shall be excluded from the building height restrictions listed herein if they comply with the
5271 following limitations:

- 5272 A. Penthouses shall be no taller than the highest floor to floor height in the building.
5273 B. Penthouses shall be set back from the public street building facade of the building equal to the
5274 height of the penthouse.
5275 C. The penthouse floor area, including vertical circulation spaces leading to the penthouse, shall be no
5276 greater than ten percent of the ground floor building footprint.
5277 (Ord. 1673A § 1, 2008; Ord. 994 § 3.17(E), 1982).
5278 D. The maximum building height is also subject to fire safety limitations. The maximum building height
5279 may be increased under the provisions of a conditional use permit which will include, but is not limited
5280 to, consideration of issues regarding shadows cast by buildings, views, impacts on neighbors, and
5281 microclimate.
5282

5283 **19.48.070 Yard requirements.**

5284 Minimum yard requirements in the I district are:

- 5285 A. Any street yard facing any zoning district other than the institutional district shall be no less than
5286 twenty-five feet, measured from the right-of-way, or one-half of the total height of the building,
5287 whichever is greater. Any street yard within an institutional district facing yards in an institutional
5288 district shall not be less than twenty-five feet, measured from the right-of-way. The building setback
5289 shall not in any event encroach on the intersection visibility requirements set forth in Whitewater
5290 Municipal Code, Section 19.51.010;
5291 B. Street yard for off-street parking--fifteen feet;
5292 C. Side yard shall be thirty feet or equal to the height of the structure, whichever is greater;
5293 D. Rear yard--thirty-five feet or equal to the height of the structure, whichever is greater.
5294 (Ord. 1673A § 2, 2008; Ord. 1364 § 10, 1997; Ord. 994 § 3.17(F), 1982).
5295

5296 **19.48.080 Number of structures on one lot.**

5297 Within the I district, more than one principal structure may be located on a lot (see Section
5298 19.06.150).
5299 (Ord. 994 § 3.17(G), 1982).

5300

5301 **Chapter 19.485 LARGE RETAIL AND COMMERCIAL SERVICE DEVELOPMENT STANDARDS**

5302 Sections:

5303 [19.485.010 Title.](#)

5304 [19.485.020 Description.](#)

5305 [19.485.030 Conditional use permit or PCD approval required.](#)

5306 [19.485.040 Regulations.](#)

5307

5308 **19.485.010 Title.**

5309 This section shall be known, cited, and referred to as the large retail and commercial service
5310 development chapter.

5311 (Ord. No. 1796A, § 3, 8-3-2010)

5312

5313 **19.485.020 Description.**

5314 A large retail and commercial service development is a development comprised of one or more
5315 contiguous parcels or building sites for a single retail or commercial service enterprise or for multiple
5316 such enterprises within which the total combined floor and surface area of all indoor retail and/or
5317 commercial activities, associated enclosed or outdoor storage, and associated outdoor display exceeds
5318 fifty thousand square feet. The requirements of Chapter 19.485 are applicable to any new, altered or
5319 expanded establishment or group of establishments that meet or exceed the above floor and surface
5320 area threshold, where a complete application for conditional use permit or PD zoning is filed after the
5321 effective date of this chapter.

5322 (Ord. No. 1796A, § 3, 8-3-2010)

5323

5324 **19.485.030 Conditional use permit or PD approval required.**

5325 A. Aside from where allowed under an approved PD district, large retail and commercial service
5326 developments shall require a conditional use permit within any district in which they are allowed per
5327 other chapters in this title. All additions to structures, parking, or storage areas that are part of an
5328 approved large retail and commercial service development shall require an amendment to the
5329 conditional use permit or the previously approved PD plans, per the associated requirements for such
5330 amendments in this title.

5331 B. Subsequent changes to individual land uses listed as permitted uses within the applicable zoning
5332 district (for example, a new tenant in a pre-existing retail space) are permitted without amendment to
5333 the associated large retail and commercial development conditional use permit or PD specific
5334 implementation plan, unless said conditional use permit or PD plan placed restrictions on such change of
5335 use.

5336 C. Subsequent individual land uses following initial approval of the development allowed only by
5337 conditional use permit in the zoning district or approved PD specific implementation plan may be
5338 allowed only under a subsequent conditional use permit for the specific use, regardless of whether said
5339 use entails modifications to the building and/or site layout.

5340 (Ord. No. 1796A, § 3, 8-3-2010)

5341

5342 **19.485.040 Regulations.**

5343 In addition to applicable zoning district standards and other applicable standards of this title,
5344 each large retail and commercial service development shall meet the following additional standards, as
5345 may be applicable given the size of each such development:

5346

5347 A. Traffic Impact Analysis. A traffic impact analysis is required when a development reaches or exceeds
5348 the defined threshold for such an analysis outlined in Figure 19.485(2), and may be required by the city
5349 director of public works for projects below that threshold if there is initial evidence to suggest that
5350 existing roads in the area may not be adequate to accommodate additional traffic demands. The traffic
5351 impact analysis shall be completed in accordance with standards approved by the city director of public
5352 works, or where he/she does not approve a particular standard, with the most current revision of the
5353 Traffic Impact Analysis Guidelines published by the State of Wisconsin Department of Transportation.
5354 Where the traffic impact analysis indicates that the proposed development may cause off-site public
5355 roads, intersections, or interchanges to function below level of service (LOS) D, then the city may deny
5356 the application, may require a size reduction in the proposed development, and/or may require the
5357 developer to construct and/or pay for required off-site improvements to achieve LOS D for a planning
5358 horizon of a minimum of ten years following full build-out of the development. All such developments
5359 shall have direct access to an arterial or collector street. Vehicle access shall be designed to
5360 accommodate peak on-site traffic volumes without disrupting traffic on public streets or impairing
5361 pedestrian safety. This shall be accomplished through adequate parking lot design and capacity; access
5362 drive entry throat length, width, design, location, and number; traffic control devices; and/or sidewalks.
5363 The site design shall provide direct transportation connections to adjacent land uses and sites if required
5364 by the city.

5365
5366 B. Economic and Fiscal Impact Analysis. An economic and fiscal impact analysis is required in
5367 accordance with the data requirements established by the City. In addition:

- 5368 1. The analysis shall identify and assess the economic and fiscal impacts on the city.
- 5369 2. The analysis shall propose measures to mitigate adverse impacts and/or maximize positive impacts,
5370 including provision of infrastructure or public service improvements sufficient to support the
5371 development. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to
5372 be implemented by the applicant shall be identified.
- 5373 3. If required by the zoning administrator, the applicant shall provide the necessary funding to the city
5374 to hire a consultant of the city's choice, with appropriate experience to complete and present an
5375 objective economic and fiscal impact analysis to the city.

5376
5377 C. Detailed Neighborhood Plan. A detailed neighborhood plan is required in accordance with
5378 requirements established by the City. Such neighborhood plan shall cover any undeveloped areas within
5379 a one-thousand-five-hundred-foot distance from the boundaries of the development site (except where
5380 a lesser distance is approved by the zoning administrator). The detailed neighborhood plan must be
5381 completed by the city or applicant prior to the application for conditional use permit or rezoning, and
5382 submitted or referenced with such application. The detailed neighborhood plan shall include a map of
5383 sufficient detail to establish the potential future mix and development of land uses based on the city's
5384 comprehensive plan and the relationship of surrounding lands to the large retail and commercial service
5385 development with regard to provision of streets, driveways, bicycle/pedestrian routes, utilities,
5386 stormwater management, landscape transitions, setbacks, and community design and character, and
5387 general layout, all in a manner that is consistent with the city's comprehensive plan.

5388 D. Facilities and Associated Features. The following requirements are applicable when a large retail and
5389 commercial service development reaches or exceeds the defined threshold for such facilities and
5390 associated features outlined in Figure 19.485(2):

- 5391 1. Building Location. Wherever practical, as determined by the plan and architectural review
5392 commission based on the particular setting, the primary building within the development shall be
5393 located close to the public street, including parking to the side or rear of that building. Where such
5394 primary building is proposed to be distant from the public street, the commission may require that the

5395 overall development design include smaller buildings on pads or outlots closer to the street. All buildings
5396 on outlots shall have an orientation and architectural quality that relates to the primary building.
5397 Placement and orientation of all buildings must facilitate appropriate land use transitions and
5398 appropriate traffic flow to adjoining roads and to neighboring commercial areas, commercial sites, and
5399 neighborhoods, and must forward community character objectives described in the city's
5400 comprehensive plan. Also see Subsection 19.485.040E.7. below for requirements associated with the
5401 location of parking lots.

5402 2. Building Materials. Exterior building materials shall be of comparable aesthetic quality on all sides.
5403 Building materials such as glass, brick, stone, tinted and decorative concrete block are preferred, with
5404 wood, stucco, and exterior insulation and finish systems (EIFS) also permitted, as determined
5405 appropriate by the plan and architectural review commission. Decorative architectural metal with
5406 concealed fasteners or decorative tilt-up concrete panels may be approved only if integral to the overall
5407 design of the building. Windows shall be prominently incorporated into the building design for both
5408 aesthetic and daylighting effect.

5409 3. Building Design. The building exterior shall complement other buildings in the vicinity (except those
5410 buildings identified for redevelopment), and shall meet the following:

5411 a. The building shall employ varying facade setbacks, heights, roof treatments, doorways, window
5412 openings, and other structural or decorative elements appropriate to the size and scale of the building
5413 and to add architectural interest.

5414 b. Ground floor facades that face public streets shall have some combination of features (such as display
5415 windows, entry areas, awnings, or other such features) that are oriented to pedestrians and create a
5416 smaller scale, street-friendly character. f. The integration of windows into building design is required.
5417 Windows shall be transparent glass wherever the plan and architectural review commission determines
5418 it practical. The use of blinds, or display windows shall be acceptable where there is a determination
5419 that opacity is required. Backlighting of such windows may be required in such instances.

5420 4. Building Entrances. Public building entrances shall be clearly defined and highly visible on the
5421 building's exterior design, and shall be emphasized by, and be the focal point for, on-site traffic flow
5422 patterns. Two or more of the following design features shall be incorporated into all public building
5423 entrances: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, or outdoor
5424 patios.

5425 5. Screening.

5426 a. All ground-mounted and wall-mounted mechanical equipment, refuse containers and any permitted
5427 outdoor storage shall be fully concealed from on-site and off-site ground-level views, with materials
5428 identical to those used on the building exterior facades.

5429 b. All rooftop mechanical equipment shall be screened by parapets, upper stories, and/or strategic
5430 placement relative to exterior walls or roofs, so as to not be visible from public streets adjacent or
5431 within one thousand feet of the subject property.

5432 c. Loading docks shall be completely screened from surrounding public streets and properties. Said
5433 screening may be accomplished through loading areas internal to buildings, screen walls which match
5434 the building exterior in materials and design, fully opaque landscaping at time of planting, or
5435 combinations.

5436 d. Gates and fencing may be used for security and access, but not for screening, and they shall be of
5437 high aesthetic quality. Decorative metal picket fencing and screening is acceptable. Chain link, wire
5438 mesh, or wood fencing is unacceptable, except that decorative, heavy-duty wood gates may be used.

5439 6. Parking.

5440 a. All parking lots shall be designed in accordance with Chapter 19.51 of this title.

5441 b. Parking lots in which the number of spaces significantly exceeds the minimum number of parking
5442 spaces required for the specific use or uses in Section 19.51.130 shall be allowed only with specific and
5443 reasonable justification provided by the applicant within the application.

5444 c. Parking lots shall be designed to create distinct parking subareas through use of landscaped and
5445 curbed medians and islands, a minimum of ten feet in width from back-of-curb to back-of-curb. Each
5446 landscaped island shall be a minimum of three hundred sixty square feet in landscaped area.

5447 d. Wherever site conditions allow, the plan and architectural review commission may require some or
5448 all parking to be oriented to the side and/or rear of the primary building within the development,
5449 allowing the building to be located closer to the public street. Applicants proposing to locate the
5450 majority of parking between the primary building and the public street shall submit information along
5451 with their application identifying the reasons why more or all parking may not be located to the side or
5452 rear of the principal building, either through a change in parking location, change in building location, or
5453 both.

5454 e. Wherever site conditions allow, the plan and architectural review commission may require some or all
5455 parking to be shared with surrounding uses and/or the provision of cross-easements for customers to
5456 access adjacent parking areas without circulation through surrounding streets.

5457 8. Bicycle and Pedestrian Facilities.

5458 a. The entire development shall provide for safe pedestrian and bicycle access to all uses within the
5459 development, connections to existing and planned public sidewalks and other pedestrian and bicycle
5460 facilities, and connections to adjacent properties.

5461 b. Pedestrian walkways shall be provided from all building entrances to existing or planned public
5462 sidewalks or other pedestrian and bicycle facilities. The minimum width for sidewalks adjacent to
5463 buildings shall be eight feet; and the minimum width for sidewalks elsewhere in the development shall
5464 be five feet.

5465 c. Sidewalks internal to the development shall have adjoining landscaping along at least fifty percent of
5466 their length, and may be required to be provided with pedestrian-scale lighting.

5467 d. Crosswalks within parking and driveway areas shall be distinguished from driving surfaces to
5468 enhance pedestrian safety by using different pavement materials, color, and/or texture in combination
5469 with signage.

5470 e. The development shall provide secure, attractive, integrated bicycle parking.

5471

5472 9. Central Areas and Features. Each development exceeding eighty thousand square feet in floor area
5473 (per the measurement method in Section 19.485.020) shall provide central area(s) or feature(s) such as
5474 a patio/seating area, pedestrian plaza with benches, outdoor playground area, water feature, and/or
5475 another such deliberately designated outdoor area or focal point that adequately enhance the
5476 development or community. Such area shall be openly accessible to the public, connected to the public
5477 and private sidewalk system, designed with materials compatible with the primary building and
5478 remainder of the site, and maintained over the life of the development.

5479 10. Cart Returns. A minimum of one two-hundred-square-foot cart return area (corral) shall be
5480 provided for every one hundred parking spaces. Cart corrals shall be of durable, non-rusting, all-season
5481 construction, and shall be designed and colored to be compatible with the building and parking lot light
5482 standards. There shall be no exterior cart return or cart storage areas located within twenty-five feet of
5483 any building.

5484 11. Outdoor Display Areas. Exterior sales and display areas--whether permanent or seasonal--shall be
5485 permitted only where clearly depicted on the approved site plan associated with the development. All
5486 exterior display areas shall be separated from motor vehicle routes by a physical barrier visible to drivers
5487 and pedestrians, and by a minimum of ten feet. Display areas on sidewalks directly in front of buildings

5488 building must maintain a minimum walkway width of eight feet between the display items and any
5489 vehicle drives.

5490 12. Outdoor Storage Uses and Areas. Exterior storage structures or uses, including the parking or
5491 storage of service vehicles, trailers, equipment, containers, crates, pallets, merchandise, materials,
5492 forklifts, trash, recyclables, and all other items shall be permitted only where clearly depicted and
5493 labeled on the approved site plan. Such outdoor storage uses and areas shall be appropriately screened
5494 as required by Title 19.

5495 13. Landscaping. On-site landscaping shall be provided at time of building occupancy (except as
5496 allowed under Section 19.66.060), shall meet all applicable landscaping guidelines approved by the city
5497 council or plan and architectural review commission, and shall be maintained per the requirements of
5498 such guidelines and Title 19 over the life of the development.

5499 14. Lighting. On-site exterior lighting shall meet all the standards of Title 19. In addition, the color and
5500 design of pole lighting standards shall be compatible with the primary building in the development and
5501 the public lighting in the area, and shall be uniform throughout the entire development site.

5502 15. Signage. In addition to meeting the applicable requirements of Title 19, a signage plan for all
5503 exterior signage shall provide for coordinated and complementary exterior sign locations,
5504 configurations, and colors throughout the development. Combined signs for multiple users may be
5505 required instead of multiple individual signs. The city may require the use of muted corporate colors on
5506 signage if proposed colors are not compatible with the city's design objectives for the area.

5507 16. Environmental Sustainability, Natural Resources Protection, and Stormwater Management. Natural
5508 resources shall be protected in accordance with Title 19. In general, existing natural features shall be
5509 integrated into the site design as a site and community amenity. Each project shall meet the erosion
5510 control and stormwater management standards found in Title 16 of the Municipal Code and other
5511 applicable city ordinances.

5512 Each development shall intentionally incorporate into site and building design elements that
5513 contribute to the long-term environmental sustainability of the development and the city, as such terms
5514 are described in the city's comprehensive plan. Each development shall provide at least one-half of the
5515 following sustainability features:

- 5516 a. Reuse an existing, previously developed building and/or site.
- 5517 b. Utilize one or more rain gardens or bioswales, as described in the City of Whitewater Landscaping
5518 Guidelines, to capture and manage stormwater.
- 5519 c. Install a green roof or roof-top garden.
- 5520 d. Incorporate stormwater management facilities that are designed to both serve their primary
5521 function and appear as natural features that can serve as attractive focal points for the development.
- 5522 e. Install native/naturalized landscaping that minimizes requirements for irrigation/watering and
5523 provides natural habitat.
- 5524 f. Install systems that allow for the capture and later use of rainwater to water landscaping and for
5525 other permitted functions.
- 5526 g. Deliberately design/retrofit the primary building with energy efficient systems, such as lighting,
5527 refrigeration, and HVAC systems.
- 5528 h. Integrate solar, geothermal, wind, or other on-site energy generation into the site and/or building
5529 design.
- 5530 i. Utilize paving and/or roof materials with a solar reflectance index of at least twenty-nine for a
5531 minimum of fifty percent of the combined pavement and roof area on the site.
- 5532 j. Purchase a minimum of fifty percent of the development's energy from renewable sources, such as
5533 wind or solar.
- 5534 k. Recycle of a minimum of seventy-five percent of the waste generated during building/site
5535 construction.

- 5536 l. Utilize a minimum of twenty-five percent recycled materials for building construction.
5537 m. Utilize a minimum of fifty percent regional materials for building construction (extracted, harvested,
5538 or recovered, and manufacturing from within five hundred miles of the development site).
5539 n. No more than two additional sustainability features not listed above but approved by the plan and
5540 architectural review commission to meet the city's sustainability objectives, not including any feature
5541 already required by another section of this chapter.
- 5542 17. Vacation of Existing Buildings in Large Retail and Commercial Service Developments.
5543 a. Where any large retail or commercial service development that has fifty thousand or more square
5544 feet of floor area is vacated because the commercial use (sale of goods or merchandise at the building)
5545 conducted thereon is being relocated to a different building or discontinued, the party shall be subject
5546 to the following provisions:
5547 i. The party that vacated the site shall not impose limits on the type of reuse of the vacated site
5548 through conditions of sale or lease.
5549 ii. The development agreement for the new development at the new site shall include provisions
5550 therein whereby the developer of the new site commits to the requirements contained herein.
5551 b. In addition to the above, any building within large retail or commercial service development that has
5552 twenty thousand or more square feet of floor area and is vacated for any reason shall be subject to the
5553 following provisions:
5554 i. The owner must file with the city a written statement as to the names, phone numbers, and
5555 addresses for all persons who are in control of the property and building and other data as required by
5556 the City.
- 5557 18. Development Agreement. The developer shall enter into a development agreement with the city
5558 which shall include the payment of all utilities, including, but not limited to, stormwater, sanitary sewer,
5559 and street infrastructure. Off-site improvements may also be required as part of the development
5560 agreement.
- 5561 19. Exceptions. In the event the applicant desires a deviation or exception from the requirements of
5562 this section, the applicant shall present justification for such deviation or exception, including, but not
5563 limited to, preexisting conditions on a redevelopment site, which may be approved or denied by the
5564 plan and architectural review commission.

5565
5566 **Chapter 19.49 WELLHEAD PROTECTION**

5567 Sections:

5568 [19.49.010 Title.](#)

5569 [19.49.020 Purpose and authority.](#)

5570 [19.49.030 Applicability.](#)

5571 [19.49.040 Definitions.](#)

5572 [19.49.050 Wellhead protection area.](#)

5573 [19.49.060 Enforcement.](#)

5574

5575 **19.49.010 Title.**

5576 This section shall be known, cited and referred to as the "wellhead protection ordinance"
5577 (hereinafter "WHP ordinance").
5578 (Ord. 1383 § 1(part), 1997).

5579

5580 **19.49.020 Purpose and authority.**

5581 A. The residents of the City of Whitewater (hereinafter "the city") depend exclusively on groundwater
5582 for a safe drinking water supply. Certain land use practices and activities can seriously threaten or
5583 degrade groundwater quality. The purpose of the WHP ordinance codified in this chapter is to protect

5584 the city's municipal water supply and areas from which city wells draw water, and to promote the public
5585 health, safety and general welfare of the residents of the city.

5586 B. These regulations are established pursuant to the authority granted by the Wisconsin Legislature in
5587 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection to
5588 the statutory authorization for municipal planning and zoning in order to protect the public health,
5589 safety and welfare. Areas appropriate for protection in the WHP are established in the wellhead
5590 protection plan ("the plan") for City of Whitewater, Wisconsin, dated September 1996 and prepared by
5591 Strand Associates, Inc. The Plan document is incorporated herein by this reference, and a copy is on file
5592 in the office of the city clerk.
5593 (Ord. 1383 § 1(part), 1997).

5594

5595 **19.49.030 Applicability.**

5596 The regulations specified in the WHP ordinance codified in this chapter shall apply only to lands
5597 within those portions of the five-year time of travel zones (hereinafter sometimes "TOT") of Well No. 9
5598 shown on the wellhead protection map (see Exhibit A in Appendix D of WHP) (hereinafter "the map"),
5599 which areas also lie within the city corporate limits.
5600 (Ord. 1383 § 1(part), 1997).

5601

5602 **19.49.040 Definitions.**

5603 As used in this chapter:

5604 "Aquifer" means a saturated, permeable geologic formation that contains and will yield
5605 significant quantities of water.

5606 "Cone of depression" means the area around a well, in which the water level has been lowered
5607 at least one-tenth of a foot by pumping of the well.

5608 "Existing facilities which may cause or threaten to cause environmental pollution" means
5609 existing facilities which may cause or threaten to cause environmental pollution within the corporate
5610 limits of the city's well No. 9 recharge area which include but are not limited to the Wisconsin
5611 Department of Natural Resources' draft list of "Inventory of Sites or Facilities Which may Cause or
5612 Threaten to Cause Environmental Pollution," and Department of Industry, Labor and Human Relations
5613 list of "Leaking Underground Storage Tanks" (hereinafter "LUST's") and the Registry of Waste Disposal
5614 Sites in Wisconsin, all of which are incorporated herein by reference, together with future amendments
5615 thereto, as if fully set forth.

5616 "Five Year Time of Travel (TOT)." The five year TOT is a portion of the recharge area, the outer
5617 boundary of which it is determined or estimated that groundwater and potential contaminants will take
5618 five years to reach a pumping well. The five year TOT for Whitewater's municipal well No. 9 is
5619 established based on the uniform flow equation. The TOT area is shown on the map. The TOT area
5620 shown on the map is hereinafter referred to as "the TOT."

5621 "Groundwater divide" means ridge in the water table, or potentiometric surface, from which
5622 groundwater moves away at right angles in both directions. Line of highest hydraulic head in the water
5623 table or potentiometric surface.

5624 "Groundwater protection overlay district" shall be defined as that area within the TOT shown on
5625 the map attached as Exhibit A and incorporated herein by reference as if fully set forth.

5626 "Recharge area" means area in which water reaches the zone of saturation by surface
5627 infiltration and encompasses all areas or features that supply groundwater recharge to a well.

5628 "Wellhead protection area" means those proportions of the TOT which lie within the City of
5629 Whitewater corporate limits.
5630 (Ord. 1383 § 1(part), 1997).

5631

5632 **19.49.050 Wellhead protection area.**

5633 A. Intent. The area to be protected is the Whitewater wellhead protection area (hereinafter "WPA") (as
5634 determined by the plan) contained within the city boundary limits. These areas are designated on the
5635 map. These lands are subject to land use and development restrictions because of their close proximity
5636 to the TOT and the corresponding high threat of contamination.

5637 B. Permitted Uses. The following are the only permitted uses within the WPA:

5638 1. Any existing use, even though listed on prohibited uses, below, located within such areas to the
5639 extent that use currently exists, subject to the requirements for existing prohibited uses, subsection E of
5640 this section below;

5641 2. Those uses permitted under Whitewater zoning code consistent with the zoning map, as amended
5642 by action of the Whitewater city council and which are not prohibited under subsection C of this section
5643 below.

5644 C. Prohibited Uses. The following uses, if created after the adoption of the WHP ordinance codified in
5645 this chapter, are prohibited uses within the wellhead protection area designated on the map. These uses
5646 are prohibited based on the high probability that activities routinely associated with these uses (storage,
5647 use and handling of potential pollutants) will cause groundwater contamination. Uses not listed are not
5648 considered permitted uses.

5649 1. Underground storage tanks of any size;

5650 2. Septage and/or sludge spreading;

5651 3. Animal waste land spreading;

5652 4. Animal waste facilities;

5653 5. Animal confinement facilities;

5654 6. Gas stations;

5655 7. Vehicle repair establishments, including auto body repair;

5656 8. Printing and duplicating businesses;

5657 9. Bus or truck terminals;

5658 10. Repair shops;

5659 11. Landfills or waste disposal facilities;

5660 12. Wastewater treatment facilities;

5661 13. Spray wastewater facilities;

5662 14. Junk yards or auto salvage yards;

5663 15. Bulk fertilizer and/or pesticide facilities;

5664 16. Asphalt products manufacturing;

5665 17. Dry-cleaning businesses;

5666 18. Salt storage;

5667 19. Electroplating facilities;

5668 20. Exterminating businesses;

5669 21. Paint and coating manufacturing;

5670 22. Hazardous and/or toxic materials storage;

5671 23. Hazardous and/or toxic waste facilities;

5672 24. Radioactive waste facilities;

5673 25. Recycling facilities;

5674 26. Cemeteries.

5675 D. Where any of the uses listed in subsection C of this section above exist within the WPA on the
5676 effective date of the ordinance codified in this chapter, owners of these facilities will be allowed to
5677 upgrade such uses to facilitate or enhance groundwater protection. Plans for the proposed upgrade
5678 must be approved by the plan commission, and the appropriate permit issued by the city building

5679 inspector/zoning administrator's office prior to any work being initiated. Expansion of the prohibited use
5680 may be allowed with approval of the planning commission.
5681 E. Requirements for Existing Prohibited Uses, Section 19.49.050C Above.
5682 1. Such uses shall provide copies of all federal, state and local facility operation approvals or certificate
5683 to the city zoning administrator and ongoing environmental monitoring results to the city director of
5684 public works.
5685 2. Such uses shall provide additional environmental or safety structures/monitoring as deemed
5686 necessary by the city, which may include but are not limited to stormwater runoff management and
5687 monitoring.
5688 3. Such uses shall replace equipment or expand in a manner that improves the existing environmental
5689 and safety technologies already in existence.
5690 4. Such uses shall have the responsibility of devising and filing with the city a contingency plan
5691 satisfactory to the city zoning administrator for the immediate notification of city officials in the event of
5692 an emergency.
5693 (Ord. 1383 § 1(part), 1997).

5694
5695 **19.49.060 Enforcement.**

5696 A. In the event the individual and/or facility engaging in permitted use(s) under this chapter causes the
5697 release of any contaminants which endangers the WPA, the activity causing said release shall
5698 immediately cease and a cleanup satisfactory to the city shall occur.
5699 B. The individual/facility causing the release of contaminants shall be responsible for all costs of
5700 cleanup. The costs of cleanup shall include, but not be limited to, city consultant fees, at the invoice
5701 amount plus administrative costs for oversight, review and documentation.
5702 1. The cost of city employees' time associated in any way with the cleanup based on the hourly rate
5703 paid to the employee multiplied by a factor determined by the city representing the city's cost for
5704 expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits;
5705 2. The cost of city equipment employed;
5706 3. The cost of mileage reimbursed to city employees attributed to the cleanup.
5707 C. Following any such discharge the city may require additional test monitoring and/or bonds/sureties
5708 as it deems necessary and reasonable.
5709 D. Penalties for noncompliance shall be provided pursuant to Section 19.75.080 of this code.
5710 (Ord. 1383 § 1(part), 1997).

5711
5712 **Chapter 19.51 TRAFFIC, PARKING AND ACCESS**

5713 Sections:
5714 [19.51.010 Intersection visibility requirements.](#)
5715 [19.51.020 Loading requirements.](#)
5716 [19.51.030 Parking requirements--Generally.](#)
5717 [19.51.040 Adequate access--Driveways.](#)
5718 [19.51.050 Size and location of parking spaces.](#)
5719 [19.51.060 Lighting of parking areas.](#)
5720 [19.51.070 Buffer screening of on-grade parking areas.](#)
5721 [19.51.080 Front and side yard parking limitation.](#)
5722 [19.51.090 Designated parking areas.](#)
5723 [19.51.100 Landscaped islands for parking bays.](#)
5724 [19.51.110 Surfacing of parking areas.](#)
5725 [19.51.120 Curbs and barriers.](#)
5726 [19.51.130 Number of parking stalls--General requirements.](#)
5727 [19.51.140 Number of parking stalls--Combination uses.](#)
5728 [19.51.150 Number of parking stalls--Uses not listed.](#)

5729 [19.51.160 Parking exemption in B-2 central business district.](#)
5730 [19.51.170 Computation of required parking area.](#)
5731 [19.51.180 Truck, trailer, mobilehome and equipment parking restrictions.](#)
5732 [19.51.190 Highway access limitations.](#)
5733

5734 **19.51.010 Intersection visibility requirements.**

5735 A. At all intersections of streets or alleys, no fence, hedge, wall, sign or other structure shall be erected,
5736 placed, planted or allowed to grow in such a manner as to collectively impede more than fifteen percent
5737 of the vision area between a height of two and one-half feet and ten feet above the established curb
5738 level of the intersection of streets or alleys in the area bounded by the right-of-way lines and a line
5739 joining points along the right-of-way fifteen feet from the point of intersection. (Refer to diagram
5740 below.)

5741 B. In the case of major streets and highways intersecting with other arterial streets or railways, the
5742 corner cutoff distances establishing the triangular vision clearance space shall be increased to forty feet.

5743 **GRAPHIC LINK:** [Click here](#)

5744 (Ord. 994 § 4.1, 1982).

5745

5746 **19.51.020 Loading requirements.**

5747 In all districts except the B-2 central business district, adequate loading areas shall be provided
5748 so that all vehicles loading, maneuvering to do so, or unloading, are completely off the public ways,
5749 except alleys.

5750 (Ord. 994 § 4.2, 1982).

5751

5752 **19.51.030 Parking requirements--Generally.**

5753 In all districts, and in connection with every use, there shall be provided at the time any building
5754 is erected, enlarged, extended, increased, or use is changed, off-street parking stalls for all vehicles in
5755 accordance with Sections 19.51.040 through 19.51.180.

5756 (Ord. 994 § 4.3(part), 1982).

5757

5758 **19.51.040 Adequate access--Driveways.**

5759 Adequate access to a public street shall be provided for each parking space, and driveways shall
5760 be at least ten feet wide for parking areas for less than ten vehicles, and at least two ten-foot lanes for
5761 parking lots for ten or more vehicles, except as otherwise provided in Section 19.51.050(A)(2).
5762 Driveways shall not exceed twenty-four feet in width at the street right-of-way line, except as otherwise
5763 determined by the plan and architectural review commission during site plan review. No driveway may
5764 be closer than three feet to an abutting property line, except where two adjacent lots have a common
5765 driveway then the three-foot minimum distance shall not apply. Common, shared, and cross-access
5766 driveways between adjacent lots are permitted, provided that such driveways are established by
5767 recorded easement that may not be removed except by approval of the city. All areas intended to be
5768 utilized as a driveway shall be surfaced with materials to control dust and drainage, except in the case of
5769 farm dwellings and operations. In all cases, permeable or pervious materials are preferred. Plans for
5770 surfacing and drainage of driveways shall be submitted to the City for review and approval.

5771 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(A), 1982).

5772

5773 **19.51.050 Size, location, and surface material of parking spaces.**

5774 A. The size of each parking space shall be at least nine feet wide and not less than one hundred eighty
5775 square feet exclusive of the space required for ingress and egress, except as follows:

5776 1. End parking spaces may be seven and one-half feet wide and not less than one hundred fifty square
5777 feet.
5778 2. Interior parking spaces may be eight and one-half feet wide and not less than one hundred fifty
5779 square feet, provided that internal driveways providing two-way access to parking spaces are not less
5780 than twenty-four feet in width.
5781 3. All areas intended to be utilized as a driveway shall be surfaced with materials to control dust and
5782 drainage, except in the case of farm dwellings and operations.
5783 . In all cases, permeable or pervious materials are preferred. Plans for surfacing and drainage of shall be
5784 submitted to the City for review and approval. Curb cut openings shall be a minimum of five feet from
5785 the side yard property line in all districts.
5786 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(B), 1982).

5787
5788 **19.51.060 Lighting of parking areas.**

5789 Lights provided in any parking area shall be regulated by the standards in Section 19.57.150.
5790 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(C), 1982).

5791
5792 **19.51.070 Buffer screening of on-grade parking areas.**

5793 When a required off-street parking area for five or more vehicles is located within fifteen feet of
5794 any lot line or public right-of-way line in any district, a buffer yard or screen shall be required in
5795 accordance with Section 19.57.140 of this title, except where the adjoining property also contains a
5796 parking lot within fifteen feet of the shared lot line.
5797 (Ord. 1452 § 6(part), 2000: Ord. 1364 § 11, 1997: Ord. 994 § 4.3(D), 1982).

5798
5799 **19.51.080 Front, side, and rear yard parking limitation.**

5800 A. In all residential districts, except as provided in subsections B, C and D below, or as otherwise
5801 allowed by a previously granted zoning permit, not more than three vehicles shall be parked in any
5802 combination of the front or side yard area. In no case shall vehicles be parked closer than three feet to
5803 any abutting property line (except for shared parking areas for which a zoning permit has been granted)
5804 or any lawn or landscaped area. All parking must take place in legally established and maintained
5805 parking areas or driveways outside of any required vehicular circulation areas.

5806 B. A legally established two-family dwelling may have up to six vehicles parked in any combination of
5807 the front and side yard area.

5808 C. In the R-3 Multifamily Residence District, except for legally established two-family dwellings or
5809 otherwise allowed by a zoning permit, not more than five vehicles may be parked in any combination of
5810 the front or side yard area. Newly constructed or reconstructed properties as of the date of this chapter
5811 may have no more than three vehicles in front and side yards.

5812 D. The number of vehicles allowed within front and side yard areas of lots occupied by single family
5813 residences may be increased to one per licensed driver legally occupying the property, not to exceed
5814 five vehicles.

5815 (Ord. 1082 § 8, 1986).

5816 (Ord. No. 1688A, 6-17-2008; Ord. No. 1715A, 2-3-2009)

5817

5818

5819 **19.51.090 Designated parking areas.**

5820 Vehicle parking shall only be permitted in designated parking areas approved in the issuance of
5821 a zoning permit. Expansion of existing parking areas requires issuance of an approved zoning permit.

5822 (Ord. 994 § 4.3(F), 1982).

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19.51.100 Landscaped islands for parking bays.

Landscaped islands shall be required at the ends of parking bays to clearly define lane and turning patterns, except in the M-1 district.
 (Ord. 994 § 4.3(G), 1982).

19.51.110 Surfacing of parking areas.

All areas intended to be utilized for off-street parking areas shall be graded and surfaced with materials to control dust and drainage per city requirements for stormwater management. Hard surfaces shall be required for all multifamily residential and nonresidential uses, except that areas primarily used for parking of construction vehicles and related equipment may be surfaced with gravel if approved by conditional use permit. In all cases, permeable or pervious materials are preferred. Plans for surfacing and drainage of off-street parking areas shall be submitted to the City for review and approval. Any parking area for more than five vehicles shall have the aisles and spaces clearly marked.
 (Ord 1482 § 1-, 2001: Ord. 1364 § 12, 1997: Ord. 994 § 4.3(H), 1982).

19.51.120 Curbs and barriers.

Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines or required sidewalks.
 (Ord. 994 § 4.3(I), 1982).

19.51.130 Number of parking stalls--General requirements.

The minimum number of parking stalls required and the maximum number allowed ~~number of parking stalls required~~ is as follows:

TABLE INSET:

Uses within the B-2 central business district are exempted from this requirement, except if specifically required for a particular conditional use in that district under Section 19.30.030	Minimum	Maximum
Single-family dwellings	2 stalls	Permitted occupancy +2
Mobile homes	2 stalls for each dwelling unit	Permitted occupancy +2
Duplex and multifamily dwellings	—	Permitted occupancy +2
Efficiency/one bedroom	1 stalls for each dwelling unit	Permitted occupancy +2
Two to three bedrooms	2 stalls for each dwelling unit	Permitted occupancy +2
Four or more bedrooms	3 stalls for each dwelling unit	Permitted occupancy +2
<u>Alternative residential zoning by district:</u>		
R-1	2 stalls	1 stall per bedroom – not

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		to exceed the impervious surface regulations. See 19.15.070.
R-1X	2 stalls	1 stall per bedroom – not to exceed the impervious surface regulations. See 19.16.021.
R-2	2 stalls for each dwelling unit	1 stall per bedroom – not to exceed the impervious surface regulations. See 19.18.070.
R-2A	2 stalls for each dwelling unit	1 stall per bedroom – not to exceed the impervious surface regulations. See 19.18.070.
R-3	65% of allowable occupancy	1 stall per bedroom – not to exceed the impervious surface regulations. See 19.21.070.
R-3A	65% of allowable occupancy	1 stall per bedroom – not to exceed the impervious surface regulations. See 19.21.070.
B-1A	65% of allowable occupancy	1 stall per bedroom – not to exceed the impervious surface regulations. See 19.27.070.
B-2A	65% of allowable occupancy	1 stall per bedroom – <i>not to exceed the impervious surface regulations.</i>
Hotels, motels	1 stall for each guest room plus 1 stall for each 2 employees working per shift	
Sororities, fraternities, dormitories, boardinghouses and similar group-dwelling quarters	1 stall for each 2 persons plus 1 stall for each 3 employees working per shift	

Comment [TF4]: Keep this language? There is not any maximum lot coverage requirements for B-2.

Nursing homes	1 stall for each 5 beds plus 1 stall for each 2 employees working per shift	
Medical and dental clinics and offices	3 stalls for each doctor plus 1 stall for each 2 employees	
Churches, theaters, community centers, and other places of public assembly	1 stall for each 5 seats	
Schools (elementary and secondary)	2 for each classroom	
Restaurants, bars, places of entertainment	1 stall for each 200 square feet of primary floor area	
Retail and service, commercial	1 stall for each 250 square feet of primary floor area	
Manufacturing and processing plants, laboratories and warehouses	1 stall for each 2 employees per working shift	
Financial institutions; business, governmental and professional offices	1 stall for each 300 square feet of primary floor area	

5849 The number of required parking spaces shall never exceed the number of occupants allowed
5850 under Section 19.09.520. A party may apply to the plan and architectural review commission for a
5851 permit allowing less than the number of stalls required herein, but not less than one stall per residential
5852 unit or one stall per five hundred square feet of primary floor area for retail and commercial service
5853 uses. The commission may grant such a permit if it is not against the best interest of the public. Even if a
5854 permit is granted, the applicant shall be required to have sufficient land and a plan to install the
5855 maximum required stalls under this section should it become necessary, except within the PD-TND
5856 zoning district. The permit may be revoked at any time by the commission upon notice and hearing if
5857 good cause is shown for the revocation of the permit. Within a PD District only, adjacent on-street
5858 parking may apply toward the minimum parking requirements, if approved by the plan commission.
5859 (Ord. 1611A § 2, 2006; Ord. 1511 § 3, 2002; Ord. 1187 § 1, 1990; Ord. 1082 § 9, 1986; Ord. 944 § 4.3(J),
5860 1982).

5861

5862 **19.51.140 Number of parking stalls--Combination uses.**

5863 Combinations of any of the uses listed in Section 19.51.130 shall provide the total of the number
5864 of stalls required for each individual use.
5865 (Ord. 994 § 4.3(K), 1982).

5866

5867 **19.51.150 Number of parking stalls--Uses not listed.**

5868 In the case of structures or uses not mentioned in Section 19.51.130, the provision for a use
5869 which is similar shall apply.
5870 (Ord. 994 § 4.3(L), 1982).

5871

5872 **19.51.160 Parking exemption in B-2 central business district and the B-1A University mixed-use
5873 overlay district.**

5874 In order to encourage and stimulate the revitalization in the downtown area of Whitewater,
5875 uses within the B-2 central business district are exempted from the minimum number of parking stalls
5876 required in this chapter, except if specifically required for a particular conditional use in that district
5877 under Section 19.30.030. Where parking is voluntarily provided or required for a particular use listed in
5878 Section 19.30.030, it shall meet the development standards of this section.
5879 (Ord. 1611A § 3, 2006; Ord. 994 § 4.3(M), 1982).

5880

5881 **19.51.170 Computation of required parking area.**

5882 In determining required parking area ratios, the floor measurement shall be taken to include
5883 only service, sales and office space, and shall not include warehouse, utility and other accessory space
5884 which do not generate parking demand.
5885 (Ord. 994 § 4.3 (N), 1982).

5886

5887 **19.51.180 Truck, trailer, mobile home and equipment parking restrictions.**

5888 No truck, commercial trailer, house or camper trailer, motor home, boat trailer, trailers for all
5889 terrain vehicles (ATVs) or snowmobiles, or other vehicular equipment or implements of a commercial,
5890 agricultural or industrial nature, shall be parked regularly in any zoning district other than B-1, B-3, M-1
5891 and AT districts, except as hereinafter specifically provided for as follows:

5892 A. One panel or pickup truck, exceeding three-quarter ton but not exceeding one and one-half tons,
5893 shall be permitted;

5894 B. The unenclosed parking of either one unoccupied house trailer, motor home, or one unoccupied
5895 camp trailer in the side and rear yard, provided that the motor home, house trailer or camp trailer is
5896 parked at least five feet from the lot lines; motor homes shall also abide by all restrictions relating to
5897 motor vehicle parking;

5898 C. Camper trailers and boats shall be permitted to park in front yards for the purposes of loading,
5899 unloading and servicing for a period of three days;

5900 D. Boat trailers, trailers for all terrain vehicles (ATVs) or snowmobiles, and all other private residential
5901 type trailers shall be permitted to park in the side and rear yard only.

5902 E. The Neighborhood Services Manager may issue a permit to a person with a disability allowing a boat
5903 (25 feet or less in length) and a boat trailer to be parked in the front yard driveway of their residence
5904 from April through November. A person shall be considered a person with a disability if they have been
5905 issued a current disabled parking identification permit by the Wisconsin Department of Transportation.
5906 In addition, an individual shall be considered a person with a disability if they provide the Neighborhood
5907 Services Manager with a statement by a health care specialist verifying that the party needs a front yard

5908 boat parking permit, for a stated period of time, to allow that person reasonable access to their boat
5909 and trailer.

5910
5911 (Ord. 1381 § 1, 1997; Ord. 994 § 4.3(O), 1982).

5912
5913 **19.51.190 Highway access limitations.**

5914 A. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways,
5915 nor to any controlled-access arterial street without permission of the highway agency that has access-
5916 control jurisdiction.

5917 B. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the
5918 following:

5919 1. Freeways, interstate highways and their interchanges or turning lanes, nor to intersecting or
5920 interchanging streets within one thousand five hundred feet of the most remote end of the taper of the
5921 turning lanes;

5922 2. Arterial streets intersecting another arterial street within one hundred feet of the intersection of the
5923 right-of-way lines;

5924 3. Within fifty feet of street right of way lines intersecting other street right of way lines. Access
5925 barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to
5926 prevent unauthorized vehicular ingress or egress to the above specified streets or highways (see Section
5927 19.51.010, traffic visibility);

5928 4. Temporary access to the above rights-of-way may be granted by the city plan commission after
5929 review.

5930 (Ord. 1446 § 2, 2000; Ord. 994 § 4.4, 1982).

5931
5932 **Chapter 19.54 SIGNAGE REGULATIONS**

5933 Sections:

5934 [19.54.010 Sign permits.](#)

5935 [19.54.020 Definitions and regulations specific to certain signs.](#)

5936 [19.54.030 General signage regulations.](#)

5937 [19.54.040 Sign regulations applicable to residential districts.](#)

5938 [19.54.050 Sign regulations applicable to nonresidential districts.](#)

5939 [19.54.052 Maximum sign sizes and types.](#)

5940 [19.54.060 Temporary signs.](#)

5941 [19.54.070 Construction and maintenance of signage.](#)

5942 [19.54.080 Nonconforming signs.](#)

5943

5944

5945 **19.54.010 Sign permits.**

5946 A. The following sign uses and purposes are permitted in all zoning districts without the need for a sign
5947 permit. Such signs shall not count as part of the maximum permitted sign area as regulated by Section
5948 19.54.052:

5949 1. Address numerals and identification signs not exceeding one square foot in area;

5950 2. Legal notices;

5951 3. Signs established by, or by order of, any governmental agency;

5952 4. Memorial signs and tablets displayed in cemeteries.

5953 B. Community information signs shall be permitted only as a conditional use within all zoning districts
5954 and upon any property within the jurisdiction of the city. As such, the review of a request for the
5955 erection of a community information sign shall comply with the requirements of Section 19.54.020C.4.

5956 The proposed size, configuration, and design of the sign shall be described as part of the conditional use

5957 requirements. As a conditional use, the city may revoke the designation of an approved community
5958 information sign if such sign fails to comply with the requirements of this chapter. Such action shall
5959 proceed per the requirements of Chapter 19.75. Upon revocation, the owner of the sign shall have thirty
5960 days to remove the sign at the owner's expense.

5961 C. No person shall erect, alter, or relocate within the city any sign without first obtaining a sign permit,
5962 except for the exceptions in subsections A. and B. of this section, and as may be provided for elsewhere
5963 in this chapter.

5964 (Ord. 1263 § 1(part), 1993).

5965 (Ord. No. 1746A, § 3, 9-15-2009)

5966

5967 **19.54.020 Definitions and regulations specific to certain signs.**

5968 A. The following definitions shall be used by this chapter to assist in the establishment of clear cut
5969 signage regulations. In general, "sign purposes" refers to where or how a sign is used; "sign
5970 configurations" refers to the style of the sign; and "sign measurement" explains how the dimensions of a
5971 sign are determined.

5972 B. "Sign" means any object, device, display, structure, or part thereof, situated outdoors, which is used
5973 to advertise, identify, display, direct or attract attention to an object, person, institution, organization,
5974 business, product, service, event, or location by any means, including figures, letters, figures, designs,
5975 symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of
5976 any nation, organization of nations, state, city, religious, fraternal or civic organization; also merchandise
5977 and pictures or models of products or services incorporated in a window display, works of art which in
5978 no way identify a product, or scoreboards located on athletic fields. Definitions of particular functional,
5979 locational and structural types of signs are listed in this section. (Traffic control and other public agency
5980 signs located within a right-of-way are not included within this definition and are not regulated by the
5981 provisions of this chapter.)

5982 C. Sign Purposes.

5983 1. "Advertising sign" means a sign which directs attention to a business, commodity, service, or
5984 entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is
5985 displayed. Advertising signs include billboards. (Refer to Section 19.54.030.)

5986 2. "Auxiliary sign" means a sign which provides special information such as price, hours of operation, or
5987 warning and which does not include brand names, or information regarding product lines or services. It
5988 may contain a business logo if the logo is under one square foot in area. Examples of such signs include
5989 directories of tenants in buildings, "no trespassing" signs, menu boards, and signs which list prices of
5990 gasoline. (Refer to Section 19.54.050(E).)

5991 3. "Business sign" means a sign which directs attention to a business, commodity, service, or
5992 entertainment conducted, sold, offered, or manufactured upon the premises where the sign is located.
5993 (Refer to Sections 19.54.050 and 19.54.052.)

5994 4. "Community information sign" means an officially-designated sign which is limited to either the
5995 display of information of interest to the general community regarding scheduled public events and
5996 information of general interest to the residents of Whitewater, or signage located on scoreboards,
5997 fences or similar structures within the confines of publicly-owned (city, school district, university)
5998 athletic fields, courts, rinks or other active recreation facilities as approved by the parks and recreation
5999 board. (Refer to Section 19.54.010B.)

6000 a. Such sign shall only display information regarding events and information of general interest to the
6001 residents of Whitewater. Copy which may be considered as advertising a product, private or restricted
6002 participation event, or activity for private profit shall be prohibited. This provision may be waived by
6003 conditional use for community information signs on lands owned by the public for recreational

6004 purposes, provided that the installation of the sign provides a benefit to a public or community
6005 organization.

6006 b. Such sign may be located on private or public property.

6007 c. Such sign shall conform to the visibility requirements of Chapter 19.51 and Illustration 2.

6008 d. Maximum sign area shall be thirty-two square feet, unless a larger sign is approved by the plan
6009 commission based on conditions unique to the placement of the sign or the required length of the
6010 message. Such sign shall not be counted as adding to the area of signage on the subject property for the
6011 purposes of regulating sign area per Section 19.54.050(F).

6012 5. Directional Sign, Off-Premises. "Off-premises directional sign" means a sign which indicates only the
6013 name, direction, and/or distance of a business or activity. It may contain a business logo if the logo is
6014 under one square foot in area and approval only by conditional use. (Refer to Section 19.54.030.)

6015 6. Directional Sign, On-Premises. "On-premises directional sign" means an information sign which has a
6016 purpose secondary to the use of the lot upon which it is located, including signs that indicate parking
6017 availability, entrances, particular buildings within a multi-building development, hours of operation,
6018 available merchandise in a drive-through lane, and wall-mounted posters indicating particular movies in
6019 a theater. No sign with a commercial message legible from a public right-of-way or another property
6020 shall be considered an on-premises directional sign. No on-premises directional sign shall be greater
6021 than nine square feet in area.

6022 7. "Sandwich board/pedestal sign" means a movable sign placed by hand outside the building while the
6023 business is open; removed at the time the business closes each day; self-supporting and stable even on
6024 windy days because of its design; used for the purpose of promoting special business offers and not as
6025 primary business signage; and meeting all applicable size, placement, and other requirements of this
6026 chapter (see Section 19.54.050K. in particular).

6027 8. "Group sign" means a sign displaying the collective name of a group of uses such as the title of a
6028 shopping center, office park, industrial park and/or their tenants or occupants. No sales or price
6029 information shall be permitted. Portions of the sign containing names of individual tenants shall be
6030 considered as part of the area of a group sign. Group signs shall only be permitted within developments
6031 serving two or more nonresidential tenants in spaces with separate outside customer doors, and shall
6032 limit information to the name of the development and/or its occupants. Group signs serving two or
6033 more occupants not located on the same lot, but within the same multi-building development, shall be
6034 located on one of the lots being served by the sign. Such signs shall not be considered an advertising
6035 sign as defined in this section. (Refer to Section 19.54.052 for size and locational information.)

6036 9. "Identification sign" means a sign indicating the name and/or address of the tenant of the residential
6037 unit or manager of the property located upon the residential premises where the sign is displayed. Such
6038 sign shall not exceed the allowed area:

6039 a. For one to four units, three square feet;

6040 b. For up to eleven units, six square feet;

6041 c. Twelve units or more, thirty-two square feet. (Refer to Section 19.54.052.)

6042 10. "Temporary sign" means a sign or advertising display intended to be displayed for a period not
6043 exceeding a total of thirty cumulative days within any twelve-month period (except as permitted by
6044 Section 19.54.060). Included in the definition of temporary signs are retailers' signs temporarily
6045 displayed for the purpose of informing the public of a sale or special offer (six square feet maximum) or
6046 for the designation of a new building, promotion of a new development or announcement of a special
6047 event (thirty-two square feet maximum). If a sign display area is permanent but the message displayed
6048 is subject to periodic changes, that sign shall not be considered as temporary. A business shall be limited
6049 to no more than a total of thirty cumulative days for displaying all temporary signs during any twelve-
6050 month period.

6051 11. "Residential business sign" means a sign that is located in a residential district for a joint
6052 commercial/residential use which requires approval by the zoning administrator and to meet the
6053 requirements of Chapter 19.66. All signs must be monument style signs or arm/post type. (Refer to
6054 Illustrations 2 and 3, and Section 19.54.052.)

6055 12. "Commercial message" means any sign wording, logo or other representation that names,
6056 advertises or calls attention to a business, product, or service.

6057 D. Sign Configurations.

6058 1. "Freestanding sign" means a self-supporting sign resting on or supported by means of poles,
6059 standards, or any other type of base on the ground. This type of sign includes monument signs, pylon
6060 signs, arm/post(s) signs, and signs mounted on canopies over gasoline dispensing pumps. The base or
6061 support(s) of any and all freestanding signs shall be securely anchored to a concrete base or footing. The
6062 footing and related supporting structure of a freestanding sign, including bolts, flanges, brackets, etc.,
6063 shall be concealed by the sign exterior, masonry covering, earth and permanent groundcover, or
6064 evergreen shrubs. (Refer to subsection E. of this section and Sections 19.54.050 and 19.54.052.)

6065 2. "Mobile/portable sign or banner" means a sign or banner mounted on a frame or chassis designed to
6066 be easily relocated, including vehicles and/or trailers which have a principal commercial use for signage,
6067 but not including any sandwich board/pedestal sign as defined in Section 19.54.020C.7. Mobile/portable
6068 signs or banners are prohibited unless approved by the zoning administrator for the purpose of
6069 recognizing a business opening, annual business anniversary, or community celebration. Where
6070 approved, such a sign shall not be in place for a period to exceed thirty days within any twelve-month
6071 period, shall not be erected more than thirty days before the event, shall be removed not more than five
6072 days after the completion of the event, and shall not exceed thirty-two square feet in area. A mobile or
6073 portable sign shall not be considered a temporary sign as defined in Section 19.54.020C.9. or used for
6074 such a purpose, except as may be allowed by the zoning administrator.

6075 3. "Monument sign" means a freestanding sign whose bottom edge is located within one foot of
6076 ground level or a ground-mounted pedestal. The base or support(s) of any and all monument signs shall
6077 be securely anchored to a concrete base or footing. The height of a monument sign shall not exceed that
6078 specified in Section 19.52.052, nor shall it be otherwise erected so that it impedes visibility for safe
6079 pedestrian and/or vehicular circulation. The footing and related supporting structure, including bolts,
6080 flanges, brackets, etc., shall be concealed by the sign exterior, masonry covering, earth and permanent
6081 groundcover, or evergreen shrubs. (Refer to Sections 19.54.040 and 19.54.052, and Illustrations 2 and
6082 3.)

6083 4. "Projecting sign" means a sign, other than a wall sign, which is directly attached to and projects more
6084 than one foot from a building face, and is generally mounted perpendicular from the building face. The
6085 bottom edge of such sign shall be located a minimum of eight and one-half feet from the ground level
6086 directly under the sign. In no instance shall such sign be located closer than three feet to the edge of a
6087 street curb, drive, or parking area. For maximum area and placement standards, see Section 19.54.052.

6088 5. "Electronic message center sign" means a sign in a nonresidential zoning district which displays
6089 words, lines, graphic images, video recordings, or symbols that can electronically change to provide
6090 different information and/or animation, including a computer sign, electronic reader board sign, video
6091 display sign, or time and/or temperature sign, but not including a flashing sign, which is prohibited
6092 under Section 19.54.030A.3. For electronic message center sign standards, see Section 19.54.050L.

6093 6. "Pylon sign" means a freestanding sign, other than arm post type, erected upon one or more pylon
6094 or post. The base or support(s) of any and all pylon signs shall be securely anchored to a concrete base
6095 or footing. The height of a pylon sign shall be measured from the centerline elevation of the nearest
6096 road to the top of the sign. The height of a pylon sign shall not exceed twenty feet. Pylon signs shall be
6097 erected so that the vertical distance between the bottom edge of the sign and the elevation of the
6098 centerline of the nearest road to said sign exceeds eight feet. The footing and related supporting

6099 structure of a freestanding sign including bolts, flanges, brackets, etc., shall be concealed by the sign
6100 exterior, masonry covering, earth and permanent groundcover, or through the use of evergreen shrubs.
6101 (Refer to Section 19.54.052 and Illustrations 2 and 3.)

6102 7. "Wall sign" means a sign mounted parallel to a building facade or other vertical building surface.
6103 Wall signs shall not extend beyond the edge of any wall or other surface to which they are mounted, nor
6104 shall they project more than twelve inches from its surface. The height of a wall sign shall be measured
6105 from the base of the building below the sign to the top of the sign face. The top of the sign shall be no
6106 higher than the nearest portion of the building to which it is mounted.

6107 8. "Awning/canopy sign" means a sign mounted to an awning or canopy, with said awning or canopy
6108 mounted to the side of the building. An awning/canopy sign shall be counted as a wall sign for purposes
6109 of this chapter. Script/logo height shall be limited to eight inches, except that a greater script/logo
6110 height may be approved by conditional use.

6111 9. "Arm/post(s) sign" means a freestanding sign mounted on a post with a bracket extending outward
6112 to support a sign by either hanging from the bracket or mounted on the bracket. The maximum size,
6113 height, and location of arm/post(s) signs shall be the same as for monument signs. (See Illustration 3
6114 and Section 19.54.052.)

6115 10. "Window sign" means a sign mounted on or within one foot inside of a first-floor exterior window,
6116 with a primary intent to advertise a business or product within the premises.

6117 E. Sign Measurement.

6118 1. "Ground level" means the average elevation of the ground upon which the sign supports are placed,
6119 except when the sign supports rest upon a berm or other area elevated above the surrounding ground.
6120 In such cases, the average elevation of the base of such berm or other area shall be considered as the
6121 ground level.

6122 2. Sign area shall be measured in the following manner:

6123 a. In the case of a sign placed within a frame, or other structure, sign area consists of the entire surface
6124 area of the sign on which copy could be placed. The supporting structure or bracing of a sign shall not be
6125 counted as a part of the sign face area unless such structure or bracing is made a part of the sign's
6126 message. Where a sign has two or more display faces, the combined total area of all faces shall be
6127 considered the sign face area.

6128 b. In the case of a sign whose message is fabricated together with the background which borders or
6129 frames that message, sign face area shall be the total area of the entire background.

6130 c. In the case of a sign whose message is applied to a background which provides no border or frame,
6131 sign face area shall be the area of the smallest rectangle which can encompass all words, letters, figures,
6132 emblems, and other elements of the sign message.

6133 d. Signs less than one square foot in area are not regulated by this chapter.

6134 e. The following illustrations demonstrate how sign face area shall be determined.

6135 [Illustration 1](#)

6136 **GRAPHIC LINK:** [Click here](#)

6137 (Ord. 1577A §§ 1--5, 2005; Ord. 1452 §§ 9, 10, 2000; Ord. 1263 § 1(part), 1993).

6138 (Ord. No. 1746A, §§ 4--9, 9-15-2009)

6139

6140 **19.54.030 General signage regulations.**

6141 The regulations contained in this section apply to signs in all districts.

6142 A. Sign Prohibitions and Limitations.

6143 1. No sign shall use any word, phrase, symbol, shape, form or character in such manner as to interfere
6144 with moving traffic, including signs which incorporate typical street-type and/or traffic control-type
6145 signage designs and colors.

6146 2. No fluttering, undulating, swinging, rotating or otherwise moving signs, pennants or other
6147 decoration shall be permitted except for electronic message center signs and time and/or temperature
6148 signs in nonresidential zoning districts.

6149 3. No illuminated flashing signs shall be permitted. Electronic message center signs meeting the
6150 definition and requirements of this chapter shall not be considered illuminated flashing signs.

6151 4. No illuminated sign shall be permitted unless the illumination is so designed that the lighting level
6152 does not affect adjacent property, pursuant to the standards in Section 19.57.150. All illuminated signs
6153 shall comply with the state electrical code and Section 19.54.070B., and illumination shall be limited to
6154 one hour before the daily opening of the associated business and one hour after the daily closing of the
6155 associated business.

6156 5. No mobile/portable signs or banners shall be permitted unless approved by the zoning
6157 administrator. Sign use and other regulations shall be as specified in Section 19.54.020D.2.

6158 6. No off-premises directional signs shall be permitted for nongovernmental or noninstitutional uses or
6159 for any use outside of a public right-of-way; however, such signs, as well as city entrance signs, may be
6160 permitted within a public right-of-way, per subsection B.5. of this section, for government facilities,
6161 nonprofit, nonreligious community gathering spots, major economic centers such as the downtown and
6162 business park, and schools.

6163 7. No advertising signs shall be permitted, except for certain community information signs as described
6164 in Sections 19.54.010B. and 19.54.020C.4.

6165 Rationale. The adoption of subsection A.7. of this section reflects a formal finding of fact on the
6166 part of the city plan commission and city council that the prohibition of advertising signage furthers two
6167 compelling government interests: 1) the general public interest of reducing visual clutter caused by
6168 advertising signage which the city has determined is a significant cause of unsafe traffic conditions; and
6169 2) the public interest served by furthering the implementation of the purposes of this chapter and the
6170 city comprehensive plan in terms of limiting the further spread of strip commercial development, of
6171 which advertising signs are a primary contributor. Furthermore, the city advocates that this regulation
6172 leaves ample and adequate alternative channels of commercial speech communication for the messages
6173 portrayable on such advertising signs; namely, distributed print media, broadcast media, and point-of-
6174 purchase display, and is narrowly defined so as to limit the prohibition to commercial speech on exterior
6175 signage.

6176 B. Sign Location Requirements.

6177 1. No sign shall be erected or maintained at any location where by reason of its position, wording,
6178 illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be
6179 confused with, any authorized traffic control sign, signal or device.

6180 2. No sign shall be located within a required bufferyard or within a permanently protected green space
6181 area (see Chapter 19.57), unless approved by the city.

6182 3. No sign shall be mounted on a roof.

6183 4. No sign, temporary or otherwise, shall be affixed to a tree or utility pole.

6184 5. Private signs shall be allowed within road right-of-way lines only per the regulations of the city public
6185 works department, and per Section 19.54.030C. below.

6186 6. Pylon signs other than arm/post are not permitted in any residential district.

6187 C. Private signs extending into the public right-of-way.

6188 1. Any person desiring to place any sign such that it will extend over or onto the public right-of-way
6189 shall first obtain a sign permit. In the granting of such a permit, the city may require the applicant to
6190 provide and maintain public liability insurance on the installation in an amount not less than fifty
6191 thousand dollars protecting the city as its interests may appear as the result of any accident or injury for
6192 which it might become in any manner liable. In the event that such insurance should be terminated for
6193 any reason, or that the holder of any permit should fail to keep such insurance in force at any time, then

6194 the permit for the maintenance of such sign shall be forthwith removed, or if not removed by the holder
6195 of the permit, then such sign shall be removed or caused to be removed by the zoning administrator and
6196 the expense thereof shall be recovered from the holder of the permit.

6197 2. There is hereby established along each side of every public street, public alley, or public highway a
6198 fictional line five feet distant and outward from the lot line and parallel with such street, alley, or public
6199 highway. No sign which, exclusive of supports, exceeds two hundred fifty pounds in weight or has an
6200 area greater than forty square feet shall be permitted to extend into the highway or over the highway or
6201 sidewalk area beyond such fictional line, except only where such sign is to be placed over a substantial
6202 canopy or portico of such nature that the same will afford ample protection to the public from any
6203 possible injury from such sign.

6204 3. In no event shall any sign regardless of size or weight extend into the public street, highway, or
6205 sidewalk area further than to within three feet from the face of the curb or curb line as determined by
6206 the zoning administrator or be placed less than eight and one-half feet above the sidewalk or sidewalk
6207 grade.

6208 4. Except for sandwich board/pedestal signs, all private signs extending on or over public rights-of-way
6209 shall be adequately supported from buildings, posts, or other permanent supports located on private
6210 property. In no case shall sign posts or other permanent supports be permitted within the limits of a
6211 public street, alley or highway.

6212 5. The zoning administrator shall have the right, and it shall be his duty, to supervise the installation of
6213 any such sign and also to inspect the same from time to time to ascertain whether or not the same is
6214 securely fastened and free from danger to the public. The building inspector shall have the right to
6215 require from time to time any repairs, extra supports or any other precautions necessary to protect the
6216 public safety, and in the event the owner fails to comply with any such requirements the permit for such
6217 sign shall be revoked and the sign shall be removed.

6218 6. This subsection C. shall not apply to signs erected by or for churches, service clubs, public or quasi-
6219 public organizations when such installations have been approved by the common council.

6220 (Ord. 1577A § 6, 2005; Ord. 1452 § 11, 2000; Ord. 1263 § 1(part), 1993).

6221 (Ord. No. 1746A, §§ 10--12, 9-15-2009)

6222

6223 **19.54.040 Sign regulations applicable to residential districts.**

6224 In all residential zoning districts, signage shall be permitted per the requirements of Sections
6225 19.54.010 through 19.54.040 and 19.54.052 through 19.54.080 and per the following:

6226 A. Wall, monument, arm/post(s), and projecting signs (for certified historic properties) are permitted in
6227 residential zoning districts. Other forms of signage are prohibited.

6228 B. For each single-family lot, or two-family or multifamily lot containing four or fewer dwelling units,
6229 one identification sign, not to exceed three square feet in area, is permitted for each dwelling unit. Said
6230 identification sign may include one or more of the following: name, address, and/or home occupation
6231 title.

6232 C. For each multifamily or institutional residential lot containing five to eleven dwelling units, one
6233 identification sign, not to exceed six feet in area, shall be permitted. For each multifamily or institutional
6234 residential lot containing twelve units or more, one identification sign not to exceed thirty-two square
6235 feet is permitted. The sign shall indicate nothing more than the name and address of the premises and
6236 the name of the management company.

6237 D. Permanent subdivision identification signs are authorized if approved as part of a final plat submittal
6238 for a subdivision (per Title 18). Detailed plans of proposed signs must be submitted at the time of final
6239 plat review. Such sign shall comply with the visibility standards in Section 19.51.010 and as shown in
6240 Illustration 2, shall not exceed thirty-two square feet in area or eight feet in height, and shall not be a
6241 pylon sign.

- 6242 E. For all commercial uses permitted in residential districts, not including home occupations, one
6243 monument, wall, or arm/post(s) type sign per building, not to exceed thirty-two square feet in area, is
6244 permitted. The sign shall indicate nothing more than the name and address of the premises and the
6245 schedule of service or other information relevant to the operation of the premises.
- 6246 F. For all institutional uses permitted in residential districts, sign sizes and types shall be the same as
6247 those applicable in the I Institutional zoning district per Section 19.54.052, except that pylon signs shall
6248 not be permitted.
- 6249 G. Temporary signs, after approval of the zoning administrator, are permitted per the requirements of
6250 Section 19.54.060.
- 6251 H. For more information, see Sections 19.54.020D. and 19.54.052.
6252 (Ord. 1577A § 7, 2005; Ord. 1452 § 12, 2000; Ord. 1263 § 1(part), 1993).
6253

6254 **19.54.050 Sign regulations applicable to nonresidential districts.**

6255 In all nonresidential zoning districts, signage shall be permitted per the requirements of Sections
6256 19.54.010 through 19.54.030 and 19.54.050 through 19.54.080 and per the following:

- 6257 A. The owners of multitenant properties shall allocate sign size to each business, in writing to the
6258 zoning administrator, up to a specified maximum for the entire property. All multitenant signs must be
6259 compatible in dimensions, in location, in design, in color and the same material, and shall be compatible
6260 with the appearance of the building and the surrounding area in the opinion of the property owner and
6261 the city.
- 6262 B. The total surface area of all business and identification signs on a lot shall not exceed the maximum
6263 permitted by Section 19.54.052.
- 6264 C. The number of business and group signs for a business use shall not exceed the numbers listed in
6265 Section 19.54.052. Signs allowed under Section 19.54.052 may be placed on any facade facing a public
6266 street, except where otherwise specified in Section 19.54.052.
- 6267 D. Only one freestanding sign shall be permitted to be erected within the required street yard for each
6268 lot. Such sign may be either a business sign or a group sign. No lot shall be permitted more than one
6269 freestanding sign, except directional/auxiliary signs allowed by this chapter. All signs shall be located so
6270 that no part of the sign shall exceed the lot line set back from all lot lines as stated in Chapter 19.51 and
6271 Section 19.54.052, Illustration 2, or impede visibility (refer to Chapter 19.51).
- 6272 E. Auxiliary signs may only be permitted when specifically approved as part of the site plan review
6273 process. Said signage shall be calculated independently of the requirements of subsection A of this
6274 section, and shall not exceed fifty percent of the maximum permitted area.
- 6275 F. Maximum sign sizes for nonresidential districts shall be permitted per the requirements of the table
6276 of maximum sign sizes (see Section 19.54.052).
- 6277 G. Temporary signs are permitted per the requirements of Section 19.54.060.
- 6278 H. Signs carrying secondary advertising messages. Signs carrying secondary advertising media or
6279 messages, such as brand names or logos of products, are allowed as a conditional use, or as a permitted
6280 type of window sign subject to the percentage of window coverage and other applicable regulations of
6281 this chapter, but only where such signs are integral to the business being conducted on the property.
- 6282 I. Projecting signs are only permitted in the B-2 zoning district or if specifically authorized within a
6283 Specific Implementation Plan for a PD Planned Development district. (See Section 19.52.052.)
- 6284 J. Signs may be mounted on canopies over gasoline dispensing pumps, provided that the sign message
6285 is limited only to the business name, logo, and price information. The maximum permitted sign area for
6286 any other freestanding sign on the lot shall be reduced by the total sign area on the canopy.
- 6287 K. Sandwich board/pedestal signs (see definition in Section 19.54.020C.7).
6288 1. There shall be a maximum of one sandwich board/pedestal sign per business.

6289 2. Height shall not exceed five feet (as measured when such sign is properly placed directly on the
6290 ground or sidewalk surface), width shall not exceed three feet, and sign area shall not exceed six square
6291 feet per side.

6292 4. All sandwich board/pedestal signs shall be designed to be self-supporting and in such a manner to
6293 withstand the elements, including the ability to remain upright on windy days.

6294 5. No sandwich board/pedestal sign shall be illuminated in any manner (except via cordless power for
6295 not more than thirty days in any calendar year), have more than two sides, be placed off-premises
6296 (except where allowed on a sidewalk immediately adjacent to the business lot to which it relates), or be
6297 designed to resemble a public regulatory sign (such as a stop sign).

6298 7. All sandwich board/pedestal signs shall be placed directly on a ground surface or walkway surface.

6299 8. No sandwich board/pedestal sign shall be placed on a public sidewalk or shall otherwise extend onto
6300 or into a public right-of-way, except that within the B-2 district or as may be specifically authorized in a
6301 specific implementation plan under PD zoning, a sandwich board/ pedestal sign may be placed within
6302 the public sidewalk or otherwise between the front of the building and the curb, provided that:

6303 a. There is not adequate space available on the premises to place the sign on private property in a
6304 manner that is visible to the public.

6305 b. The sign is placed directly in front of the business to which it is related.

6306 c. No part of the sign is any closer than three feet from the face of the curb.

6307 d. A minimum of four feet in width of unobstructed travelway remains available in all directions on the
6308 sidewalk at all times.

6309 9. Placement of all sandwich board/pedestal signs shall meet all intersection visibility requirements in
6310 Section 19.51.010, and shall otherwise not impede traffic visibility in the determination of the zoning
6311 administrator. This may require relocation and/or adjustments to height or design.

6312 10. All sandwich board/pedestal signs must be kept in good condition, as determined by the zoning
6313 administrator and per the maintenance requirements of Section 19.54.070.

6314 11. Sandwich board/pedestal signs shall not count against the maximum area or number of signs
6315 allowed on a lot or for a business as specified in Section 19.54.070.

6316 12. Except where placed within the public right-of-way, sandwich board/pedestal signs that meet the
6317 requirements of this chapter may be used without the need for a sign permit.

6318 L. Electronic message center signs (see definition in Section 19.54.020D.5.).

6319 1. The total length of the information cycle shall not be shorter than three seconds nor longer than ten
6320 seconds. Items of information may not be repeated at intervals that are short enough to cause an
6321 electronic message center sign to have the effect of a flashing sign. Traveling messages may travel no
6322 slower than 16 light columns per second and no faster than thirty-two light columns per second.

6323 2. Except for signs that are less than ten square feet in sign area, all electronic message center signs
6324 shall be equipped with photosensitive equipment that automatically adjusts the brightness and contrast
6325 of the sign in direct relation to the ambient outdoor illumination.

6326 3. The message display area shall be included when calculating permitted sign area for the type of sign
6327 (e.g., wall, monument) in the zoning district in which the sign is located.

6328 4. All electronic message center signs shall be maintained so as to be able to display messages in a
6329 complete and legible manner.

6330 5. No electronic message center sign shall be allowed within any agricultural, conservancy, residential,
6331 or industrial zoning district; for any residential use regardless of zoning district; or positioned to be
6332 visible and within three hundred feet from any residential zoning district except by conditional use
6333 permit. Within the B-2 zoning district, electronic message center signs shall be allowed only by
6334 conditional use permit.

6335 (Ord. 1619A § 4, 2006; Ord. 1577A § 8, 2005; Ord. 1452 §§ 13, 14, 2000; Ord. 1269 § 1, 1993; Ord. 1263
6336 § 1(part), 1993).

6337 (Ord. No. 1618B, § 4, 12-19-2006); Ord. No. 1746A, §§ 13--16, 9-15-2009)

6338

6339 **19.54.052 Maximum sign sizes and types.**

6340 Signage regulations for most zoning districts. Table 19.54.052(1) summarizes the sign regulations for the
 6341 following zoning districts: R-1, R-1x, R-2, R-3, R-4, B-1, B-3, M-1, M-2, WUTP, AT, and I. The more
 6342 detailed requirements contained elsewhere in Chapter 19.54 shall also apply.

6343

Table 19.54.052(1):

6344

General Sign Regulations (not B-2 district)

6345 TABLE INSET:

6346

Zoning District	Type of Sign	Size	Location	Height	Exception	Total # of Signs
R-1, R-1x, R-2	Identification	3 sq. ft.	Main entrance or street yard	6' max (for freestanding sign)	If planned residential development, different signage levels may be allowed by conditional use	1 per lot
	Conditional uses in Section 19.18.030	32 sq. ft.	Driveway or main sidewalk	8' max (for freestanding sign)	On-premises directional signs also allowed (9 sq. ft. max.)	1 per lot
R-3	Identification					
	1-4 units	3 sq. ft.		Main entrance or street yard 8' max	1 per unit for 1-4 unit buildings; 1 per lot for others	
	5-11 units	6 sq. ft.	8' max			
	12+ units	32 sq. ft.	8' max			
On-premises Directional	9 sq. ft.	Driveway or main sidewalk	6' max (for freestanding sign)			

	Conditional uses in Section 19.21.030	32 sq. ft.	Main entrance or street yard	8' max	If planned residential development, different signage levels may be allowed by conditional use	1 per lot, except by CUP or PD
R-4	Identification	See R-3	See R-3	8' max		1 per development
	On-premises Directional	9 sq. ft.	Main entrance ; each street	6' max (for freestanding sign)		
AT, B-1, B-3, B-2 B-2A	Wall or window	10% (A) (C) Max 50 sq. ft.	Above or next to main building entrance or on street wall	First floor area	Use may substitute one additional wall sign for freestanding sign	1 per building, but see exception
	Wall for multi-tenant	10% (A) max (B)	Above or next to main business entrance or on street wall	First floor area	Location may vary by conditional use. Building name sign also allowed if total wall sign area <=10%	Same as number of tenants
	Freestanding	100 sq. ft. per side; for a multi-occupant development, add 20 sq. ft. per additional	In street yard, setback equal to height from any side yard lot line	20' max for pylon sign	Pylon sign allowed by conditional use only	1 per lot

		occupant in a separated space, up to max of 160 sq. ft./side	and 5' from street right-of-way line			
				10' max for monument or arm/post(s) sign	Use may forego freestanding sign for one additional wall sign	See also Section 19.54.050
	On-premises Directional	9 sq. ft.		6' max (for freestanding)		
M-1, M-2, WUTP	Wall or window (C)	20% of wall area up to max of 100 sq. ft.	Front wall (street address side)	First floor area	Corner lots may have second sign by conditional use	1 per building
	Freestanding , monument or arm/post only	80 sq. ft. per side	10' from any lot line	10' max	Except as required in business park covenants	1 per lot
	On-premises Directional	9 sq. ft.		6' max (for freestanding)		

6347 NOTES:

6348 (A) Building wall area is determined by using the square footage of the exterior wall of the first floor
6349 area to be signed (including window and door openings).

6350 (B) Permitted wall signage shall be divided among each tenant space. Maximum total size equals ten
6351 percent of the first floor area of the building wall upon which the signs will be placed.

6352 (C) Window sign area cannot exceed one-third of each individual window glass area on or in which the
6353 window signs are located.

6354 (D) Signage for projects with a PD planned development district shall be as specified by the approved
6355 specific implementation plan for each particular project. Sign requirements for PD districts shall
6356 generally be based on the signage requirements in the most comparable standard zoning district.

6357 B. B-2 central business district sign regulations.

6358 1. Each business in the B-2 district shall be permitted a maximum of two permanent business signs,
6359 which may be any combination of the following sign configuration types: wall sign (includes

6360 awning/canopy sign), window sign, projecting sign, and freestanding sign, subject to the following
6361 qualifications:

6362 a. For freestanding signs, see also the limitations in Section 19.54.050D.

6363 b. Any number of window signs used shall count as only one sign in total against this maximum. If the
6364 only window signs used are those allowed under Section 19.54.050H., then such signs shall not count
6365 against this maximum.

6366 c. Any sign for a business included within a group sign, as defined in Section 19.54.020C., shall count as
6367 one sign against the total number of permanent business signs permitted, except that for cases where a
6368 business has or shares more than one public building entrance, an additional group sign shall be
6369 permitted which indicates that and other businesses.

6370 d. Sandwich board/pedestal signs, directional signs, auxiliary signs, and "ghost" signs not related to the
6371 current business operation shall not count against the total number of permanent business signs
6372 permitted.

6373 2. For corner lots, permitted signage may be placed on either or both facades facing a public street.

6374 3. Pylon signs, internally illuminated signs, electronic message center signs, and restoration of "ghost"
6375 signs shall be allowed in the B-2 district by conditional use, except for sign face/component changes on
6376 pre-existing signs of these types, which instead may be accomplished through the site plan review
6377 process under Chapter 19.63. Upon receipt of a completed conditional use permit application for any
6378 such new sign in the B-2 district, the zoning administrator shall forward such application to the
6379 Downtown Whitewater Design Team. If the design team chooses to provide a recommendation, such
6380 recommendation must be provided in a timeframe that allows plan and architectural review commission
6381 action on the conditional use permit request under the requirements of Chapter 19.66.

6382 4. Electronic message center signs shall meet the technical requirements of Section 19.54.050L., and
6383 shall not exceed twelve square feet in area in the B-2 district.

6384 5. Internally illuminated signs in the B-2 district shall be designed and constructed with an opaque
6385 background and translucent letters or symbols, or with a colored background and lighter letters or
6386 symbols.

6387 6. Exposed neon tube signage, and other signage that uses another technology that is designed to
6388 replicate neon tube signs, is permitted within the B-2 district.

6389 7. In addition to meeting the requirements of Section 19.57.150, all exterior lighting of signage in the B-
6390 2 zoning district, regardless of wattage, shall use shielded lighting fixtures as that term is defined in
6391 Section 19.09.623. All wall-mounted exterior lights shall be mounted above the sign they are intending
6392 to illuminate and the illumination shall be directed exclusively towards the sign.

6393 8. No wall sign shall be painted directly on a masonry building surface.

6394 9. Within the B-2 district, the regulations listed in Table 19.54.052(2) shall apply:

6395 Table 19.54.052(2): B-2 Sign Regulations for Permanent Signs

6396 TABLE INSET:

6397

Type of Sign	Maximum Size	Location	Maximum Height
Wall Sign	50 square feet, max. 10% (A)	Within first floor area of building	
Window Sign	1/3 of window area in or on which the sign is placed	Within first floor area of building	
		A minimum of 20 feet from any other projecting	Within first floor area of building

Projecting Sign	12 square feet per side	sign on another building	
		No less than 8 ½ feet above ground	
Freestanding Sign	48 square feet per side	Within the street yard, not less than 5 feet from street right-of-way line.	8 feet for monument or arm/post(s) sign
		Minimum setback from interior side yard lot line at least equal to sign height	16 feet for pylon sign (by conditional use only)
On-Premises Directional Sign	9 square feet per side	On private property	Max: 6 feet for freestanding
Type of Sign	Maximum Size	Location	Maximum Height

6398 NOTES:

6399 (A) The combined total area of all wall signs for all tenants shall not exceed ten percent of the first floor
6400 area of the façade upon which the signs are placed. First floor façade area is determined by calculating
6401 the square footage of the entire exterior wall of the first floor area of the façade to be signed (including
6402 window and door openings).

6403 (Ord. 1577A § 9, 2005; Ord. 1452 § 15, 2000; Ord. 1364 § 13, 1997; Ord. 1269 § 2, 1993; Ord. 1263 §
6404 1(part), 1993).

6405 (Ord. No. 1746A, § 17, 9-15-2009)

6406 [Illustration 2](#)

6407 **GRAPHIC LINK:** Click [Click here](#)

6408 [Illustration 3](#)

6409 **GRAPHIC LINK:** Click [Click here](#)

6410

6411 **19.54.060 Temporary signs.**

6412 Except as provided for in this section, only one temporary sign may be displayed on a property
6413 at any one time. Except as provided by subsections A through E of this section, any one lot is permitted
6414 to display a temporary sign for a maximum of thirty days within any twelve-month period. Furthermore,
6415 any one lot is limited to a maximum of two temporary signs in any twelve-month period (temporary
6416 signs in subsections A, B, D and E are exempt from this restriction). Time limits are subject to review by
6417 the city. The following temporary signs are allowed:

6418 A. For each lot or leasable space: one "For Sale" and "For Rent" sign, not more than twelve feet square
6419 in area, and no more than two signs in total at any one time (time limit subject to time of sale or lease
6420 and shall be removed within sixty days of sale or lease).

6421 B. For construction on or development of a lot, one sign not more than thirty-two square feet in area,
6422 indicating the name of the contractors, engineers, architect, or products being used in the construction
6423 of a building, but only during the time that construction or development is actively underway (time limit
6424 subject to time of construction and shall be removed sixty days after completion).

6425 C. For a temporary event of public interest such as a neighborhood garage sale or church fair,
6426 temporary signs, combined totaling not over thirty-two square feet in area, located upon the site of the
6427 event are allowed. Also permitted are directional signs, each not more than four square feet in area,

6428 showing only a directional arrow and the name of the event. Such signs shall not be erected more than
6429 thirty days before the event and shall be removed not more than five days after the completion of the
6430 event.

6431 D. For each real estate subdivision that has been approved in accordance with the city subdivision
6432 regulations, one temporary development project identification sign is permitted to be located on some
6433 portion of the subject subdivision. Each such sign shall be not more than thirty-two square feet in area.
6434 One additional similar sign shall be permitted for each access point onto a collector or arterial street, or
6435 for each one hundred lots in the subdivision in excess of the original one hundred lots. These signs shall
6436 comply with the visibility standards of Chapter 19.51. These signs shall be permitted to remain within
6437 the subject subdivision until a time at which building permits have been issued for eighty percent or
6438 more of the lots in the subdivision.

6439 E. Political signs.

6440 1. Provisions in the Whitewater Municipal Code regulating the number of signs and the length of time a
6441 sign may be in place shall not apply to signs which carry solely a political message. There shall be no
6442 restriction regulating the number of signs carrying solely a political message or the length of time such
6443 signs are allowed.

6444 2. Provisions in the Whitewater Municipal Code regulating the size and shape of signs shall not apply to
6445 signs thirty-two square feet and under in area, if the sign carries a solely political message and is located
6446 on a residential property during an election campaign period. The zoning administrator may require
6447 modification or removal of the sign, if necessary, for traffic or pedestrian safety. Also, size and shape
6448 regulations shall not apply during an election campaign period to political signs which are affixed to a
6449 permanent building and do not extend beyond the perimeter of the building, as long as said sign does
6450 not obstruct a window, door, fire escape, ventilation shaft, or other area which is required by an
6451 applicable building code to remain unobstructed.

6452 Definitions. In this subsection, the following definitions shall apply:

6453 a. "Election campaign period" means, in the case of an election for office, the period beginning on the
6454 first day for circulation of nomination papers by candidates, or the first day on which candidates would
6455 circulate nomination papers were papers to be required, and ending on the day of the election.

6456 b. "Political message" means a message intended for a political purpose or a message which pertains to
6457 an issue of public policy of possible concern to the electorate, but does not include a message intended
6458 solely for a commercial purpose.

6459 c. "Residential property" means property occupied or zoned to be occupied for residential purposes
6460 and other property abutting that property for which the owner or renter is responsible for the
6461 maintenance or care. If property is utilized for both residential and nonresidential purposes, "residential
6462 property" means only the portion of the property occupied or suitable to be occupied for residential
6463 purposes.

6464 (Ord. 1577A § 10, 2005; Ord. 1452 §§ 16, 17, 2000; Ord. 1263 § 1(part), 1993).

6465

6466 **19.54.070 Construction and maintenance of signage.**

6467 A. All signage within the jurisdiction of this chapter shall remain in a state of proper maintenance. (See
6468 subsection B of this section).

6469 B. Proper maintenance shall be the absence of sign material or loose materials (including peeling paint,
6470 sign message, paper or other material), the lack of excessive rust, the lack of excessive vibration or
6471 shaking, the proper illumination of all lighting originally approved and constructed for the sign, and the
6472 presence of the original structural integrity of the sign, its frame and other supports, its mounting, and
6473 all components thereof.

- 6474 C. The repainting, changing of parts, and preventive maintenance of signs which completely conform to
6475 the requirements of this chapter, and result in absolutely no change in the appearance of the sign from
6476 that originally approved, shall not be deemed alterations requiring a sign permit.
6477 D. Any signs which may be, or may hereafter become rotted, unsafe, or in a state which is not properly
6478 maintained shall be repaired or removed by the licensee or owner of the sign, or owner of the property
6479 upon which the sign stands upon notice of the zoning administrator.
6480 E. All permanent signs shall be constructed and mounted so as to withstand a wind pressure of thirty
6481 pounds per square foot.
6482 F. Signage found to be in violation of the provisions of this chapter shall be subject to the provisions of
6483 Chapter 19.75.
6484 G. Closing businesses must remove their signs within 120 days of closing.
6485 (Ord. 1577A § 11, 2005; Ord. 1263 § 1(part), 1993).

6486

6487 **19.54.080 Nonconforming signs.**

6488 A. Nonconforming Signs.

- 6489 1. Signs existing as of the effective date of the ordinance codified in this chapter (see Chapter 19.60)
6490 which do not conform to the provisions of this chapter, shall be nonconforming signs and shall be
6491 subject to the provisions of subsection B of this section. Nonconforming signs may be maintained. No
6492 nonconforming sign shall be altered or moved to a new location without being brought into compliance
6493 with the requirements of this chapter (see subsection (B)(1) of this section).
6494 2. Business signs on the premises of a nonconforming use or building may be continued per Section
6495 19.54.040(B), but such signs shall not be allowed, nor shall expand in number, area, height or
6496 illumination. New signs, not to exceed the maximum allowable aggregate sign area may be erected only
6497 upon the complete removal of all other signs existing at the time of adoption of the ordinance codified
6498 in this chapter.
6499 3. Nonconforming signs shall be removed when the principal structure located on the premises
6500 undergoes a change of use, or shall be removed per subsection B of this section. Closing businesses
6501 must remove their signs within sixty days of closing.
6502 4. Signage not in compliance with the provisions of this section shall be subject to the provisions of
6503 subsection B of this section.

6504 B. Removal of Nonconforming Signs.

6505 1. Alteration of Signs.

6506 a. For the purpose of this chapter, alteration of a sign is considered to be any change to the exterior
6507 appearance of any part of the sign, its frame, its supporting structure, or its lighting including changing
6508 the message (except for menu type/letter board signs), symbols, color, material, height, location or any
6509 other alterations as determined by the zoning administrator.

6510 b. Altering a sign does not include maintaining the existing appearance of the sign or replacing the sign
6511 face or the supporting structure with identical materials, colors, and messages nor changing the
6512 message of a menu type/letter board sign.

6513 2. All signs found not to be in compliance with the provisions of this chapter shall be removed within
6514 thirty days of receiving written notice of noncompliance and removal from the zoning administrator.

6515 3. The penalties of Chapter 19.75 shall be applicable to violations of the provisions of this chapter.

6516 C. Modification Sign Location/Height Requirement.

6517 1. Location is required under Sections 19.54.030(B) and 19.54.052.

6518 a. The above may be waived by the zoning administrator and/or the plan and architectural review
6519 commission, in instances where a hardship is created by this chapter for any freestanding sign existing at
6520 the time the ordinance codified in this chapter is adopted.

6521 2. The petitioner must demonstrate that compliance with location requirements for the freestanding
6522 sign will create a public safety hazard (such as visibility hazard) or result in a sign which is not possible
6523 because of building setbacks and/or other obstructions located near the public right-of-way, or is not
6524 clearly visible from pedestrian and/or vehicular traffic on nearby public rights-of-way.
6525 3. This modification shall not be applicable to limitations on types of signage, area of signage, color of
6526 signage, or other standards except location and height of signage.
6527 (Ord. 1263 § 1(part), 1993).

6528
6529 **Chapter 19.55 WIRELESS TELECOMMUNICATIONS FACILITIES**

- 6530 **Sections:**
6531 [19.55.010 Purpose.](#)
6532 [19.55.020 Applicability.](#)
6533 [19.55.030 Areas where wireless telecommunication facilities allowed.](#)
6534 [19.55.040 Type of approval required.](#)
6535 [19.55.050 Required application submittal information.](#)
6536 [19.55.060 Co-location and use of alternative support structures.](#)
6537 [19.55.070 Structural, design and aesthetic standards.](#)
6538 [19.55.080 Abandonment and removal.](#)
6539 [19.55.090 Compliance.](#)

6540
6541 **19.55.010 Purpose.**

6542 The purpose of this chapter is to provide a thorough and consistent set of standards for the
6543 siting and installation of wireless communications facilities in the various zoning districts in which they
6544 may be allowed, and more generally to protect the public health, safety, welfare, aesthetics and natural
6545 environment of the city in such a manner that does not unduly interfere with the placement and
6546 construction of said facilities. More specifically, the intent of this chapter is to:

- 6547 A. Mitigate the potential for adverse visual impacts caused by wireless telecommunications facilities
6548 through design and siting standards.
6549 B. Ensure that a business environment characterized by high service quality, competition and non-
6550 discrimination prevails with regard to wireless telecommunication services in a manner consistent with
6551 the Federal Telecommunications Act of 1996.
6552 C. Establish a clear process for obtaining necessary permits for wireless telecommunications facilities
6553 that adequately protect the interests of the citizens of the city while minimizing the burden of
6554 compliance to service providers.
6555 D. Protect environmentally and aesthetically sensitive areas of the city by restricting the design, height,
6556 location and operation of wireless telecommunications facilities in these areas, and by promoting their
6557 disguise, camouflage, screening or other design treatments intended to minimize their obtrusiveness.
6558 E. Encourage use of multiple-antenna alternative support structures such as buildings and water towers
6559 as an alternative to stand-alone, single-use, single-provider structures, and require good-faith attempts
6560 for co-location of facilities.
6561 (Ord. 1499 § 24(part), 2001).

6562
6563 **19.55.020 Applicability.**

6564 The requirements of this chapter shall apply to all new wireless telecommunications facilities
6565 that had not received a building permit prior to adoption of this chapter. Wireless telecommunications
6566 facilities, which pre-exist this chapter, or have been legally permitted prior to its adoption, shall not be
6567 required to meet the requirements contained herein. This chapter is not intended to regulate residential
6568 satellite dishes that are thirty-six inches or less in diameter, residential television antennas, or amateur
6569 radio facilities, which instead are regulated under Section 19.06.110. This chapter shall not be construed

6570 as to override additional or more stringent Federal or State of Wisconsin requirements, including but
6571 not limited to any regulations or restrictions imposed by the State Bureau of Aeronautics, the Federal
6572 Communications Commission (FCC), or the Federal Aviation Administration (FAA).
6573 (Ord. 1499 § 24(part), 2001).

6574

6575 **19.55.030 Areas where wireless telecommunication facilities allowed.**

6576 Chapter 19.15 to Chapter 19.48 identify the zoning districts in which wireless
6577 telecommunications facilities may be allowed, and what types of facilities are allowed as permitted or
6578 conditional uses. In no case shall a wireless telecommunications facility be located in or on districts or
6579 sites listed on the State or National Register of Historic Places, or within environmental corridors,
6580 wetlands, floodplains, or critical species habitats mapped by the Southeastern Wisconsin Regional
6581 Planning Commission, Wisconsin Department of Natural Resources, or through more detailed field
6582 surveys.
6583 (Ord. 1499 § 24(part), 2001).

6584

6585 **19.55.040 Type of approval required.**

6586 In zoning districts where they are allowed, the first wireless telecommunications facility to be
6587 located on an alternative support structure and all new freestanding wireless communication facilities
6588 shall require a conditional use permit, and shall meet the standards in this chapter and Chapter 19.66 to
6589 obtain approval. In zoning districts where they are allowed, the second or greater wireless
6590 telecommunications facility to be located on an alternative support structure already supporting a
6591 wireless telecommunications facility or on a pre-existing wireless telecommunications facility shall be
6592 allowed as a permitted use, except that any addition or extension to an existing wireless
6593 telecommunications facility that adds more than ten feet to the overall height of the existing facility or
6594 alternative support structure shall require a conditional use permit. In zoning districts where wireless
6595 telecommunication facilities are allowed, wireless telecommunication support facilities shall be allowed
6596 as permitted accessory uses upon the establishment of the principal facility. All wireless
6597 telecommunication facilities and wireless telecommunication support facilities shall be subject to plan
6598 review in accordance with Chapter 19.63.
6599 (Ord. 1499 § 24(part), 2001).

6600

6601 **19.55.050 Required application submittal information.**

6602 With the application for plan review or conditional use permit for a wireless
6603 telecommunications facility, the petitioner shall submit all information required under Section
6604 19.63.020, along with the following additional information:

6605 A. The identity, legal status, signature and contact information of the carrier, service provider,
6606 petitioner, and landowner.

6607 B. FCC license and registration numbers if applicable.

6608 C. A report prepared by a Wisconsin licensed engineer certifying the structural design of the
6609 telecommunications facility of a new freestanding wireless telecommunications facility as proposed and
6610 its physical ability to accommodate, either initially or at some time in the future, a total of at least three
6611 antenna arrays for separate providers.

6612 D. In the case of a leased site, a lease agreement, option or binding lease instrument which does not
6613 preclude the lessee from entering into sub-leases on the site at market rates with another co-locating
6614 provider(s) and includes the legal description and amount of property lease.

6615 E. For a proposed wireless telecommunications facility within a one-mile radius of an airport, copies of
6616 an Affidavit of Notification indicating that the airport operator and airport property owner have been

6617 notified via certified mail, along with copies of the determination of no hazard from the FAA or any
6618 other finds of the Wisconsin State Bureau of Aeronautics, such as they may apply.

6619 F. Proof of a satisfactory level of liability insurance coverage, with the City of Whitewater listed as an
6620 additional named insured party.

6621 G. Certified statement and map prepared by a licensed radio frequency engineer showing the coverage
6622 area of the proposed facility.

6623 H. For a wireless telecommunications facility that requires a conditional use permit, a feasibility
6624 analysis that identifies at least three alternative sites, pre-existing freestanding wireless
6625 telecommunications facilities, and/or alternative support structures that could technically support a
6626 comparable level of service. The intent of this analysis is to present options to minimize the number,
6627 size, and adverse environmental impacts of wireless telecommunications facilities. The analysis shall
6628 specifically address the potential for co-location on pre-existing freestanding wireless
6629 telecommunications facilities and the use of alternative support structures. It shall also explain the
6630 rationale for selection of the proposed site in view of the relative merits of the alternatives. Approval of
6631 the project is subject to the plan and architectural review commission's determination that the chosen
6632 site is more advantageous than any other alternative site that is both technically feasible and available
6633 for use. The plan and architectural review commission may choose to independently verify the findings
6634 of the analysis at the applicant's expense.

6635 I. For a wireless telecommunications facility that requires a conditional use permit, a performance
6636 bond in the amount of twenty thousand dollars naming the city as obligee, as security for the potential
6637 future removal of abandoned or inactivated facilities.

6638 J. For a wireless telecommunications facility that would be set back from any property line or, principal
6639 building a distance less than the height of the facility, including the height of any alternative support
6640 structure, an analysis prepared by a licensed structural engineer demonstrating that the facility would
6641 not pose a threat to the public, existing principal buildings or adjacent properties in the event of failure.

6642 K. The amount and location of any fuel proposed to be stored on site.

6643 L. Any other information that the zoning administrator may deem necessary.
6644 (Ord. 1499 § 24(part), 2001).

6645

6646 **19.55.060 Co-location and use of alternative support structures.**

6647 A. In its review of alternative sites considered by the petitioner, the plan and architectural review
6648 commission shall prioritize reasonable alternatives that involve co-locating the new facility on an
6649 existing freestanding wireless telecommunications facility or locating the new facility on an alternative
6650 support structure, such as a tall building, water tower, smokestack, or electrical transmission tower. Co-
6651 location or use of an alternative support structure shall not be required on any facility or structure not
6652 structurally designed to accommodate a new wireless telecommunications facility.

6653 B. All freestanding wireless telecommunication facilities issued a conditional use permit after the
6654 effective date of this chapter, known hereinafter as "host facilities," shall make available space for the
6655 co-location of telecommunications antennas or antenna arrays for at least two additional competing
6656 wireless telecommunications providers, including space for wireless telecommunication support
6657 facilities. This requirement does not apply if the owner or operator of the host facility can demonstrate,
6658 to the satisfaction of the plan and architectural review commission, that the placement of the additional
6659 antennas or equipment would impair or disrupt, for a significant period of time, the service provided by
6660 the host facility.

6661 C. Where a wireless telecommunication facility provider proposes to utilize an alternative support
6662 structure, the provider shall make available space for the co-location of telecommunications antennas
6663 or antenna arrays for at least two additional competing wireless telecommunications providers to the
6664 extent practical, and shall thereafter be considered a host facility. If the plan and architectural review

6665 commission determines based on evidence supplied by the applicant that the proposed facility or
6666 alternative support structure is not structurally sound or not otherwise appropriate for additional
6667 antennas or arrays, the commission may waive this requirement.
6668 D. All new wireless telecommunication facilities and sites shall be designed to promote sharing of both
6669 tower space and ancillary facilities such as access roads, parking areas, buildings, and utilities.
6670 E. The owner or operator of the host facility shall make co-location space reasonably available to other
6671 competing providers at prevailing market lease rates for the industry. Failure to comply with this
6672 provision shall be grounds for revocation of the conditional use permit.
6673 F. Alternative support structures must be at least fifty feet in height to be considered for the addition
6674 of a wireless telecommunication facility, not including the height of any architectural projections. The
6675 plan and architectural review commission may deny the placement of numerous wireless
6676 telecommunication facilities on a single alternative support structure if it determines that such
6677 placement would have a negative aesthetic, architectural, public safety, or operational impact.
6678 G. Wireless telecommunications facilities located on alternative support structures shall be considered
6679 accessory uses.
6680 (Ord. 1499 § 24(part), 2001).

6681
6682 **19.55.070 Structural, design and aesthetic standards.**

6683 All wireless telecommunications facilities shall be designed and sited in such a manner to
6684 minimize or avoid adverse safety, aesthetic or environmental effects per the following requirements:

6685 A. Compliance with all applicable restrictions. All wireless telecommunications facilities shall comply
6686 with all city, state and federal regulations, restrictions, codes, standards and power density limits,
6687 including other city zoning ordinance standards.

6688 B. Materials. Wireless telecommunications facilities shall be constructed of metal or other non-
6689 flammable material, and freestanding facilities shall be self supporting monopoles or lattice towers,
6690 unless otherwise permitted by the plan and architectural review commission. Material color shall blend
6691 with surroundings.

6692 C. Placement. All wireless telecommunications facilities and support facilities shall be located and
6693 installed in such a manner to minimize disturbance to, take advantage of, or locate behind existing
6694 topography and vegetation to minimize visual impact on surrounding properties and public rights-of-
6695 way. No wireless telecommunication facility shall be placed in a location that would physically obstruct
6696 or otherwise interfere with the full use of other wireless telecommunication facilities, residential
6697 satellite dishes, residential television or radio antennas, or amateur radio facilities.

6698 D. Setback. The minimum setback of a new wireless telecommunications facility from all property lines
6699 and principal buildings on the site shall equal the height of the wireless telecommunications facility,
6700 including the height of any alternative support structure. A reduced setback below this minimum may be
6701 considered by the plan and architectural review commission based on submittal of a structural
6702 engineering analysis demonstrating that the facility would not pose a threat to the public, existing
6703 principal buildings, or adjacent properties in the event of failure. All wireless telecommunications
6704 support facilities shall be set back from property lines the same distance as required for principal
6705 buildings in the zoning district.

6706 E. Height. The maximum height above existing grade for any freestanding wireless telecommunications
6707 facility, including all antennas, shall be two hundred and fifty feet. Any wireless telecommunications
6708 facility mounted on an alternative support structure may extend no greater than fifty feet above the
6709 height of an alternative support structure that is less than two hundred feet in height, or no greater than
6710 ten feet above the height of an alternative support structure that is two hundred feet in height or
6711 greater. The plan and architectural review commission may approve waivers to such height limitations if
6712 necessary to facilitate co-location of facilities.

6713 F. Wireless telecommunications support facilities. All wireless telecommunications support facilities
6714 shall be located within enclosed buildings or fully screened rooftop locations. Such accessory buildings
6715 shall not exceed fifteen feet in height and twelve hundred square feet in area, unless otherwise
6716 permitted by the plan and architectural review commission to facilitate co-location. The design and
6717 exterior surfacing of all such buildings or rooftop screening structures shall be in harmony with the
6718 existing or desired architecture for the area. The exterior walls of all such buildings shall be masonry,
6719 stone, stucco, pre-cast, concrete or other similar surface.

6720 G. Signage. No commercial message or signage shall be allowed at or on any wireless
6721 telecommunications facility, wireless telecommunications support facility, or site used for a wireless
6722 telecommunications facility.

6723 H. Driveways. Access driveways shall be surfaced in accordance with the requirements of Section
6724 19.51.110.

6725 I. Landscaping and Fencing. The site including the wireless telecommunications facility shall be
6726 attractively landscaped, with particular emphasis on landscaping near buildings, tower foundations, and
6727 driveways. New vegetation for screening purposes shall be a minimum of five feet in height upon
6728 planting and shall be located on the outside of any required fencing. The base of all freestanding
6729 wireless telecommunications facilities shall be enclosed with security fencing, unless the applicant
6730 provides other acceptable improvements designed to secure the base of the facility (tower) from public
6731 access.

6732 (Ord. 1499 § 24(part), 2001).

6733

6734 **19.55.080 Abandonment and removal.**

6735 Any wireless telecommunications facility not continuously operating for a period of twelve
6736 months shall be considered abandoned and shall be removed (along with its wireless
6737 telecommunication support facilities) within ninety days of receiving an order to remove from the
6738 zoning administrator. The cost of removal and site restoration shall be borne entirely by the permit
6739 holder. In the event that the permit holder fails to remove the facility, the city may cash the required
6740 performance bond and remove the facility and all support facilities itself.

6741 (Ord. 1499 § 24(part), 2001).

6742

6743 **19.55.090 Compliance.**

6744 A. All wireless telecommunications facilities granted site plan or conditional use permit approval after
6745 the effective date of this chapter shall remain in compliance with approved plans, conditions of
6746 approval, the provisions of this chapter as they existed at the time of permit approval, and applicable
6747 standards of Sections 19.63.100 and 19.66.050. The permit holder shall be responsible for the continued
6748 maintenance and/or replacement of all buildings, fencing, landscaping and other site improvements.

6749 B. The permit holder for all wireless telecommunications facilities granted conditional use permit
6750 approval after the effective date of this chapter shall file an annual report with the zoning administrator
6751 demonstrating continued compliance with approved plans, conditions of approval, the provisions of this
6752 chapter as they existed at the time of permit approval, and the standards of Sections 19.63.100 and
6753 19.66.050. The petitioner shall also demonstrate that the term of any performance bond or liability
6754 insurance policy required under Section 19.55.050 shall remain in effect for at least two years from the
6755 date the annual report is submitted. Such report shall be filed within thirty days of the original month of
6756 conditional use permit approval.

6757 C. Failure to comply with subsections A and B above may be grounds for revocation of the permit,
6758 penalties pursuant to Section 19.75.080, or both.

6759 (Ord. 1499 § 24(part), 2001).

6760

6761 **Chapter 19.57 GENERAL PERFORMANCE STANDARDS**

6762 Sections:

6763 [19.57.010 Compliance with standards required.](#)

6764 [19.57.020 Air pollution prohibited.](#)

6765 [19.57.030 Fire and explosive hazards--Location--Safety precautions.](#)

6766 [19.57.040 Glare and heat restrictions.](#)

6767 [19.57.050 Liquid or solid wastes--Storage and discharge restrictions.](#)

6768 [19.57.060 Noise restrictions.](#)

6769 [19.57.070 Vibration.](#)

6770 [19.57.080 Odors.](#)

6771 [19.57.090 Radioactivity and electrical disturbances.](#)

6772 [19.57.100 Uses and land suitability.](#)

6773 [19.57.110 Topography preservation conditions.](#)

6774 [19.57.130 Minimum usable floor area.](#)

6775 [19.57.140 Required screens and buffers.](#)

6776 [19.57.150 Outdoor lighting standards.](#)

6777 [19.57.160 Keeping of horses as a residential accessory use.](#)

6778

6779 **19.57.010 Compliance with standards required.**

6780 All land uses and activities, unless otherwise specified, in the City of Whitewater established
6781 after June 24, 1982, the effective date of the ordinance codified in this title, shall comply with the
6782 standards set out in this chapter.

6783 (Ord. 994 § 6.1, 1982).

6784

6785 **19.57.020 Air pollution prohibited.**

6786 No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to
6787 cause soiling, or danger to the health of persons, animals, vegetation or other forms of property.

6788 (Ord. 994 § 6.2, 1982).

6789

6790 **19.57.030 Fire and explosive hazards--Location--Safety precautions.**

6791 All activities involving the manufacturing, utilization, processing or storage of flammable and
6792 explosive materials shall be provided with adequate safety devices against the hazard of fire and
6793 explosion, and with adequate firefighting and fire-suppression equipment and devices that are standard
6794 in the industry. Such activities shall be located and managed in a manner so as not to endanger any
6795 adjoining properties or the public in general.

6796 (Ord. 994 § 6.3, 1982).

6797

6798 **19.57.040 Glare and heat restrictions.**

6799 No activity shall emit glare or heat that is visible or measurable outside its premises, except
6800 activities in the M-1, M-2 or WUTP districts which may emit direct or sky-reflected glare which shall not
6801 be visible outside the district. All operations producing intense glare or heat shall be conducted within a
6802 completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside
6803 their premises.

6804 (Ord. 994 § 6.4, 1982).

6805

6806 **19.57.050 Liquid or solid wastes--Storage and discharge restrictions.**

6807 No activity shall discharge at any point onto any land or into any water or public sewer any
6808 materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute

6809 or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive
6810 elements, can overload the existing municipal utilities, or can injure or damage persons or property. No
6811 such wastes shall be stored in the city for a period longer than three months.
6812 (Ord. 994 § 6.5, 1982).

6813

6814 **19.57.060 Noise restrictions.**

6815 A. No activity shall produce a sound-level extending outside its premises that exceeds the following:

6816 TABLE INSET:

6817

<u>Octave Band Frequency</u> <u>(Cycles Per Second)</u>	<u>Sound Level (Decibels)</u>
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
Above 4,800	32

6818 B. All noise shall be so muffled or otherwise controlled as not to become objectionable due to
6819 intermittance, duration, beat frequency, impulse character, periodic character or shrillness. Sirens,
6820 whistles, horns, power speakers and bells which are maintained and utilized solely to serve a public
6821 emergency purpose are exempt from the sound-level standards of this title.
6822 (Ord. 994 § 6.6, 1982).

6823

6824 **19.57.070 Vibration.**

6825 No activity shall emit vibrations which are discernible without instruments outside its premises.

6826 (Ord. 994 § 6.7, 1982).

6827

6828 **19.57.080 Odors.**

6829 No activity shall emit any odorous matter of such nature or quantity to be offensive, obnoxious
6830 or unhealthful outside their premises.

6831 (Ord. 994 § 6.8, 1982).

6832

6833 **19.57.090 Radioactivity and electrical disturbances.**

6834 No activity shall emit radioactivity or electrical disturbances outside its premises that are
6835 dangerous or adversely affect the use of neighboring premises.

6836 (Ord. 994 § 6.9, 1982).

6837

6838 **19.57.100 Uses and land suitability.**

6839 No land shall be used or structure erected where the land is held unsuitable for such use or
6840 structure by the city zoning administrator or plan commission by reason of flooding, concentrated
6841 runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, erosion

6842 susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and
 6843 general welfare of this community. In applying this provision, the city may deny or condition the
 6844 granting of a zoning permit. The city shall, in writing, recite the particular facts upon which it bases its
 6845 conclusion that the land is not suitable for certain uses. The applicant shall have the opportunity to
 6846 present evidence contesting such unsuitability to the board of zoning appeals in compliance with the
 6847 requirements of Chapter 19.72.
 6848 (Ord. 994 § 6.10, 1982).

6849
 6850 **19.57.110 Topography preservation conditions.**

6851 In order to preserve the natural topography as much as possible and in order to protect against
 6852 danger and damage caused by manmade changes in the existing topography, no lots nor portions of lots
 6853 nor any parcels of land shall be excavated or filled unless the following conditions are met:

6854 A. If a difference in grade between two adjacent lots along a lot line is to be not greater at any point
 6855 than two feet, this difference in levels may be sloped toward or away from the lot line at a gradient of
 6856 one foot vertical to two feet horizontal, and as soon as practicable must be covered adequately with
 6857 topsoil and sodded or seeded to prevent erosion so as to assure acceptable restoration; or, a
 6858 satisfactory retaining wall of stone, concrete or other suitable masonry material shall be constructed to
 6859 retain the higher ground. Within a single lot, any excavation or fill not exceeding two feet vertical shall
 6860 also be treated in this same manner.

6861 B. If a difference in grade between two adjacent lots along a lot line, or wholly within a single lot, is to
 6862 be greater than two feet at any point, the following procedure shall govern:

- 6863 1. No slope to be covered with sod, grass seed or other natural plant material may exceed a gradient of
- 6864 one foot vertical to two feet horizontal;
- 6865 2. A slope covered with a stone riprap construction may not exceed a gradient of one foot vertical to
- 6866 one foot horizontal;
- 6867 3. A difference in adjacent grades may be held by an approved type of retaining wall which is also
- 6868 protected for safety.

6869 C. Alterations to existing drainage ways or water flows that would cause material detriment to
 6870 adjoining property shall not be permitted.
 6871 (Ord. 994 § 6.11, 1982).

6872
 6873 **19.57.130 Minimum usable floor area.**

6874 A. Within the city, no dwelling unit shall be constructed or remodeled to have less living area than the
 6875 following minimum standards:
 6876 TABLE INSET:

<u>Dwelling Unit Type</u>	<u>Minimum Usable Floor Area</u>
One-family detached dwellings	800 square feet with no less than 500 square feet on first floor if more than one story;
Two-family dwellings	1,500 square feet with no less than 600 square feet per family;
Townhouse-style attached single-family	800 square feet;

Multifamily:	
Efficiency apartment	400 square feet;
One-bedroom apartment	500 square feet;
Two-bedroom apartment	800 square feet;
Three or more bedroom apartment	1,000 square feet;
Mobile homes	400 square feet;

6878 B. For the purpose of this section, "floor area" shall be the sum of the several floors of a building used
6879 for human occupancy or use, as measured from the interior faces of the walls, but not including
6880 basement, garages, porches, breezeways of common hallways and unfinished attics.
6881 (Ord. 994 § 6.13, 1982).

6882
6883 **19.57.140 Required screens and buffers.**

6884 Where screens or buffers are required by this title or by the plan and architectural review
6885 commission to reduce the impact of proposed uses on adjacent properties, the following standards shall
6886 be followed. Buffer yards and screens may be required jointly or separately.

6887 A. Landscaped Buffer Yards.

6888 1. Buffer yards are horizontal separations along lot lines that are intended to increase the physical
6889 separation between uses. The width of the required buffer yard shall be determined by the plan and
6890 architectural review commission or zoning administrator. The minimum width shall be the greater of ten
6891 feet or the width of the required yard abutting a less intensive zoning district, if a specific buffer yard
6892 requirement is established in a particular zoning district.

6893 2. All buffer yards shall be attractively landscaped with a minimum of two canopy/shade trees, five
6894 understory evergreen trees and twelve shrubs planted for every one hundred feet of buffer yard length.
6895 A substitute treatment incorporating plantings and/or a decorative fence or wall is acceptable if
6896 approved by the plan and architectural review commission. All buffer yards shall be kept free of debris
6897 and noxious weeds. No structure, activity, storage of materials, parking of vehicles or loading shall be
6898 permitted in a buffer yard, except emergency, cross, and pedestrian access. Maintenance of buffer yards
6899 shall be the continuing obligation of the owner of the property.

6900 B. Screens.

6901 1. Screens and barriers located in a limited space, ten feet or less, intended to perform a buffering
6902 effect, particularly for noise reduction or visual screening. Screens may consist of existing or planted
6903 vegetation, fences, walls, earth berms, or similar techniques. Plant screens shall be sufficient to provide
6904 a year-round screen within two years of installation. Walls or earth berms shall be required where noise
6905 reduction is necessary.

6906 2. Screen plantings shall be permanently maintained by the owner of the property, and any plant
6907 materials which do not live shall be replaced within six months.

6908 3. The height of walls and fences shall be regulated by the provisions of Section 19.06.120.
6909 (Ord. 1452 § 7, 2000; Ord. 994 § 6.14, 1982).

6910
6911 **19.57.150 Outdoor lighting standards.**

6912 A. Purpose. The purpose of this section is to provide for adequate and safe lighting of private property,
6913 while limiting light spillover and glare onto adjacent properties and public streets. Such limitations are
6914 intended to prevent the creation of nuisances, promote traffic safety, conserve energy, preserve the
6915 area's dark sky and support astronomy.

6916 B. Applicability. This section shall be applied to the installation of all new and replacement private
6917 outdoor lighting fixtures. Outdoor lighting fixtures legally installed prior to the effective date of the
6918 ordinance codified in this chapter shall not be required to comply with these outdoor lighting standards;
6919 however, any replacement of the lighting fixtures shall comply with all outdoor lighting standards as set
6920 forth in this section.

6921 C. Required Lighting Plan. Where a development requires site plan review under Chapter 19.63, all
6922 outdoor lighting fixtures shall be depicted and described on the required site plan or on a separate
6923 lighting plan. The zoning administrator may also require the following information:

6924 1. A catalog page, cut sheet or photograph of the outdoor lighting fixture(s) including the mounting
6925 method and light cutoff angles;

6926 2. A photometric plot plan, drawn to the same scale as the site plan, and indicating the location of all
6927 lighting fixtures proposed, mounting and/or installation height in feet, the average illumination level (in
6928 footcandles) within the parking lot, and illumination levels at regular intervals around the site and at
6929 property lines.

6930 D. Maximum Luminaire Height. The maximum permitted luminaire height shall be thirty-five feet in all
6931 commercial, industrial and institutional districts, and twenty-five feet in all residential districts. The
6932 height of both the pole and base shall be considered in the measurement of luminaire height.

6933 E. Maximum Illumination Levels. Average illumination levels within parking lots shall not exceed 1.0
6934 footcandle within residential districts, and 2.5 footcandles within all other districts. The illumination
6935 level at any property line shall not exceed 0.5 footcandles above the ambient lighting conditions on a
6936 cloudless night where the property adjoins land in a residential district, and 2.0 footcandles above the
6937 ambient lighting conditions on a cloudless night where the property adjoins land in any other zoning
6938 district. The plan and architectural review commission may agree to allow greater lighting levels based
6939 on specific and reasonable written justification provided by the applicant. In no instance shall a
6940 commercial outdoor lighting fixture be mounted or oriented such that the lighting element is visible
6941 from a property in a residential district.

6942 F. Use of Shielded Light Fixtures. All outdoor lighting fixtures shall be shielded as defined in Section
6943 19.09.623, except incandescent fixtures of one hundred fifty watts or less, other sources of seventy
6944 watts or less, lighting within public street rights-of-way and lighting required for a specialized security or
6945 safety purpose. No searchlights shall be permitted.

6946 G. Types of Light Source. No flickering or flashing lights shall be permitted, except low wattage seasonal
6947 lighting between November 1st and January 31st and lighting required for a specialized security or
6948 safety purpose.

6949 H. Location. No exterior light fixture shall be located within any required landscape bufferyard or within
6950 three feet of any property line.

6951 I. Hours of Illumination. Within one hour after closing of the store, completion of the final work shift, or
6952 completion of specific activities associated with an institutional use, only building mounted security
6953 lighting and up to twenty-five percent of all other outdoor lighting fixtures may remain illuminated.

6954 J. Exterior Lighting for Outdoor Recreational Uses. Ball diamonds, playing fields, golf driving ranges,
6955 tennis courts, parks and similar outdoor recreational uses may be exempted from one or more of the
6956 outdoor lighting standards of this section if approved by the plan and architectural review commission
6957 through site plan review.

6958 K. Street Lighting. Street lighting shall conform to the standards set forth by the state for state and
6959 federal highways, appropriate county for county highways and the city for city streets and highways.

6960 (Ord. 1452 § 8, 2000).

6961

6962 **19.57.160 Keeping of horses as a residential accessory use.**

6963 Horses may be kept as an accessory use only in certain residential zoning districts, upon the
6964 granting of a conditional use permit, and subject to the following standards:

6965 A. The lot on which the horses will be kept and exercised shall be not less than two acres in total area.

6966 B. For each horse kept on the lot, there shall be a minimum of one acre of open land usable for horse
6967 exercise and manure management. Such open land may not include lands in wetlands or woodlands,
6968 with over a twelve-percent slope, or within seventy-five feet of navigable waters or wetlands.

6969 C. Outdoor horse containment areas, including, but not limited to barns and exercise areas, shall be
6970 completely enclosed, shall be a minimum of twenty feet from any other lot, and shall meet the
6971 standards of Wisconsin Statutes Chapter 90. D. The keeping of horses shall not be for commercial
6972 purposes, such as the commercial stabling of horses.

6973 E. The use shall meet and maintain any other specific conditions of conditional use permit approval
6974 that relate to the protection of human, animal, or environmental health, or the character of the
6975 surrounding neighborhood or publicly owned lands.

6976 (Ord. 1589A § 3, 2005).

6977

6978 **Chapter 19.58 NOISE RESTRICTIONS**

6979 **Sections:**

6980 [19.58.010 Policy, purpose, title, and scope.](#)

6981 [19.58.020 Definitions.](#)

6982 [19.58.030 Exemptions to this chapter.](#)

6983 [19.58.040 Residential noise.](#)

6984 [19.58.050 General noise disturbance prohibited.](#)

6985 [19.58.060 Maximum permissible sound levels by land use category.](#)

6986 [19.58.070 Emergency signaling devices.](#)

6987 [19.58.080 Specific activities prohibited.](#)

6988 [19.58.090 Sound equipment and sound-amplifying equipment.](#)

6989 [19.58.100 Motorized vehicles.](#)

6990 [19.58.110 Construction.](#)

6991 [19.58.120 Nonemergency signaling devices.](#)

6992 [19.58.130 Animals and birds.](#)

6993 [19.58.140 Enforcement.](#)

6994 [19.58.150 Noise variances.](#)

6995 [19.58.160 Penalty.](#)

6996

6997 **19.58.010 Policy, purpose, title, and scope.**

6998 A. Statement of Public Policy. The city council finds and declares that:

6999 1. Excessive noise is a serious hazard to the public health and welfare and the quality of life in a close
7000 urban society.

7001 2. A substantial body of science and technology exists by which excessive noise can be substantially
7002 abated without serious inconvenience to the public.

7003 3. Certain of the noise-producing equipment in this community is essential to the quality of life herein
7004 and should be allowed to continue at reasonable levels with moderate regulation.

7005 4. Each person has a right to an environment reasonably free from noise which jeopardizes health or
7006 welfare or unnecessarily degrades the quality of life.

7007 5. It is the declared policy of this city to promote an environment free from excessive noise, otherwise
7008 properly called "noise pollution," which unnecessarily jeopardizes the health and welfare and degrades
7009 the quality of the lives of the residents of this community, without unduly prohibiting, limiting or

7010 otherwise regulating the function of certain noise-producing equipment which is not amenable to such
7011 controls and yet is essential to the economy and quality of life of the community.

7012 B. Purpose, Title and Scope.

7013 1. The purpose of this chapter is to establish standards for the control of noise pollution in the city by
7014 setting maximum permissible sound levels for various activities, to protect the public health, safety and
7015 general welfare.

7016 2. This chapter may be cited as the "Noise Control Ordinance of the City of Whitewater."

7017 3. This chapter shall apply to the control of all noise originating within the limits of the city, except
7018 where either (a) a state or federal agency has adopted a standard or rule and has so preempted the
7019 regulation of noise from a particular source as to render this chapter inapplicable thereto; or (b) the city
7020 council has determined that, by reason of public acceptance of the activity producing a particular noise
7021 or noises, such noise is deemed acceptable to the residents of this city.

7022 (Ord. 1310 § 2(part), 1995).

7023

7024 **19.58.020 Definitions.**

7025 Unless otherwise expressly stated or the context clearly indicates a different intention, the
7026 following terms shall have the meanings shown. Definitions of technical terms used in this chapter
7027 which are not herein defined shall be in conformance with the standard ANSI § 1.1-1994, Acoustical
7028 Terminology.

7029 "Ambient noise level" means the composite of noise from all sources near and far. In this
7030 context, the ambient noise level constitutes the normal or existing level of environmental noise at a
7031 given location and time.

7032 "A-weighted sound level" means the sound level in decibels as measured on a sound-level meter
7033 using the A-weighting network. The level so read is designated dB(A) or dBA.

7034 "Construction" means any site preparation, assembly, substantial repair, alteration, similar
7035 action, for or of public or private rights-of-way, structures, utilities or similar property or similar activity
7036 upon public or private structures or land.

7037 "Continuous sound" means sound which is of a steady and uninterrupted nature of a specified
7038 time period. For the purpose of this title, the minimum time period shall be one hour.

7039 "Daytime" means the hours between seven a.m. and ten p.m. on any given day.

7040 "Decibel" means a unit for measuring the amplitude of sound, equal to twenty times the
7041 logarithm to the base ten of the ratio of the pressure of the sound measured to the referenced pressure,
7042 which is twenty micropascals.

7043 "Emergency work" means any work performed for the purpose of preventing or alleviating the
7044 physical trauma or property damage threatened or caused by an emergency.

7045 "Enforcement officer(r)" means the city employee and/or police officer having lead responsibility
7046 for enforcing this chapter; and, the city employee/police officer having responsibility for making noise
7047 surveys, noise analyses, noise investigations and for the administration of this chapter.

7048 "Equivalent sound level (Leq)" means the average sound level measured over a stated period of
7049 time. For the purpose of this chapter, the averaging time shall be one minute.

7050 "Fixed noise source" means a stationary device which creates sounds while fixed or motionless,
7051 including but not limited to residential, agricultural, industrial and commercial machinery and
7052 equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

7053 "Impulse sound" means sound of short duration, usually less than one second, with an abrupt
7054 onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts,
7055 and the discharge of firearms.

7056 "Intermittent sound" means sound which is not continuous or which is of a cyclic or repetitive
7057 nature.

7058 "Intrusive noise" means that noise which intrudes over and above the existing ambient noise at
7059 a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency
7060 and time of occurrence, and tonal or informational content as well as the prevailing ambient noise level.
7061 "Leq" means equivalent continuous sound level.
7062 "Lmax" means the maximum instantaneous sound level reading.
7063 "Mobile noise source" means any noise source other than a fixed noise source.
7064 "Nighttime" means the hours between ten p.m. and seven a.m. on any given day.
7065 "Noise disturbance" means any noise exceeding the noise-level limits for a designated land-use
7066 category specified in Table 1 or 2.
7067 "Noise sensitive area" means any area designated by the planning commission for the purpose
7068 of ensuring exceptional quiet.
7069 "Public right-of-way" means any street, avenue, boulevard, highway, bikeway, sidewalk or alley
7070 or similar place which is owned or controlled by a government entity.
7071 "Public space" means any real property or structures thereon which are owned or controlled by
7072 a governmental entity.
7073 "Pure tone" means any sound which can be judged as audible as a single pitch or a set of single
7074 pitches by the enforcement officer or police officer.
7075 "Real property boundary" means an imaginary line along the ground surface, and its vertical
7076 extension, which separates the real property owned by one person from that owned by another person,
7077 but not including intra-building real property divisions.
7078 "Sound-amplifying equipment" means any machine or device for the amplification of the human
7079 voice, music, or any other sound. Sound-amplifying equipment, as used in this title, shall not be
7080 construed as including standard automobile radios when used and heard only by occupant(s) of the
7081 vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other
7082 warning devices on other vehicles used only for traffic safety purposes. This definition shall include
7083 remotely located loudspeakers attached to and/or operated from a vehicle.
7084 "Sound-level meter" means an instrument, including a microphone, an amplifier, and an output
7085 meter for the measurement of sound levels, which meets or exceeds the requirements for Type 2
7086 meters in American National Standards Institute specifications for sound-level meters, S1.4-1971.
7087 "Vibration perception threshold" means the minimum ground-borne or structure-borne
7088 vibrational motion necessary to cause a normal person to be aware of the vibration by such direct
7089 means as, but not limited to, sensation by touch or visual observation of moving objects. The perception
7090 threshold shall be presumed to be a motion velocity of .001 inches per second over the range of one to
7091 one hundred Hz.
7092 "Weekday" means any day, Monday through Friday, which is not a legal holiday.
7093 (Ord. 1310 § 2(part), 1995).

7094
7095 **19.58.030 Exemptions to this chapter.**

7096 The provisions of this chapter shall not apply to:
7097 A. The emission of sound for the purpose of alerting persons to the existence of an emergency;
7098 B. The emission of sound in the performance of emergency work;
7099 C. Noncommercial public speaking and public assembly activities conducted on any private property,
7100 public space, or public right-of-way, except those activities controlled by Sections 19.58.040, 19.58.090
7101 and 19.58.100;
7102 D. Agricultural activities, exclusive of those involving the ownership or possession of animals or birds;
7103 E. Rail and air transportation and public mass transportation vehicles;
7104 F. The emission of sound in connection with activities conducted at Perkins Stadium during events
7105 permitted by the city;

- 7106 G. The emission of sound in the discharge of weapons or in fireworks displays licensed by the city
- 7107 council;
- 7108 H. The emission of sound in the operation of snow removal equipment;
- 7109 I. Parades or processions for which a parade permit has been issued by the city;
- 7110 J. Residential garbage collection activities as contracted for by the city;
- 7111 K. The emission of sound in the operation of yard maintenance equipment.
- 7112 (Ord. 1310 § 2(part), 1995).

7113
7114 **19.58.040 Residential noise.**

- 7115 A. Residential noise disturbances (even if the residence is located in a commercial district) shall be
- 7116 governed by this section and shall not be subject to the sound levels established in Section 19.58.060.
- 7117 B. No person shall make, allow or assist in making any noise from a residence or residential yard which
- 7118 is likely to unreasonably disturb the peace and quiet of any person outside of the residence.
- 7119 C. For the purpose of this section:
- 7120 1. It is not necessary to prove that any particular person was disturbed by the noise.
- 7121 2. A resident of a premises is in violation of allowing a noise disturbance at the premises under this
- 7122 section if noise in violation of this section is emitted from a residence and the authorities are unable to
- 7123 gain entry to the premises or sufficient information to identify the actual parties at the premises at the
- 7124 time of the disturbance.
- 7125 3. All residents of a residential unit who are at the premises at the time of a noise disturbance are
- 7126 deemed to have allowed the disturbance.
- 7127 (Ord. 1310 § 2(part), 1995).

7128
7129 **19.58.050 General noise disturbance prohibited.**

7130 No person shall make, continue, or cause to be made or continued, except as permitted, any

7131 noise disturbance as defined in this chapter, or any noise in excess of the limits for such noise

7132 established in this chapter.

7133 (Ord. 1310 § 2(part), 1995).

7134
7135 **19.58.060 Maximum permissible sound levels by land use category.**

7136 A. Maximum Permissible Sound Levels. With the exception of sound levels elsewhere specifically

7137 authorized or allowed in this chapter, the following are the maximum permissible sound levels allowed

7138 at the real property boundary of the source of offending noise. No person shall produce or allow the

7139 production of noise in excess of that specified in Table 1 or 2.

7140 TABLE 1 SOUND LEVEL LIMITS FOR DAYTIME

7141 (7 a.m. - 10 p.m.) in dBA

7142 TABLE INSET:

7143

<u>Zoning Category</u>	<u>L_{max}</u>	<u>Leq (1 min.)</u>
B-1, B-2, AT and I (except where such operations are adjacent to residential districts)	85	75
B-3 and PD (except residential PD and where such operations are adjacent to residential districts)	85	75

M-1 (except where such operations are adjacent to residential districts)	85	75
B-1, B-2, B-3 PD (when adjacent to residential districts)	75	60
All other nonresidential categories	75	60

TABLE 2 SOUND LEVEL LIMITS FOR NIGHTTIME HOURS in dBA

7144
7145
7146

TABLE INSET:

<u>Zoning Category</u>	<u>L_{max}</u>	<u>Leq (1 min.)</u>
B-1, B-2, AT and I (except where such operations are adjacent to residential districts)	75	60
B-3 and PD (except residential PD and where such operations are adjacent to residential districts)	75	65
M-1 (except where such operations are adjacent to residential districts)	85	70
B-1, B-2, B-3 PD (when adjacent to residential districts)	75	60
All other nonresidential categories	75	60

7147 For the purpose of this chapter, sound levels in excess of the dBA listed in Table 1 or 2 above
7148 shall be deemed a violation.
7149 (Ord. 1310 § 2(part), 1995).

7150
7151 **19.58.070 Emergency signaling devices.**

7152 A. No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil
7153 defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency
7154 purposes or for testing, as provided in subsection B of this section.

7155 B. Testing of a stationary emergency signaling device shall occur at the same time of day each time the
7156 test is performed, but not before nine a.m. or after four p.m. Any such testing shall use only the
7157 minimum cycle test time.
7158 (Ord. 1310 § 2(part), 1995).

7159
7160 **19.58.080 Specific activities prohibited.**

7161 A. Loading and Unloading. No person shall so load, unload, open, close or handle boxes, crates,
7162 containers, building materials, garbage cans or similar objects between the hours of seven p.m. and
7163 seven a.m. the following morning as to create a noise disturbance across a residential real property
7164 boundary or within a noise sensitive area. This section shall not apply to activities covered by Section
7165 19.58.110.

7166 B. Vehicle or Motorboat Repairs and Testing. No person shall repair, rebuild, modify or test any motor
7167 vehicle in a public or private place out of doors or within a noise sensitive area between the hours of ten
7168 p.m. and seven a.m. the following day.
7169 (Ord. 1310 § 2(part), 1995).

7170
7171 **19.58.090 Sound equipment and sound-amplifying equipment.**

7172 A. No person shall so operate, play or permit the operation or playing of any sound equipment so as:
7173 1. To create a noise disturbance across a residential real property boundary or outdoors within a noise
7174 sensitive area;
7175 2. To create a noise disturbance fifty feet from the device, when operated in or on a motor vehicle on a
7176 public right-of-way or public space, or in a boat on public waters.
7177 B. Sound Equipment.
7178 1. No person shall use, operate or cause to be used or operated any sound equipment, upon the public
7179 streets or in any building or upon any premises, public or private, if the sound therefrom is plainly
7180 audible from any public street or public place within the city.
7181 2. Sound equipment shall not include:
7182 a. Equipment used for public health and safety purposes;
7183 b. Church or clock carillons, bells or chimes;
7184 c. Automobile radios, tape decks or CD players, or other standard automobile equipment used and
7185 intended for the use and enjoyment of the occupants, provided the sound emitting therefrom is not
7186 audible for more than fifty feet from the vehicle;
7187 d. Recorded music used in a nonresidential district in conjunction with a civil or religious celebration;
7188 e. Live music provided, sponsored or funded, in whole or in part, by a governmental entity.
7189 (Ord. 1310 § 2(part), 1995).
7190 (Ord. No. 1682A, § 1, 5-20-2008)

7191 **19.58.100 Motorized vehicles.**

7192 A. No person shall operate the engine providing motive power or an auxiliary engine, of a motor
7193 vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds or more for a
7194 consecutive period longer than twenty minutes while such vehicle is standing and located within one
7195 hundred fifty feet of property zoned and used for residential purposes except where such vehicle is
7196 standing within a completely enclosed structure and does not create a noise disturbance across a real
7197 property boundary as defined in Section 19.58.060 of this chapter unless approved by a conditional use
7198 permit. This section shall not apply to delivery or pickup vehicles that require the operation of the
7199 engine to unload or load their vending loads.
7200 B. No person shall operate within the speed limits specified in this section either a motor vehicle, or a
7201 combination of vehicles of a type subject to registration, at any time or under any condition of grade,
7202 load, acceleration or deceleration in such manner as to exceed the noise limit listed hereinbelow for the
7203 category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which
7204 operated, such noise to be measured at a distance of no more than fifty feet from the center line of
7205 travel under test procedures established by subsection C of this section. In the event the distance of the
7206 measuring instrument from center line of travel is less than fifty feet, such listed noise limits shall be
7207 corrected to reflect the equivalent noise limits for the actual distance.
7208

7209 TABLE INSET:

7210
7211
7212

	Noise Limit in Relation to Legal Speed Limit	
Type of Vehicle	35 MPH	Over 35

	<u>or Less</u>	<u>MPH</u>
1. Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 lbs. or more and any combination of vehicles towed by such motor vehicle	88 dB(A)	92 dB(A)
2. Any motorcycle.	82 dB(A)	86 dB(A)
3. Any motor vehicle and any combination of motor vehicle.	76 dB(A)	82 dB(A)

7213 This section applies to the total noise from a vehicle or combination of vehicles and shall not be
7214 construed as limiting or precluding the enforcement of any other provisions of this code relating to
7215 motor vehicle mufflers or noise control.

7216 C. The measurement of sound or noise shall be made with a Type 1 or 2 sound level meter meeting the
7217 standards prescribed by the American National Standards Institute or its successor body. The instrument
7218 shall be calibrated and maintained in good working order. Measurements recorded shall be taken so as
7219 to provide a proper representation of the noise source. The microphone during measurement shall be
7220 positioned so as not to create any unnatural enhancement or attenuation of the measured noise. A
7221 windscreen for the microphone shall be used when required.

7222 D. No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a
7223 muffler cut-out or bypass, and no person shall operate a motor vehicle or motorcycle which has been so
7224 modified. A motor vehicle so operated shall be deemed equipped with a muffler which emits excessive
7225 and unusual noise and which is not in good working order.

7226 E. 1. No person shall operate a recreational vehicle or permit the operation of one or more recreation
7227 vehicles, individually or in a group or in an organized racing event, on public or private property in such a
7228 manner that the sound level resulting from such operation exceeds:

7229 Seventy-three dBA for any total of three minutes in any continuous one-hour period, or exceeds
7230 ninety dBA for any period of time during such operation. Sound levels which exceed the limits herein
7231 described at the real property boundary of the source property shall be deemed a noise disturbance.

7232 2. Notwithstanding Section 19.58.030 of this chapter, no person shall permit the conducting of any part
7233 of an organized racing event which involves contest between or among recreational vehicles on public
7234 or private property between the hours of ten thirty p.m. and ten a.m. the following morning.
7235 (Ord. 1310 § 2(part), 1995).

7236
7237 **19.58.110 Construction.**

7238 A. This chapter shall not prohibit the operation of any tools or equipment in public or private
7239 construction, drilling, demolition work, or in maintenance work between the hours of seven a.m. and
7240 nine p.m. Additional hours of construction may be granted by the zoning administrator or his designee.

7241 B. The terms of this section shall not apply to emergency work or repair work performed by or for
7242 governmental entities or public service utilities.
7243 (Ord. 1310 § 2(part), 1995).

7244
7245 **19.58.120 Nonemergency signaling devices.**

7246 A. No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar
7247 device, intended primarily for nonemergency purposes, from any place, for more than one minute in
7248 any hourly period.

7249 B. Devices used in conjunction with the places of religious worship shall be exempt from compliance
7250 with this section.

7251 C. Exemptions for sound sources covered by this section, but not exempted under subsection B of this
7252 section, may be granted under the procedure set forth in Section 19.58.150.
7253 (Ord. 1310 § 2(part), 1995).

7254

7255 **19.58.130 Animals and birds.**

7256 No person shall own, possess or harbor any animal or bird which frequently or for continued
7257 duration emits sounds native to the species which are a noise disturbance across a residential real
7258 property boundary, or within a noise sensitive area.
7259 (Ord. 1310 § 2(part), 1995).

7260

7261 **19.58.140 Enforcement.**

7262 A. The noise control program established by this chapter shall be implemented, administered and
7263 enforced by the zoning department and police department.

7264 B. The provisions of this chapter which prohibit the making, continuing of a noise disturbance, or
7265 causing the making or continuing of a noise disturbance across a real property boundary or within a
7266 noise sensitive area, shall be enforced upon receipt of complaint made or filed with the city officials by a
7267 person disturbed by such noise disturbance or by direction of the chief of police or his or her designee.
7268 Certification by an official charged with enforcement of provisions of this chapter that such complaint
7269 was made shall be sufficient to establish the fact of such complaint.

7270 C. Noise and vibration measurements shall be made in compliance with generally accepted practices
7271 and procedures. The zoning administrator shall prepare, and make available upon request, a "Code of
7272 Recommended Practices" for the measurement of noise and vibration.

7273 D. To implement and enforce this chapter the zoning department and police department shall have the
7274 additional power to:

7275 1. Conduct research, monitoring, and other studies related to sound;

7276 2. Conduct programs of public education regarding the causes, effects and general methods of
7277 abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for
7278 reporting violations;

7279 3. Coordinate the noise control activities of all municipal departments;

7280 4. Review public and private projects, including those subject to mandatory review or approval by
7281 other departments, for compliance with this chapter, if these projects are likely to cause sound in
7282 violation of this chapter;

7283 5. Upon presentation of proper credentials, enter and inspect any private property or place, any time
7284 when granted permission by the owner resident or by some other person with apparent authority to act
7285 for the owner;

7286 6. Issue noise variances pursuant to the provisions of Section 19.58.150;

7287 7. Prepare recommendations for consideration by the city council, after publication of notice and
7288 public hearing, for establishing the boundaries of noise sensitive areas.

7289 E. All departments and agencies of the city shall carry out their programs in furtherance of the policy of
7290 this chapter.

7291 (Ord. 1310 § 2(part), 1995).

7292

7293 **19.58.150 Noise variances.**

7294 A. Any person who cannot comply with provisions of this noise ordinance due to technological
7295 limitations or in cases of significant hardship, may apply for a conditional use permit in accordance with

7296 Chapter 19.66 of this code. Through this process, the governing body may grant a conditional use permit
7297 to exceed the provisions of this chapter for a specific period of time.
7298 B. During this period of time, the operators of the nonconforming noise source must make every
7299 reasonable attempt to come into compliance with this chapter. Should total compliance not become
7300 feasible at the time the conditional use permit expires, the operator of the source must demonstrate to
7301 the satisfaction of the governing body that a good faith effort has been made to come into compliance.
7302 If a good faith effort is demonstrated to the satisfaction of the governing body, the governing body may,
7303 at its discretion, extend the conditional use permit for an additional period of time.
7304 (Ord. 1310 § 2(part), 1995).

7305
7306 **19.58.160 Penalty.**

7307 Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be
7308 subject to a penalty of not less than one hundred fifty dollars or more than three hundred dollars for the
7309 first offense; and for the second offense within one year shall be subject to a penalty of not less than
7310 two hundred dollars or more than four hundred dollars; and for the third and subsequent offenses
7311 within one year, not less than three hundred dollars or more than five hundred dollars, together with
7312 the costs of prosecution.
7313 (Ord. 1430 § 2, 1999; Ord. 1364 § 14, 1997).

7314
7315 **Chapter 19.60 NONCONFORMING USES, STRUCTURES AND LOTS**

7316 Sections:

- 7317 [19.60.010 Existing nonconforming uses.](#)
7318 [19.60.020 Existing nonconforming structures.](#)
7319 [19.60.030 Discontinuance or replacement of nonconforming use or structure.](#)
7320 [19.60.040 Changes and substitutions.](#)
7321 [19.60.045 Floodland nonconforming uses and structures.](#)
7322 [19.60.046 Wetland nonconforming uses and structures.](#)
7323 [19.60.050 Nonconforming lots.](#)

7324
7325 **19.60.010 Existing nonconforming uses.**

7326 The lawful nonconforming use of a structure, land or water existing prior to June 24, 1982, the
7327 effective date of this title, may be continued although the use does not conform with the provisions of
7328 this title; however:

- 7329 A. Only that portion of the land or water in actual use may be so continued, and any associated
7330 structures may not be extended, enlarged, reconstructed, substituted, moved or structurally altered
7331 except as otherwise permitted by the provisions of this title;
7332 B. Substitution of new uses or equipment may be permitted by the board of zoning appeals if such use
7333 or equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
7334 (Ord. 994 § 7.1, 1982).

7335
7336 **19.60.020 Existing nonconforming structures.**

7337 Any lawful nonconforming structure existing prior to June 24, 1982, the effective date of this
7338 title, may be continued although its size or location does not conform with the lot width, lot area, yard,
7339 height, parking and loading and access provisions of this title; however, it shall not be extended,
7340 enlarged, moved or structurally altered except when required to do so by law or order, or so as to
7341 comply with the provisions of this title. Normal maintenance is permitted. This provision shall not be
7342 interpreted to disallow the extension or enlargement of a structure in respect to those dimensions that
7343 are or may still be in conformance with this title so long as such extensions or enlargements do not

7344 thereby create additional nonconforming dimensions or increase the nonconformance with respect to
7345 parking and loading and access. Any extension or enlargement of a nonconforming structure is subject
7346 to review and approval of the plan and architectural review commission in accordance with Chapter
7347 19.63 of this title.
7348 (Ord. 994 § 7.2, 1982).

7349

7350 **19.60.030 Discontinuance or replacement of nonconforming use or structure.**

7351 A. If such nonconforming use or structure is discontinued or terminated for a period of twelve months,
7352 any future use of the structures, land or water shall conform to the provisions of this title.

7353 B. When a nonconforming use or structure is damaged or destroyed, it may be restored if completed
7354 within one year from damage occurring.

7355 C. Time extensions may be granted by the plan and architectural review commission in accordance with
7356 Chapter 19.63.

7357 (Ord. 994 § 7.3, 1982).

7358

7359 **19.60.040 Changes and substitutions.**

7360 Once a nonconforming use or structure has been changed to conform, it shall not revert back to
7361 a nonconforming use or structure. Once the board of zoning appeals has permitted the substitution of a
7362 more-restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose
7363 the original status as a legal nonconforming use and become subject to all the conditions required by
7364 the board of zoning appeals.

7365 (Ord. 994 § 7.4, 1982).

7366

7367 **19.60.045 Floodland nonconforming uses and structures.**

7368 Floodland nonconforming uses and structures shall be regulated under the provisions of Section
7369 19.46.060 of this title.

7370 (Ord. 1600 § 5, 2006; Ord. 1060 § 17, 1935).

7371

7372 **19.60.046 Wetland nonconforming uses and structures.**

7373 Notwithstanding Section 62.23(7)(h) of the Wisconsin Statutes, the repair, reconstruction,
7374 renovating, remodeling or expansion of a legal nonconforming structure, or any environmental control
7375 facility related to a legal nonconforming structure, located in the C-1 shoreland wetland district and in
7376 existence at the time of adoption or subsequent amendment of the ordinance codified in this title is
7377 permitted pursuant to Section 62.231(5) of the Wisconsin Statutes.

7378 (Ord. 1196 § 1(part), 1990).

7379

7380 **19.60.050 Nonconforming lots.**

7381 A lot which does not contain sufficient area to conform to the dimensional requirements of this
7382 title but which is at least thirty feet wide and four thousand square feet in area may be used as a
7383 building site provided that the use is permitted in the zoning district, providing the lot is of record in the
7384 county register of deeds' office prior to the effective date or amendment of the ordinance codified in
7385 this title, and providing that all other requirements for the district in which it is located can be met.
7386 Establishment of a use or structure on a nonconforming lot shall be reviewed and approved by the city
7387 plan and architectural review commission in accordance with Chapter 19.63.

7388 (Ord. 994 § 7.5, 1982).

7389

7390 **Chapter 19.63 PLAN REVIEW**

- 7391 Sections:
- 7392 19.63.010 Zoning permit--Purpose--Required when.
- 7393 19.63.012 Certificate of compliance--Purpose--Required when.
- 7394 19.63.014 Other permits.
- 7395 19.63.020 Plan review--Application requirements.
- 7396 19.63.030 Zoning permit application--Review by zoning administrator.
- 7397 19.63.040 Zoning permit application--Review by plan and architectural review commission, when.
- 7398 19.63.050 Developments automatically requiring approval by plan and architectural review commission.
- 7399 19.63.060 Review procedures.
- 7400 19.63.070 Notification of public hearing.
- 7401 19.63.080 Conditions attached to approvals when.
- 7402 19.63.090 Professional services--Consultation--Preparation of plans.
- 7403 19.63.100 Plan review guidelines.
- 7404 19.63.110 Zoning permit--Issuance conditions--Modification restrictions.
- 7405 19.63.120 Appeals procedure.

7406

7407 **19.63.010 Zoning permit--Purpose--Required, when.**

7408 For the purposes of assuring compliance with the standards and intent of this title and of
 7409 promoting compatible development and preservation of the unique character of the city, no structure
 7410 shall be erected, constructed, altered, demolished or moved and no land or building shall be changed in
 7411 use without the issuance of an approved zoning permit. Zoning permits shall not be required for minor
 7412 structures, incidental repairs, interior structural alterations and/or changes not resulting in an increase
 7413 in intensity.

7414 Notwithstanding the aforesaid exemption, no floodland structure or improvement shall be
 7415 exempt from obtaining a zoning permit.
 7416 (Ord. 1060 § 18, 1985).

7417

7418 **19.63.012 Certificate of compliance--Purpose--Required, when.**

7419 For the purpose of assuring compliance with the standards and intent of this title and of
 7420 assuring sound floodplain development, no undeveloped land within the floodland districts shall be
 7421 developed, occupied or used, and no structure hereafter erected, altered, moved or substantially
 7422 improved shall be occupied until the applicant submits to the zoning administrator a certification by a
 7423 registered professional engineer or land surveyor that the floodplain regulations set forth in this title
 7424 have been fully complied with. Such certification shall include the first-floor elevation of any structure
 7425 erected on the site.

7426 (Ord. 1060 § 19, 1985).

7427

7428 **19.63.014 Other permits.**

7429 It is the responsibility of a permit applicant to secure all other necessary permits required by any
 7430 state, federal or local agency. This includes, but is not limited to, a water use permit pursuant to
 7431 Chapters 30 and 31 of the Wisconsin Statutes or a wetland fill permit pursuant to Section 404 of the
 7432 Federal Clean Water Act.

7433 (Ord. 1060 § 20, 1985).

7434

7435 **19.63.020 Plan review--Application requirements.**

7436 Applications for plan review shall be made to zoning administrator at least thirty days prior to
 7437 the plan and architectural review committee meeting at which the plan is to be considered, and shall
 7438 include the following information to be considered complete. The zoning administrator or plan and
 7439 architectural review commission may reduce the information requirements where deemed appropriate.
 7440 Twenty complete sets of all required plan materials shall be required unless the applicant receives prior

7441 written approval from city staff that fewer copies, and/or an electronic/digital submission of materials
7442 will be considered adequate for the purposes of meeting the submission deadlines
7443 A. Names, phone numbers, and addresses of the applicant, owner of the site, architect, professional
7444 engineer, contractor and all other individuals responsible for preparation of plan materials;
7445 B. Identification of the subject site by lot, block and recorded subdivision, or by metes and bounds;
7446 C. Description of the existing and proposed use or operation of the structure or site, number of
7447 employees, building lot coverage, landscaped surface ratio, residential density and existing zoning;
7448 D. Building elevations and exterior architectural drawings, including enough detail to show the
7449 proposed building style, exterior materials, colors, mechanicals and lighting;
7450 E. Site plans drawn to a scale not less than fifty feet to the inch, showing:
7451 1. The natural features of the site, including water bodies, wetlands, floodplains, environmental
7452 corridors, trees with trunks greater than four inches in diameter, existing drainage patterns, and
7453 topography at two foot intervals,
7454 2. The location and dimensions of proposed and existing structures in relation to street and property
7455 lines, including buildings, Dumpsters, signs, mechanicals, walls and fences,
7456 3. The location, dimensions and arrangement of all open spaces, yards, and landscape plantings and
7457 buffer yards, including the species and size at time of planting for all landscaping,
7458 4. The location, arrangement and capacity of all areas used for vehicle and pedestrian access, off-street
7459 parking, off-street loading and unloading, including [materials, methods for screening, or fencing, and](#)
7460 [additional actions to keep parking orderly if three or more unrelated individuals live on the property.](#)
7461 ~~methods for screening.~~
7462 5. The capacity and arrangement of all buildings used or intended to be used for dwelling purposes,
7463 6. The proposed location and other characteristics of all outdoor lighting fixtures, pursuant to Section
7464 19.57.150(C),
7465 7. The location and size of all existing and proposed utilities and all related easements,
7466 8. The location of any proposed stormwater management facilities, including proposed drainage
7467 patterns and detention/retention facilities where required;
7468 F. Other information deemed necessary by the zoning administrator or the plan and architectural
7469 review commission to fully assess the impacts of a proposed project.
7470 (Ord. 1452 § 18, 2000; Ord. 994 § 8.2, 1982).

7471
7472 **19.63.030 Zoning permit application--Review by zoning administrator.**

7473 The zoning administrator shall review zoning permit applications for the proposed structure,
7474 addition, alteration or use to assure that the plan meets the minimum standards of this title for the
7475 district in which it is located. The zoning administrator shall grant, deny or refer to the plan and
7476 architectural review commission within ten calendar days of receiving the completed zoning permit
7477 application.
7478 (Ord. 994 § 8.3, 1982).

7479
7480
7481 **19.63.040 Zoning permit application--Review by plan and architectural review commission,**
7482 **when.**

7483 If the zoning administrator, at his or her discretion, finds that an application for a zoning permit
7484 has characteristics that should have broader public review or special conditions attached in order to
7485 preserve the intent of this title, the zoning administrator may require that such an application require
7486 review and approval of the plan and architectural review commission.
7487 (Ord. 994 § 8.4(A), 1982).

Comment [TF5]: Expand on new mitigation requirements for applications here.

7488

7489 **19.63.050 Developments automatically requiring approval by plan and architectural review**
7490 **commission.**

7491 The following developments automatically require approval by the plan and architectural review
7492 commission:

7493 A. All applications for zoning permits proposing exterior modifications of structures in the B-2 central
7494 business district, except minor remodeling or use changes;

7495 B. All applications for zoning permits for major remodeling or conversion of existing buildings that will
7496 increase the number of dwelling units;

7497 C. All applications for zoning permits proposing any exterior modifications to structures that are listed
7498 on the National Register of Historic Places. This review requirement shall also extend to properties
7499 immediately adjoining national register landmarks;

7500 D. Establishment of a use or structure on a nonconforming lot (see Section 19.60.050);

7501 E. Developments proposing driveway access within one hundred feet of the centerline of intersecting
7502 streets in the B-1 and B-3 districts. This is to be applied only to arterial streets and local streets
7503 intersecting arterial streets.

7504 (Ord. 994 § 8.4(B), 1982).

7505

7506 **19.63.060 Review procedures.**

7507 A. The zoning administrator shall transmit all applications requiring commission review and approval to
7508 the plan and architectural review commission. The plan and architectural review commission shall
7509 review the applications at its next scheduled meeting. The application shall be reviewed for compliance
7510 with the plan review guidelines, and a permit shall be granted, denied, or conditionally granted within
7511 thirty days of the date of application unless postponed for good cause including mutual agreement with
7512 the applicant. A simple majority approval of the plan and architectural review commission constitutes
7513 final action.

7514 B. The applicant may request a conceptual review by the plan and architectural review commission
7515 prior to filing a formal application for plan review.

7516 (Ord. 994 § 8.4(C), 1982).

7517

7518 **19.63.070 Notification of public hearing.**

7519 The city plan and architectural review commissions shall notify the applicant of the scheduled
7520 hearing by mail at least five mailing days prior to the hearing date. The commission may require that
7521 Class 1 notice be given if deemed appropriate.

7522 (Ord. 994 § 8.4(D), 1982).

7523 **19.63.080 Conditions attached to approvals, when.**

7524 A. Conditions on approval may include landscaping, modification to architectural design, type of
7525 construction, operational controls, sureties, or deed restrictions upon the plan and architectural review
7526 commission's findings that these are necessary to fulfill the purpose and intent of this title. Also, as a
7527 condition of the issuance of a temporary occupancy permit, the plan commission may require that the
7528 developer post a deposit for the completion of the site improvements which have been approved by the
7529 commission. The amount of the deposit shall be in accordance with the following schedule:

7530 TABLE INSET:

7531

Conversion	1 to 2 family	\$200.00
	2 to 3 family	500.00

	Multifamily \$500.00 + 50.00 per unit,
	\$1000.00 maximum
New	Multifamily \$500.00 + 100.00 per unit,
	\$2000.00 maximum
Addition/New	Commercial \$500.00 - \$1000.00

7532 B. The required deposit shall be released at the time all required site improvements have been
7533 completed and approved by the building inspector/zoning administrator. Fifty dollars shall be retained
7534 by the city as an additional fee for the issuance of the temporary occupancy permit prior to completion
7535 of the site improvements. If the site improvements are not completed by the time of the expiration of
7536 the temporary occupancy permit, and the occupancy permit has not been renewed or extended, the
7537 entire deposit shall be forfeited to the city. These provisions are in addition to all of the other
7538 enforcement provisions and remedies in the Whitewater Municipal Code.
7539 (Ord. 1129 § 1, 1988).

7540
7541 **19.63.090 Professional services--Consultation--Preparation of plans.**

7542 The plan and architectural review commission may consult professional services when it is
7543 deemed necessary. The commission may also require that plans submitted for review be certified by an
7544 architect, historic preservationist, site planner, engineer, or other appropriate professional meeting the
7545 approval of the plan and architectural review commission.
7546 (Ord. 994 § 8.4(F), 1982).

7547
7548 **19.63.100 Plan review guidelines.**

7549 As the basis for determining the acceptability of an application for a zoning permit, the plan and
7550 architectural review commission shall apply the following criteria:

- 7551 A. The proposed structure, addition, alteration or use will meet the minimum standards of this title for
- 7552 the district in which it is located;
- 7553 B. The proposed development will be consistent with the adopted city comprehensive plan;
- 7554 C. The proposed development will be compatible with and preserve the important natural features of
- 7555 the site;
- 7556 D. The proposed use will not create a nuisance for neighboring uses, or unduly reduce the values of an
- 7557 adjoining property;
- 7558 E. The proposed development will not create traffic circulation or parking problems;
- 7559 F. The mass, volume, architectural features, materials and/or setback of proposed structures, additions
- 7560 or alternations will appear to be compatible with existing buildings in the immediate area;
- 7561 G. Landmark structures on the National Register of Historic Places will be recognized as products of
- 7562 their own time. Alterations which have no historical basis will not be permitted;
- 7563 H. The proposed structure, addition or alteration will not substantially reduce the availability of
- 7564 sunlight or solar access on adjoining properties.
7565 (Ord. 994 § 8.4(G), 1982).

7566
7567 **19.63.110 Zoning permit--Issuance conditions--Modification restrictions.**

7568 A. Issuance of Zoning Permit. A zoning permit shall be issued to applicant, stating the official action of
7569 the zoning administrator or the plan and architectural review commission, and shall be filed in the office
7570 of the zoning administrator and referred to for enforcement of this title. Approved zoning permits shall

7571 expire in six months unless substantial work has commenced and is continuing in a progressive,
7572 workmanlike manner. Extensions may be granted by the approving authority.
7573 1. If the project is conditionally approved, the zoning permit shall be issued subject to the conditions.
7574 2. If the project is disapproved, the applicant may modify the proposal and resubmit.
7575 B. Modification of Plans Approved by the Plan and Architectural Review Commission. Minor
7576 modifications to plans approved for issuance of a zoning permit may be approved by the zoning
7577 administrator. Any major modification in approved plans or alteration of conditions must be approved
7578 by the plan and architectural review commission in compliance with procedures listed above.
7579 (Ord. 994 § 8.5, 1982).

7580

7581 **19.63.120 Appeals procedure.**

7582 Appeals from decisions of the city plan and architectural review commission in its plan-review
7583 function may be appealed to the board of zoning appeals if filed with the city clerk within thirty days of
7584 the date of decision unless tabled or postponed for good cause. The appeal shall be governed by the
7585 procedures in Chapter 19.72 of this title.

7586 (Ord. 1364 § 15, 1997; Ord. 1082 § 10, 1986; Ord. 994 § 8.6, 1982).

7587 Steps for Review of Zoning Permit

7588 **GRAPHIC LINK:** Click [Click here](#)

7589

7590 **Chapter 19.66 CONDITIONAL USES**

7591 Sections:

7592 [19.66.010 Issuance of conditional use permits authorized when.](#)

7593 [19.66.020 Application for permit.](#)

7594 [19.66.030 Hearings.](#)

7595 [19.66.040 Notification to property owners.](#)

7596 [19.66.050 Standards for review and approval.](#)

7597 [19.66.060 Additional conditions authorized when.](#)

7598 [19.66.070 Time limits and periodic review.](#)

7599 [19.66.080 No exemption from all other requirements.](#)

7600 [19.66.090 Determination of approval or disapproval.](#)

7601 [19.66.100 Recordkeeping requirements.](#)

7602 [19.66.110 Appeals procedure.](#)

7603

7604

7605 **DISCUSSION POINT: TIMELINE ISSUES**

7606

7607 **19.66.010 Issuance of conditional use permits authorized, when.**

7608 The city plan and architectural review commission may authorize the zoning administrator to
7609 issue a zoning permit for conditional uses after review and a public hearing, provided that such
7610 conditional uses and structures are in accordance with the purpose and intent of this title, are consistent
7611 with sound planning and zoning principles, and are found to be not hazardous, harmful, offensive or
7612 otherwise adverse to the environment or the value of the neighborhood or the community.

7613 (Ord. 1364 § 16, 1997; Ord. 994 § 9.1, 1982).

7614

7615 **19.66.020 Application for permit.**

7616 Applications for zoning permits for conditional uses shall be made to the zoning administrator
7617 on forms furnished by the zoning administrator, and shall include the information required by Section
7618 19.63.020.

7619 (Ord. 994 § 9.2, 1982).

7620

7621 **19.66.030 Hearings.**

7622 The city plan and architectural review commission shall hold a public hearing upon each
7623 conditional use application, giving Class 1 notice.
7624 (Ord. 994 § 9.3, 1982).

7625

7626 **19.66.040 Notification to property owners.**

7627 Notice of the hearing shall be given to owners of record of properties abutting and within three
7628 hundred feet of the property that is involved in the application, and to other persons who are
7629 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
7630 these notifications shall not invalidate the procedures.
7631 (Ord. 994 § 9.4, 1982).

7632

7633 **19.66.050 Standards for review and approval.**

7634 The plan commission shall use the following standards when reviewing applications for
7635 conditional use:

7636 A. That the establishment, maintenance, or operation of the conditional use will not create a nuisance
7637 for neighboring uses or substantially reduce the values of other property.

7638 B. That adequate utilities, access roads, parking drainage, landscaping and other necessary site
7639 improvements are being provided.

7640 C. That the conditional use conforms to all applicable regulations of the district in which it is located,
7641 unless otherwise specifically exempted in this ordinance. Where a variance is required, the plan
7642 commission may condition its approval on the subsequent approval of the variance.

7643 D. That the conditional use conforms to the purpose and intent of the city comprehensive plan.

7644 E. The conditional use and structures are consistent with sound planning and zoning principles.
7645 (Ord. 1364 § 17, 1997; Ord. 994 § 9.5(part), 1982).

7646

7647 **19.66.060 Additional conditions authorized, when.**

7648 A. Conditions, such as landscaping, architectural design, type of construction, construction
7649 commencement and completion dates, sureties, lighting, fencing, planting screens, operational control,
7650 hours of operation, improved traffic circulation, added restrictions, highway access restrictions,
7651 increased yards, or parking requirements, may be permitted by the plan and architectural review
7652 commission upon its finding that these are necessary to fulfill the purpose and intent of this title. Also,
7653 as a condition of the issuance of a temporary occupancy permit, the plan commission may require that
7654 the developer post a deposit for a completion of the site improvements which have been approved by
7655 the commission. The amount of the deposit shall be in accordance with the following schedule:

7656 TABLE INSET:

7657

Conversion	1 to family	\$200.00
"	2 to 3 family	500.00
"	Multifamily \$500.00 + 50.00 per unit, \$1000 maximum	
New	Multifamily \$500.00 + 100.00 per unit, \$2000.00 maximum	

Addition/New	Commercial \$500.00 - \$1000.00
--------------	---------------------------------

7658 B. The required deposit shall be released at the time all required site improvements have been
7659 completed and approved by the building inspector/zoning administrator. Fifty dollars shall be retained
7660 by the city as an additional fee for the issuance of the temporary occupancy permit prior to completion
7661 of the site improvements. If the site improvements are not completed by the time of the expiration of
7662 the temporary occupancy permit, and the occupancy permit has not been renewed or extended, the
7663 entire deposit shall be forfeited to the city. These provisions are in addition to all of the other
7664 enforcement provisions and remedies in the Whitewater Municipal Code.
7665 (Ord. 1130 § 1, 1988).

7666
7667 **19.66.070 Time limits and periodic review.**

7668 If an applicant does not commence construction within one year after city approval of a
7669 conditional use permit, or complete construction according to all specified plans and conditions within
7670 two years after city approval, the previously approved conditional use permit shall be considered null
7671 and void. Conditional uses may be subject to time limits or requirements for periodic reviews where
7672 such requirements relate to review standards.
7673 (Ord. 1452 § 21, 2000: Ord. 994 § 9.5(part), 1982).

7674
7675 **19.66.080 No exemption from all other requirements.**

7676 Compliance with all other provisions of this title, such as lot width and area, yards, height,
7677 parking, loading, traffic and highway access, shall be required, unless otherwise specifically exempted in
7678 this title, of all conditional uses. Variances shall only be granted as provided in Chapter 19.69.
7679 (Ord. 994 § 9.5(part), 1982).

7680
7681 **19.66.090 Determination of approval or disapproval.**

7682 Following the public hearing and review of the conditional use application, the plan and
7683 architectural review commission shall approve, disapprove or further conditionally approve the
7684 application. A simple majority approval by the plan commission constitutes final approval of the
7685 conditional use.
7686 (Ord. 994 § 9.5(part), 1982).

7687
7688 **19.66.100 Recordkeeping requirements.**

7689 Records of all plan and architectural review commission actions approving conditional uses shall
7690 be maintained by the zoning administrator, and shall be referred to in regard to enforcement and
7691 modification of conditional use approvals.
7692 (Ord. 994 § 9.5(part), 1982).

7693
7694 **19.66.110 Appeals procedure.**

7695 Decisions of the city plan and architectural review commission in its conditional use review
7696 function may be appealed to the board of zoning appeals if filed with the city clerk within thirty days of
7697 the date of decision. The appeal shall be governed by the procedures in Chapter 19.72 of this title.
7698 (Ord. 1364 § 18, 1997: Ord. 1082 § 11, 1986).

7699 [Steps for Review of Conditional Uses](#)

7700 **GRAPHIC LINK:** Click [Click here](#)

7701
7702 **Chapter 19.69 CHANGES AND AMENDMENTS**

- 7703 Sections:
- 7704 [19.69.010 City council authority.](#)
- 7705 [19.69.020 Who may initiate.](#)
- 7706 [19.69.030 Petitions--Contents and filing.](#)
- 7707 [19.69.040 Review and recommendation--Plan commission authority.](#)
- 7708 [19.69.050 Hearing--Notice to property owners.](#)
- 7709 [19.69.060 City council vote on proposed change or amendment.](#)
- 7710 [19.69.065 Floodland district boundary changes limited.](#)
- 7711 [19.69.066 Amendments to the C-1 and FWW districts.](#)
- 7712 [19.69.070 Protests against change or amendment.](#)

7713

7714 **19.69.010 City council authority.**

7715 Whenever the public necessity, convenience, general welfare or good zoning practice require,
 7716 the city council may, by ordinance, change the district boundaries or amend, change or supplement the
 7717 regulations established by this title or amendments thereto. Such change or amendment shall be subject
 7718 to the review and recommendation of the city plan commission.
 7719 (Ord. 994 § 10.1, 1982).

7720

7721 **19.69.020 Who may initiate.**

7722 Except as noted, in this section, A change or amendment may be initiated by the city council or
 7723 any member thereof, the city plan commission, or by a petition of one or more of the owners, lessees,
 7724 or authorized agents of the lessees of property within the area proposed to be changed. For the R-2A,
 7725 R-3A, B-1A, and B-2A Overlay Districts only the owners or authorized agents of the owners within the
 7726 area proposed to be changed may initiate a petition for a change or amendment.
 7727 (Ord. 1159 § 1, 1989; Ord. 994 § 10.2, 1982).
 7728 (Ord. No. 1690A, § 1, 6-17-2008)

7729

7730 **19.69.030 Petitions--Contents and filing.**

7731 Petitions for any change to the district boundaries or amendments to the regulations shall be
 7732 filed with the city clerk, describe the premises to be rezoned or the regulations to be amended, list the
 7733 reasons justifying the petition, specify the proposed use, and have attached the following:
 7734 A. Plot plan, drawn to a scale of one inch equals one hundred feet, showing the area proposed to be
 7735 rezoned, its locations, its dimensions, the location and classification of adjacent zoning districts, and the
 7736 location and existing use of all properties within three hundred feet of the area proposed to be rezoned;
 7737 B. Additional information required by the city plan commission or city council.
 7738 (Ord. 994 § 10.3, 1982).

7739

7740 **19.69.040 Review and recommendation--Plan commission authority.**

7741 The city plan commission shall review all proposed changes and amendments within the
 7742 corporate limits, conduct a public hearing (with Class 2 notice), and shall recommend that the petition
 7743 be granted as requested, modified, or denied.
 7744 (Ord. 994 § 10.4, 1982).

7745

7746 **19.69.050 Hearing--Notice to property owners.**

7747 Notice of the hearing shall be given to all owners of record of properties abutting and within
 7748 three hundred feet of the property that is involved in the application, and to other persons who are
 7749 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
 7750 these notifications shall not invalidate the procedures.

7751 (Ord. 994 § 10.5, 1982).

7752

7753 **19.69.060 City council vote on proposed change or amendment.**

7754 Following such hearing and after consideration of the city plan commission's recommendations,
7755 the city council shall vote on the passage of the proposed change or amendment. City council action on
7756 the zoning change must take place within thirty days of the plan commission's recommendations unless
7757 postponed for good cause by mutual agreement by the City Council and applicant.

7758 (Ord. 1159 § 2, 1989; Ord. 994 § 10.6, 1982).

7759

7760 **19.69.065 Floodland district boundary changes limited.**

7761 The common council shall not permit changes to the floodland district boundaries that are
7762 inconsistent with the purpose and intent of this chapter, in conflict with the applicable rules and
7763 regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency
7764 Management Agency (FEMA), or inconsistent with the provisions of Chapter 19.46.

7765 (Ord. 1600 § 7, 2006; Ord. 1196 § 1(part), 1990).

7766

7767 **19.69.066 Amendments to the C-1 and FWW districts.**

7768 Amendments to wetland zoning districts shall be reviewed by the Wisconsin Department of
7769 Natural Resources in accordance with the following procedures:

7770 A. The city shall transmit a notice of any change (text or map) in the C-1 or FWW districts to the
7771 Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:

7772 1. A copy of every petition for a text or map change mailed within five days of filing with the city
7773 manager;

7774 2. At least ten days prior notice of any public hearing on a C-1 or FWW zoning amendment;

7775 3. Notice of a city plan commission recommendation no later than ten days following the
7776 recommendation;

7777 4. Notice of a common council decision no later than ten days following the decision.

7778 B. No wetland in a C-1 or FWW district shall be rezoned if the rezoning may result in a significant
7779 adverse impact on storm or floodwater storage capacity; maintenance of dry season streamflow, the
7780 discharge of groundwater from the wetland to another area, or the flow of groundwater through a
7781 wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would
7782 otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning; breeding,
7783 nursery or feeding grounds; wildlife; habitat; or areas of special recreational, scenic or scientific interest,
7784 including scarce wetland types.

7785 C. If the DNR has notified the city plan commission that an amendment to the C-1 or FWW district may
7786 have a significant adverse impact upon any of the criteria listed in subsection B above, that amendment,
7787 if approved by the common council, shall contain the following provision:

7788 "This amendment shall not take effect until more than 30 days have elapsed since written notice of the
7789 Common Council's approval of this amendment was mailed to the Department of Natural Resources.
7790 During that 30-day period, the Department of Natural Resources may notify the Common Council that it
7791 will adopt a superseding shore land ordinance for the City pursuant to Section 62.231 of the Wisconsin
7792 Statutes. If the Department does so notify the Common Council, the effect of this amendment shall be
7793 stayed until the Section 61.231 adoption procedure is completed or otherwise terminated."

7794 (Ord. 1196 § 1(part), 1990).

7795

7796 **19.69.070 Protests against change or amendment.**

7797 A. In the event of a protest against such district change or amendment to the regulations of this title,
7798 duly signed and acknowledged by the owners of twenty percent or more either of the areas of land
7799 included in such proposed change, or by the owners of twenty percent or more of the land immediately
7800 adjacent extending one hundred feet therefrom, or by the owners of twenty percent or more of the land
7801 directly opposite thereto extending one hundred feet from the street frontage of such opposite land,
7802 such changes or amendments shall not become effective except by the favorable vote of three-fourths
7803 of the members of the council voting on the proposed change. (See Section 66.23(7)(d)(2), Wisconsin
7804 Statutes.)

7805 B. Protests against changes or amendments may also be filed by a petition duly signed by at least two
7806 hundred resident landowners in the city. In case of such a protest, such changes or amendments shall
7807 not become effective except by the favorable vote of three-fourths of the members of the council voting
7808 on the proposed change.

7809 (Ord. 994 § 10.7, 1982).

7810 [Steps for Zoning Amendment](#)

7811 **GRAPHIC LINK:** Click [Click here](#)

7812

7813 **Chapter 19.72 BOARD OF ZONING APPEALS**

7814 Sections:

7815 [19.72.010 Established--Purpose.](#)

7816 [19.72.020 Membership, appointment and officers.](#)

7817 [19.72.030 Organization--Meetings--Voting.](#)

7818 [19.72.040 Powers and duties.](#)

7819 [19.72.050 Application for appeal--Contents and filing time.](#)

7820 [19.72.060 Hearing--Time and conduct.](#)

7821 [19.72.070 Hearing--Notice to property owners.](#)

7822 [19.72.075 Hearings--Notice to DNR.](#)

7823 [19.72.080 Findings prerequisite to grant of variance.](#)

7824 [19.72.085 Wetland and floodland mapping disputes.](#)

7825 [19.72.090 Board decisions guided by title provisions.](#)

7826 [19.72.100 Decisions--Time limit--Additional conditions--Expiration and extensions.](#)

7827 [19.72.110 Notice to floodland variance applicants.](#)

7828

7829 **19.72.010 Established--Purpose.**

7830 There is established a board of zoning appeals for the city for the purpose of hearing appeals
7831 and applications, and granting variances and exceptions to the provisions of this title in harmony with
7832 the purpose and intent of this title.

7833 (Ord. 994 § 11.1, 1982).

7834

7835 **19.72.020 Membership, appointment and officers.**

7836 Membership and appointment procedures for the zoning board of appeals shall be provided in
7837 Section 62.23(7)(e)2, Wisconsin Statutes, except that the city manager shall perform the duties
7838 designated as those of the mayor; the term of designations of chairman shall be one year, and the city
7839 clerk or designee shall serve as recording secretary. Current members of the Common Council and/or
7840 the Plan Commission may not serve as members of the zoning board of appeals.

7841 (Ord. 994 § 11.2, 1982).

7842

7843 **19.72.030 Organization--Meetings--Voting.**

7844 A. The board of zoning appeals shall organize and adopt rules of procedures for its own government in
7845 accordance with the provisions of this title.

7846 B. Meetings shall be called by the secretary on behalf of the chairman, and shall be open to the public,
7847 except as otherwise allowed under Section 19.85, Wisconsin Statutes.

7848 C. Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the
7849 vote of each member upon each question, the reasons for the board's determination and its finding of
7850 facts. These records shall be immediately filed in the office of the board and shall be a public record.

7851 D. The concurring vote of four members of the board shall be necessary to correct an error, grant a
7852 variance, make an interpretation, and permit a utility, temporary, unclassified or substituted use.

7853 E. A quorum shall be four members of the board.
7854 (Ord. 994 § 11.3, 1982).

7855

7856 **19.72.040 Powers and duties.**

7857 The board of zoning appeals shall have the following powers:

7858 A. Appeals. To hear or decide appeals where it is alleged there is error in any order, requirement,
7859 decision, or determination made by the zoning administrator, or by the city plan and architectural
7860 review commission in its plan review or conditional use review function;

7861 B. Variances. To hear and grant applications for variances as will not be contrary to the public interest,
7862 where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary
7863 hardship, so that the spirit and purposes of this title shall be observed and the public health, safety,
7864 welfare, and justice are secured. Use variances shall not be granted;

7865 C. Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses
7866 for existing nonconforming uses, provided no structural alterations are to be made. Whenever the board
7867 permits such a substitution, the use may not thereafter be changed without application;

7868 D. Unclassified Uses. To hear and grant applications for unclassified and unspecified uses, where a clear
7869 determination cannot be made by the zoning administrator, provided that such uses are similar in
7870 character to the principal uses permitted in the districts;

7871 E. Interpretations. To hear and decide applications for interpretations of the zoning regulations and the
7872 location of the boundaries of the zoning districts after review and recommendation by the city plan
7873 commission. Pursuant to the procedure set forth in Section 19.72.085 of this chapter, the board of
7874 appeals may determine the location of disrupted floodland boundaries;

7875 F. Assistance. The board of zoning appeals may request assistance from other municipal officers,
7876 departments, boards and commissions, or may seek outside professional opinion and pay for same,
7877 provided funds for such consultation services are made available by the city council;

7878 G. Oaths. The chair may administer oaths and compel the attendance of witnesses.

7879 H. Floodplain Regulations. The board of zoning appeals has responsibilities related to the city's
7880 floodplain regulations as specified in Section 19.46.070(C) of this title.

7881 (Ord. 1600 § 8(part), 2006; Ord. 1060 § 23, 1985).

7882

7883 **19.72.050 Application for appeal--Contents and filing time.**

7884 A. Appeals from the decision of the zoning administrator concerning the literal enforcement of this title
7885 may be made by any person aggrieved, or by an officer, department, commission, or bureau of the city.
7886 Such appeals shall be filed with the secretary within fifteen days after the date of written notice of
7887 decision or order of the zoning administrator. Such appeals and applications shall include the following:

7888 1. Site plan as required under Chapter 19.63 of this title;

7889 2. Additional information required by the board of zoning appeals or by other chapters in this title, such
7890 as Chapter 19.46 of this title.

7891 B. The right to an appeals hearing shall be contingent upon applicant's prepayment of costs of
7892 publication and mailing of notices required by the ordinance codified in this title, as computed and billed
7893 by the secretary, prior to the time set for hearing.
7894 (Ord. 1600 § 8(part), 2006; Ord. 994 § 11.5, 1982).

7895

7896 **19.72.060 Hearing--Time and conduct.**

7897 The board of zoning appeals shall fix a reasonable time and place for the hearing, give public
7898 notice thereof at least ten days prior to the hearing by publication as a Class 2 notice, and shall give due
7899 notice to the zoning administrator and the city plan commission, and the parties specified in Section
7900 19.72.070. At the hearing, the appellant or applicant may appear in person, by agent, or attorney.
7901 (Ord. 994 § 11.6, 1982).

7902

7903 **19.72.070 Hearing--Notice to property owners.**

7904 Notice of the hearing shall be given to all owners of record of properties abutting and within
7905 three hundred feet of the property that is involved in the application, and to other persons who are
7906 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
7907 these notifications shall not invalidate the procedures.
7908 (Ord. 994 § 11.7, 1982).

7909

7910 **19.72.075 Hearings--Notice to DNR.**

7911 The zoning board of appeals shall transmit a copy of each application for a variance to wetland
7912 regulations in the C-1 and FWW districts or to floodland regulations Chapter 19.46 and a copy of all
7913 appeals in these districts, to the Wisconsin Department of Natural Resources (DNR) for review and
7914 comment at least ten days prior to any public hearing. Final action on the application shall not be taken
7915 for thirty days or until the DNR has made its recommendation, whichever comes first. A copy of all
7916 decisions relating to shoreland wetland regulation or to floodland regulations, and a copy of all decisions
7917 relating to shoreland wetland and floodland appeals, shall be transmitted to the DNR within ten days of
7918 the date of such decision.
7919 (Ord. 1600 § 8(part), 2006; Ord. 1196 § 1(part), 1990).

7920

7921 **19.72.080 Findings prerequisite to grant of variance.**

7922 No variance to the provisions of this title shall be granted by the board unless it finds beyond a
7923 reasonable doubt that all of the following facts and conditions exist, and so indicates in the minutes of
7924 its proceedings:

7925 A. The particular physical surroundings, shape, or topographical conditions of the specific property
7926 involved would result in a particular hardship upon the owner as distinguished from a mere
7927 inconvenience, if the strict letter of the regulations were to be carried out;

7928 B. The conditions upon which the application for a variance is based would not be applicable generally
7929 to other property within the same zoning classification;

7930 C. The purpose of the variance is not based exclusively upon a desire for economic or other material
7931 gain by the applicant or owner;

7932 D. The hardship is not one that is self-created;

7933 E. The proposed variance will not impair an adequate supply of light and air to adjacent property or
7934 substantially increase the congestion in the public streets, or increase the danger of fire, or endanger
7935 the public safety, or substantially diminish or impair property values within the neighborhoods;

7936 F. The proposed variance will not have the effect of permitting a use which is not otherwise permitted
7937 in the district;

7938 G. No variance shall be granted in a floodland district where not in compliance with Section
7939 19.46.070(C)(4) of this title.
7940 (Ord. 1600 § 8(part), 2006: Ord. 1060 § 24, 1985).

7941
7942 **19.72.085 Wetland and floodland mapping disputes.**

7943 The following procedure shall be used in settling disputes of wetland and floodland boundaries:
7944 A. Wetland Disputes. Whenever the board of appeals is asked to interpret a C-1, C-2 or FWW district
7945 boundary where an apparent discrepancy exists between the city's Final Wetland Inventory Map and
7946 actual field conditions, the city shall contact the Wisconsin Department of Natural Resources (DNR) to
7947 determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was
7948 incorrectly mapped as a wetland, the board of appeals shall direct the city plan commission to initiate
7949 appropriate action to rezone the property within a reasonable amount of time.

7950 B. Floodland Disputes. Whenever the board of appeals is asked to interpret a floodland boundary
7951 where an apparent discrepancy exists between the federal Flood Insurance Study and actual field
7952 conditions, the procedure specified in Section 19.46.070(C)(3) of this title shall be used.
7953 (Ord. 1600 § 8(part), 2006: Ord. 1196 § 1(part), 1990).

7954
7955 **19.72.090 Board decisions guided by title provisions.**

7956 In deciding applications for appeals of administrative interpretations, for substitutions, and for
7957 approvals of unclassified uses, the board shall be guided by the intent of this title.
7958 (Ord. 994 § 11.9, 1982).

7959
7960 **19.72.100 Decisions--Time limit--Additional conditions--Expiration and extensions.**

7961 A. The board of zoning appeals shall decide all appeals and applications within thirty days after the final
7962 hearing, and shall transmit a signed copy of the board's decision to the appellant or applicant, zoning
7963 administrator, and city plan commission.

7964 B. Conditions may be placed upon any zoning permit ordered or authorized by this board.

7965 C. Variances, substitutions or zoning permits acted upon by the board shall expire within six months
7966 unless substantial work has commenced pursuant to such grant. Extension may be granted by decision
7967 of the board.

7968 (Ord. 994 § 11.10, 1982).

7969 Steps for Appeals to Board of Zoning Appeals

7970 **GRAPHIC LINK:** Click [Click here](#)

7971
7972 **19.72.110 Notice to floodland variance applicants.**

7973 Applicants receiving variances in floodland districts shall be notified, in writing, by the board of
7974 appeals that increased flood insurance premiums and threat to life and property may result from the
7975 granting of the variance. The board shall keep a copy of the notification in its files.

7976 (Ord. 1196 § 1(part), 1990).

7977
7978 **Chapter 19.75 ADMINISTRATION AND ENFORCEMENT**

7979 Sections:

7980 [19.75.010 Introduction to Chapter 19.75.](#)

7981 [19.75.020 Zoning administrator--Office created--Powers and duties generally.](#)

7982 [19.75.030 Zoning administrator--Ordinance interpretation duties.](#)

7983 [19.75.035 Public information.](#)

7984 [19.75.040 Zoning administrator--Permit issuance duties.](#)

7985 [19.75.050 Certificate of zoning compliance requirements.](#)

7986 [19.75.060 Zoning administrator--Inspection of properties for compliance--City attorney duties.](#)

7987 [19.75.070 City manager's administrative responsibilities.](#)

7988 [19.75.080 Unlawful activities designated--Penalties--Additional remedies.](#)

7989

7990 **19.75.010 Introduction to Chapter 19.75.**

7991 Chapter 19.75 deals with the administrative responsibilities of the zoning administrator,
7992 recordkeeping responsibilities of the city manager, and with compliance inspection and enforcement
7993 under this title. It should be recognized that the city plan commission and the board of zoning appeals
7994 have administrative responsibilities as well, and these are prescribed elsewhere in this title.
7995 (Ord. 994 § 12.1, 1982).

7996

7997 **19.75.020 Zoning administrator--Office created--Powers and duties generally.**

7998 A. The office of zoning administrator is hereby created. The zoning administrator is the administrative
7999 and enforcement officer for the provisions of this Title 19.

8000 B. The duties of the zoning administrator shall be to:

8001 1. Issue interpretations of the zoning ordinance codified in this title, and make and maintain records
8002 thereof;

8003 2. Issue all zoning permits and make and maintain records thereof;

8004 3. Issue all certificates of zoning compliance, and make and maintain records thereof;

8005 4. Conduct inspections to determine compliance with the terms of this title;

8006 5. Record the lowest floor elevations of all structures erected, moved, altered or improved in the
8007 floodland districts;

8008 6. Maintain permanent and current records of activities under this title, including, but not limited to all
8009 maps, amendments, conditional use records, variance records, appeal records, and applications
8010 therefore;

8011 7. Provide a public information program relative to all matters arising out of this title;

8012 8. Receive, file and forward to the city clerk all applications for amendments to this title;

8013 9. Receive, file and forward to the plan commission all applications for amendments to this title and
8014 applications for plan and architectural review, [including section 19.63.050](#);

8015 10. Receive, file and forward to the board of zoning appeals all applications for appeals, variances or
8016 other matters on which the board of zoning appeals is required to act under this title. See also Section
8017 19.72.050 allowing appeals to be filed with the board secretary;

8018 11. Initiate enforcement activities, and participate in such enforcement activities in relation to existing
8019 or potential violations of this title;

8020 12. Initiate studies of the provisions of this title, and make recommendations to the plan commission at
8021 appropriate intervals or upon request;

8022 13. Attend meetings of the plan commission and the board of zoning appeals;

8023 14. Perform such activities as are reasonably required to conduct the responsibilities enumerated
8024 herein, and respond to requests or directives from supervising officials of the city.

8025 (Ord. 1060 § 26, 1985).

8026

8027 **19.75.030 Zoning administrator--Ordinance interpretation duties.**

8028 A. A primary duty of the zoning administrator is interpretation of the ordinance codified in this title.
8029 The zoning administrator shall respond expeditiously to requests for clarification and interpretation. The
8030 administrator is encouraged to seek counsel of the city attorney in making such interpretations.

8031 B. Informal and unwritten interpretations by the zoning administrator are not binding upon the city
8032 government, nor are those written interpretations that are expressly stated not to be binding. The

8033 zoning administrator shall have sole authority to decide when an interpretation shall be put in writing,
8034 except that the administrator shall make response to duly filed permit applications.

8035 C. Written interpretations by the zoning administrator are binding upon the city unless they are
8036 expressly made nonbinding. The written interpretation placed on this title by the zoning administrator
8037 shall be the official city interpretation unless that interpretation is retracted or revised in writing by the
8038 zoning administrator, or until it is reversed or modified by order of the board of zoning appeals or by a
8039 court.

8040 D. Written interpretations by the zoning administrator may be appealed to the board of zoning appeals
8041 as provided in Section 62.23(7)(e), 7, Wisconsin Statutes, and in Chapter 19.72.
8042 (Ord. 994 § 12.3, 1982).

8043

8044 **19.75.035 Public information.**

8045 To the fullest extent possible, the zoning administrator shall make available to the public all
8046 reports and documents concerning the city comprehensive plan and any component thereof. In
8047 addition, available information in the form of reports, bulletins, maps, and engineering data shall be
8048 readily available and widely distributed. The plan commission may set fees necessary to recover the
8049 costs of providing information to the public. Where useful, the zoning administrator, or his agent, may
8050 set marks on bridges or buildings or other markers which show the depth of the 100-year recurrence
8051 interval flood; or may set markers delineating the boundaries of wetlands.
8052 (Ord. 1196 § 1(part), 1990).

8053

8054 **19.75.040 Zoning administrator--Permit issuance duties.**

8055 A. Most types of land use change that are regulated by this title require a permit to be issued before
8056 the change may be legally undertaken. (See Chapter 19.63, Plan Review.) The zoning administrator's
8057 decision whether to issue a zoning permit is an interpretation decision in which the terms of this title are
8058 applied to a projected land use as described in the permit application and accompanying documents.
8059 When a permit is issued, the city is communicating its official statement that the land use described in
8060 the permit application is deemed to be legal under this title as Title 19 stands at that time. A permit that
8061 is issued does not, by itself, vest a right to complete the land use change. Changes in law or ordinance
8062 may have the effect of cancelling city approval if these occur before the project is far enough toward
8063 consummation to have a vested right to proceed to completion. A permit that is issued applies only to
8064 the development project as it is specifically described in the application. Permits may be time-limited in
8065 their duration to allow a re-review of prevailing conditions.

8066 B. 1. Every application for a zoning permit shall contain the information required in Section 19.63.020,
8067 on plan review application requirements. The administrator may also require evidence of compliance
8068 with other applicable laws or ordinances as a condition precedent to the issuance of a zoning permit.

8069 2. Any permit obtained through material misrepresentation shall be null and void.

8070 C. 1. Coincident with the issuing of a permit, the zoning administrator shall prepare a card, certifying
8071 that a permit has been issued. This card shall bear the same number as the permit and shall identify the
8072 construction and premises covered by the permit. This card shall be posted in a conspicuous place on
8073 the premises during construction and no construction shall be commenced until this card has been
8074 posted.

8075 2. If the zoning administrator deems it appropriate, conditions may be placed on the permit. The
8076 permit card shall spell out the Title 19 requirements as applied by the zoning administrator to the
8077 development proposal. A full set of conditions shall be retained by the zoning administrator and a
8078 summary of pertinent parts shall be communicated in writing to the owner, agents and contractors.

8079 D. When a fully completed permit application is submitted and is then denied by the zoning
8080 administrator, the denial and the reasons for the denial shall be recorded in the records of the zoning
8081 office, and this decision shall be appealable under subsection D of Section 19.75.030. Permit denials that
8082 are done without presentation of a fully completed application and the issuance of a denial on that
8083 application are not appealable.

8084 E. Issuance of a permit is equivalent to a written interpretation decision and is appealable as provided
8085 in subsection D of Section 19.75.030.

8086 F. Where a development requires a uniform state building permit, the zoning permit may take the form
8087 of inscription of zoning approval on the building permit and description of pertinent conditions in the
8088 file and on the permit placard.
8089 (Ord. 994 § 12.4, 1982).

8090

8091 **19.75.050 Certificate of zoning compliance requirements.**

8092 No building or addition thereto constructed after June 24, 1982, the effective date of this Title
8093 19, and no addition to a previously existing building shall be occupied, and no land (except that used for
8094 garden purposes, or for public recreation purposes and without buildings or structures), which is vacant
8095 on June 24, 1982, shall be used for any purpose until a certificate of zoning compliance has been issued
8096 by the zoning administrator. No use shall be changed until the certificate of zoning compliance has been
8097 issued by the zoning administrator. The application for and processing of a request for such a certificate
8098 shall be the same as for a zoning permit. A certificate of zoning compliance shall state that the uses of
8099 the property are legal under the zoning ordinance, either by expressed terms of the ordinance, or as a
8100 matter of nonconforming usage. Conditions or qualifications may be appended.
8101 (Ord. 994 § 12.5, 1982).

8102

8103 **19.75.060 Zoning administrator--Inspection of properties for zoning compliance--City**
8104 **attorney duties.**

8105 A. It shall be the duty of the zoning administrator to inspect or cause to be inspected all properties for
8106 which a zoning permit has been issued to determine whether the development of land use change that
8107 was the subject of the permit has occurred in full compliance with this title. The acceptance by an
8108 applicant of a zoning permit grants consent to the zoning administrator to make such inspections as are
8109 reasonably necessary to determine compliance.

8110 B. It shall also be the duty of the zoning administrator to inspect or cause to be inspected all properties
8111 within the jurisdiction of this title for compliance with the terms of this title. Inspections may be at
8112 random, under a routine pattern, as a follow-up to permit issuance, or upon complaint or inquiry. Based
8113 on the possible violation, the zoning administrator or designee may inspect the property.

8114 C. Where facts obtained from inspection or by other means lead the zoning administrator to conclude
8115 that a violation of this title probably exists, the zoning administrator shall create an evidentiary file
8116 documenting the basis for this conclusion. After completion and review of this file, the zoning
8117 administrator may take the following initial enforcement actions on his/her own motion:

8118 1. Communicate in person, by letter, or telephone, with the owner, the architect, contractors, or other
8119 relevant parties, expressing the conclusion that a violation probably exists, requesting information,
8120 requesting that the parties review the compliance question, and that they communicate with the zoning
8121 administrator on this matter within a specified time appropriate to the circumstances.

8122 2. Where the zoning administrator deems it appropriate to prevent further construction or alteration, a
8123 stop-work order may be issued by the administrator. This order shall be prominently posted on the
8124 property and mailed to relevant parties, and it shall demand that work violating this title be halted
8125 immediately and shall advise its readers and recipients to contact the zoning administrator's office.

8126 3. Where the zoning administrator deems it appropriate, the zoning administrator may issue a citation
8127 for a zoning ordinance violation, under the city's citation ordinance.

8128 4. All written communications, including stop-work orders, shall have an expressed time limit for
8129 contact with the zoning office, and shall advise that the matter will be turned over to the city attorney
8130 for legal action on that date unless the matter has been resolved.

8131 D. Where enforcement actions described in subsection C above have not satisfied the zoning
8132 administrator that the property and its usage have been made to comply, the evidentiary file and all
8133 correspondence shall be turned over to the city attorney. The city attorney shall review the file. The
8134 attorney may require an evidentiary hearing before making a prosecutorial decision. If the file is deemed
8135 by the city attorney not to show a probable violation, the city attorney shall so indicate in an
8136 explanatory letter, and pertinent parties shall be so notified. If the city attorney does not so conclude,
8137 the attorney shall immediately issue a letter to the violating parties and other pertinent individuals
8138 establishing a specific timetable for compliance to be accomplished and specifying that legal action will
8139 be taken if compliance is not accomplished within the time period specified. If the deadline is not met,
8140 the attorney shall institute prosecution by lawsuit requesting injunctive relief or forfeiture or both. The
8141 attorney may also prosecute a nuisance action and/or may refer the matter to the district attorney for
8142 possible violation of state law or code, as the facts may indicate.

8143 E. Formal decisions by the zoning administrator or by the city attorney on probable violations are
8144 administrative determinations made in the course of enforcing this title, and are capable of appeal to
8145 the board of zoning appeals pursuant to Section 66.23(7), Wisconsin Statutes.

8146 F. The city police department shall have enforcement authority concerning all of the provisions of Title
8147 19. This shall include, but not be limited to, issuance of citations for zoning ordinance violations under
8148 the city's citation ordinance.

8149 (Ord. 1382 § 1, 1997; Ord. 994 § 12.6, 1982).

8150

8151 **19.75.061 Zoning administrator --Inspection of properties for occupancy compliance--City**
8152 **attorney duties.**

8153 A. It shall be the duty of the zoning administrator or designee to inspect properties for which a
8154 complaint has been filed to determine whether the permitted occupancy is in full compliance with this
8155 title for districts R-O, R-1, R-2, R-3, and all overlay districts of this title. The acceptance by an applicant of
8156 a zoning permit grants consent to the zoning administrator to make such inspections as are reasonably
8157 necessary to determine compliance.

8158 B. Inspections may include a site visit to request a lease from the tenants or with regard to specific
8159 inquiries regarding occupancy or similar issue. Inspections will be due to a complaint or inquiry.

8160 C. Where facts obtained from inspection, or by other means, lead the Zoning Administrator to conclude
8161 that a violation of occupancy probably exists, the zoning administrator shall create an evidentiary file
8162 documenting the basis for this conclusion. After completion and review of this file, Zoning Administrator
8163 may take the following initial enforcement actions on his/her own motion:

8164 1. Communicate in person, by letter, or telephone, with the property owner requesting information,
8165 requesting that the parties review the compliance question, and that they communicate with the zoning
8166 administrator on this matter within a specified time appropriate to the circumstances.

8167 2. Where the Zoning Administrator deems it appropriate, he or she may issue a citation for a zoning
8168 ordinance violation, under the city's citation ordinance.

8169 E. Formal decisions by the zoning administrator or by the city attorney on probable violations are
8170 administrative determinations made in the course of enforcing this title, and are capable of appeal to
8171 the board of zoning appeals pursuant to Section 66.23(7), Wisconsin Statutes.

8172 (Ord. 1382 § 1, 1997; Ord. 994 § 12.6, 1982).

8173

8174 **19.75.070 City manager's administrative responsibilities.**

8175 A. It shall be the duty of the city manager, or of other city officials and staff as determined by the city
8176 manager, to provide the plan commission and the board of zoning appeals with staff services to assure
8177 that all meetings are fully noticed and conducted in accordance with procedural requirements of the
8178 Wisconsin planning and zoning statute (Section 62.23(7), Wisconsin Statutes), the open meeting law and
8179 the public record law. Similarly, the city manager or delegated public official shall maintain all minutes,
8180 proceedings and records of the plan commission and board of zoning appeals in full compliance with the
8181 public record requirements of state planning and zoning laws and the open meeting and public record
8182 laws of the State of Wisconsin.

8183 B. The city manager is the appointing officer for the zoning administrator. The city manager shall not,
8184 however, dictate the outcome of interpretation or permit decisions or enforcement decisions by the
8185 administrator. The city manager, if affected by any decision of the zoning administrator, shall have the
8186 right to appeal the administrator's decision to the board of zoning appeals, pursuant to Section
8187 62.23(7)(e)4, Wisconsin Statutes.

8188 C. It shall be the duty of the city manager and zoning administrator to establish and maintain a system
8189 of records on land usage, coordinating records of permits, decisions of the plan commission and board
8190 of zoning appeals, city council, land subdivision records, city-required covenants, development
8191 conditions and contracts, etc., so as to provide city officials and citizens with reasonably full access to all
8192 the regulatory matters pertaining to particular parcels.
8193 (Ord. 994 § 12.7, 1982).

8194

8195 **19.75.080 Unlawful activities designated--Penalties--Additional remedies.**

8196 A. The following shall constitute violations of this title, and shall subject those responsible to penalties
8197 as listed below.

8198 It is a violation of Title 19 to:

8199 1. Own any property or structure that does not fully comply with the terms of this title: one hundred
8200 to three hundred dollars.

8201 2. Establish or cause to be established, or allow or fail to remedy, any usage of land or premises or any
8202 structure which does not fully comply with the terms of this title, or to aid or abet in such activity: one
8203 hundred to three hundred fifty dollars;

8204 3. Fail to request and obtain a zoning permit for a land use or a land use change that requires such a
8205 permit under this title: one hundred to three hundred dollars; In cases where a permit is subsequently
8206 requested, the standard permit fee shall be doubled;

8207 4. Fail to comply with a stop-work order duly issued by the zoning administrator: Two hundred fifty to
8208 four hundred dollars.

8209 B. Each day of a violation shall constitute a separate offense.

8210 C. In addition to the remedies specified above, adjacent or neighboring property owners may institute
8211 appropriate actions or proceedings to prevent, enjoin, abate, remove or correct structural or land use
8212 activities that are or will be in violation of this title, or to prevent or abate activities or conditions that
8213 constitute nuisances.

8214 D. In addition to any other penalties or remedies available, the city or any landowner within three
8215 hundred feet of the property, may maintain an action for injunctive relief to restrain any violation of the
8216 density and use limitations set forth in Section 19.09.520 and/or to enforce compliance with Section
8217 19.09.520, upon a showing that a person has engaged in, or is about to engage in, an act or practice
8218 constituting a violation of that section.
8219 (Ord. 994 § 12.8, 1982).

8220 (Ord. No. 1695A, 8-5-2008)
8221
8222
8223

