



Neighborhood Services Department
*Planning, Zoning, Code Enforcement, GIS
and Building Inspections*

www.whitewater-wi.gov
Telephone: (262) 473-0540

Public Hearing Information for the draft changes to the Zoning Code

This packet includes:

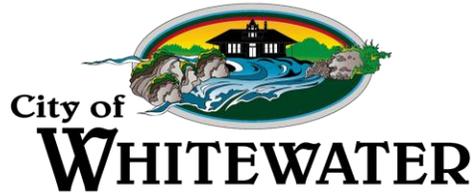
- 1) The full zoning code. Content from the previously delivered commercial sections has not changed. GRAEF performed the changes requested at the last Council meeting:
 - A. Removed the colors – Black and White only
 - B. Shows changes to the current code with a ~~strikethrough~~
 - C. Shows proposed code changes with a double underline
- 2) An ordinance amendment based on recent State legislation that limits the information that a city can require a landlord to provide to the City.
- 3) Proposed overlay map (all properties within these proposed overlay zones will be notified this week via mail)
- 4) Comments received
- 5) Agenda for the Commercial sections that will be reviewed on 2/25/14 at 6:00 PM
- 6) The residential and all other sections of the zoning rewrite will be reviewed on 3/10/14 at 6:00 PM at the regularly planned Plan Commission meeting (after the Plan Commission reviews the two Conditional Use Permit applications). Agenda to follow later.

Please keep in mind that this is a draft document. Any changes that come up at the public hearings can be changed in a final draft document. If you see any spelling, punctuation, etc. changes that were missed, please let me know so I can start a list of these items.

As always, if you have any questions please let me know.

Thank you,

Latisha
lbirkeland@whitewater-wi.gov or 262-473-0143



CITY OF WHITEWATER PLAN AND ARCHITECTURAL REVIEW
COMMISSION

Joint Common Council and Plan and Architectural Review
Commission meeting

February 25, 2014- 6:00 PM
City of Whitewater Municipal Building
312 W. Whitewater St., Whitewater, WI 53190

- 1) Call to order, roll call
- 2) Approval of the minutes of the Joint Common Council and Plan and Architectural Review Commission meeting of October 8, 2013.
- 3) Hold a public hearing to consider changes to the City of Whitewater Zoning Ordinance regulations, to enact proposed amendments to the City of Whitewater Municipal Code. The proposed amendments are considered a rewrite of Title 19, the City of Whitewater Zoning Ordinance. The amendments to be considered at this hearing are primarily related to Commercial Sections of the Zoning Code. Changes include, but are not limited to, amendments to the following chapters in Title 19 (chapters: 19.27 B-1 Community Business District; 19.30 B-2 Central Business District; 19.33 B-3 Highway Commercial and Light Industrial District; 19.36 M-1 General Manufacturing District; 19.37 M-2 Manufacturing and Miscellaneous Use District; 19.38 Whitewater University Technology Park District (WUTP District); 19.46 Floodplain Regulations; 19.461 FWW Floodway/Wetland District; 19.48 I Institutional District; and 19.485 Large Retail and Commercial Service Development Standards).
- 4) Recommendation to the Common Council concerning the above amendments.

Please contact Latisha Birkeland at 262-473-0143 or lbirkeland@whitewater-wi.gov if you have any questions.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Whitewater and the Plan and Architectural Review Commission of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, will consider changes to the City of Whitewater Zoning Ordinance regulations, to enact proposed amendments to the City of Whitewater Municipal Code. The proposed amendments are considered a rewrite of Title 19, the City of Whitewater Zoning Ordinance. The amendments to be considered at this hearing are primarily related to Commercial Sections of the Zoning Code. Changes include, but are not limited to, amendments to the following chapters in Title 19 (chapters: 19.27 B-1 Community Business District; 19.30 B-2 Central Business District; 19.33 B-3 Highway Commercial and Light Industrial District; 19.36 M-1 General Manufacturing District; 19.37 M-2 Manufacturing and Miscellaneous Use District; 19.38 Whitewater University Technology Park District (WUTP District); 19.46 Floodplain Regulations; 19.461 FWW Floodway/Wetland District; 19.48 I Institutional District; and 19.485 Large Retail and Commercial Service Development Standards).

The proposed ordinance amendments are on file in the office of the City Clerk and the document is open to public inspection during office hours Monday through Friday, 8:00 a.m. to 5:00 p.m.

NOTICE IS FURTHER GIVEN that the Plan and Architectural Review Commission of the City of Whitewater will hold a public hearing at the Municipal Building Community Room, 312 West Whitewater Street, Whitewater, Wisconsin, on Tuesday, February 25, 2014, at 6:00 p.m. to hear any person wishing to comment on the proposed amendments. Written comments will also be received. The City Council will be in session and participate in the hearing.

Dated: January 27, 2014

Publish: January 30, 2014, February 6, 2014, February 13, 2014, (three times)
in the Whitewater Register

Michele Smith, City Clerk

CITY OF WHITEWATER
JOINT CITY COUNCIL AND PLAN AND ARCHITECTURAL REVIEW COMMISSION
Whitewater Innovation Center
October 8, 2013

**ABSTRACTS/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL
ACTIONS OF THE CITY COUNCIL AND PLAN AND ARCHITECTURAL REVIEW
COMMISSION**

Call to order and roll call, and introduction.

Council President Singer called the joint meeting of the City Council and Plan and Architectural Review Commission to order at 5:30 p.m.

City Council Present: Patrick Singer, James Winship, Lynn Binnie, Ken Kidd, Stephanie Abbott, Sarah Bregant.

Plan Commission Present: Bruce Parker, Karen Coburn, Jeffrey Eppers (Alternate), Sherry Stanek (Alternate), Kristine Zaballos.

Others: Dr. Larry Witzling (Zoning Rewrite Consultant), Latisha Birkeland (City Planner), Pat Cannon (CDA Director), Wallace McDonell (City Attorney), Cameron Clapper (City Manager) Michele Smith (City Clerk).

Council President Patrick Singer noted that the Steering Committee was invited to attend to ask questions and add relevant points of history about the process or document.

Approval of the minutes of the Joint Common Council and Plan and Architectural Review Commission meeting of September 10, 2013. Moved by Winship to approve. Motion approved by unanimous voice vote.

Introduction of the zoning rewrite project

Larry Witzling explained that he felt the last meeting went very well. He felt it may be due in part to dealing with parts of the code that were not the most controversial at the Steering Committee meetings. Witzling stated that the collective goal would be to get something adopted. If it is not perfect, the next year look at it again. Keep a checklist of issues during the course of the year, and pick, for example, 5 items to take care of. Continuing to take care of smaller areas each year will save a lot of long term problems.

There were questions about including parking, plan review and Board of Zoning Appeals in this discussion. City Attorney McDonell explained that the agenda is for primarily residential sections. Anything with a remote resemblance to residential can be discussed. City Planner Birkeland stated that it was decided at the steering committee level that parking would not be considered in this zoning rewrite. Plan Commission Member Parker asked about the parking

included in the proposed overlay districts. Councilman Kidd stated that we cannot adopt without changing some of the other issues (parking and other things not here).

When asked about the process, City Attorney McDonell explained that the Plan Commission would hold a public hearing. (He suggested that the meeting be a joint public hearing with Plan Commission and City Council.) The public hearing could be one or two meetings. The Plan Commission would discuss and make recommendation to the City Council as to what is to be adopted. There could be changes made to the document the Plan Commission receives.

Larry Witzling stated that the Plan Commission can make changes and recommend them to the City Council. When handling the public hearing, people should be limited to 3 minutes of commentary, the first time. People would be able to speak a second time after everyone has a chance to speak. This seems to be the best way to work it so everything is covered.

Review of residential sections

Larry Witzling explained that he was here to help get through the residential sections of the Zoning Rewrite. Witzling went through the changes, made during the Zoning Rewrite meetings, with the City Council and the Plan Commission. There was discussion among the group and revisions were made on some of the changes. The parking/hard surface and stormwater were not to be considered in this zoning rewrite. They will be reviewed separately (stormwater/parking summit). Larry Witzling stated that the stormwater requirements should be made performance based and not standard based because it allows a lot more flexibility. Some of the major items of discussion were: Plan Commission members can be on the BZA Board, but if a Plan Commission/Board of Zoning Appeals member made a decision at the Plan Commission level for an item going to the BZA, the member should not act on the matter at BZA. The difference between the R-O Overlay Zoning and the other overlay zoning districts is that the R-O is more restrictive and can be done anywhere in the city. In all the other overlay districts, property owners can do more, but it is not city-wide. R-2A Overlay – to allow areas where there could be increased occupancy in certain areas. R-3A and R-3B Overlay Zoning Districts allow for the owner to apply to possibly increase the density of their property. R-3A being areas west of the university. R-3B being areas south of the university. With the changing of neighborhoods, the City needs lots of tools to accommodate families and students. The city needs to know how to plan for growth in the community. There was discussion regarding lot coverage for residential areas for driveway and parking areas, but it was concluded that a lot of research should be done on existing conditions before a decision is made. If people were asking for a huge area of coverage, it would be good to have at least some definition to start with. Larry Witzling was going to try to write something on this.

Next steps

The next meeting will be a joint public hearing meeting with City Council and Plan Commission to allow for public comment and review of the proposed zoning rewrite. It will probably take two meetings. The public hearing meetings will be special meetings only for the Zoning Rewrite. A Class 2 legal notice is required. Larry Witzling recommended that when voting, take certain sections out that there may be issues with, and then add them back in later. Latisha Birkeland will Doodle the City Council and Plan Commission to coordinate schedules for the next meeting.

Adjournment

The meeting adjourned at approximately 9:30 p.m.

City Council President Patrick Singer

DRAFT

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

3
4
5 **Chapters:** [LW1]

6 19.03 Title, Authority and Purpose

7 19.06 General Provisions

8 19.09 Definitions

9 19.12 Zoning Districts

10 19.15 R-1 One-Family Residence District

11 19.16 R-1X District

12 19.18 R-2 One- and Two-Family Residence District

13 19.19 R-2A Residential Occupancy Overlay District

14 19.21 R-3 Multifamily Residence District

15 19.22 R-3A University Residential Density Overlay District

16 19.24 R-4 Mobile Home District

17 19.25 R-O Non-Family Residential Restriction Overlay District

18 19.27 B-1 Community Business District

19 19.28 B-1A University Mixed-Use Neighborhood Overlay District

20 19.30 B-2 Central Business District

21 19.31 B-2A Downtown Housing Overlay District

22 19.33 B-3 Highway Commercial and Light Industrial District

23 19.36 M-1 General Manufacturing District

24 19.37 M-2 Manufacturing and Miscellaneous Use District

25 19.38 Whitewater University Technology Park District (WUTP District)

26 ~~19.39 PCDPD Planned-Community Development District~~

27 19.42 AT Agricultural Transition District

28 19.45 C-1 Shoreland Wetland District

29 19.451 C-2 Nonshoreland Wetland District

30 19.46 Floodplain Regulations

31 19.461 FWW Floodway/Wetland District

32 19.48 I Institutional District

33 19.485 Large Retail and Commercial Service Development Standards

34 19.49 Wellhead Protection

35 19.51 Traffic, Parking and Access

36 19.54 Signage Regulations

37 19.55 Wireless Telecommunications Facilities

38 19.57 General Performance Standards

39 19.58 Noise Restrictions

40 19.60 Nonconforming Uses, Structures and Lots

41 19.63 Plan Review

42 19.66 Conditional Uses

43 19.69 Changes and Amendments

44 19.72 Board of Zoning Appeals

45 19.75 Administration and Enforcement

46

47 **Chapter 19.03 TITLE, AUTHORITY AND PURPOSE**

48 Sections:

- 49 19.03.010 Title.
- 50 19.03.020 Authority.
- 51 19.03.030 Purpose.
- 52 19.03.040 Intent.
- 53 19.03.050 Abrogation and greater restrictions.
- 54 19.03.060 Interpretation.
- 55 19.03.070 Severability and nonliability.
- 56 19.03.080 Effective date.

57

58 **19.03.010 Title.**

59 This title shall be known as, referred to, or cited as the "zoning ordinance, City of Whitewater,
60 Wisconsin."
61 (Ord. 994 § 1.1, 1982).

62

63 **19.03.020 Authority.**

64 The regulations are adopted under the authority granted by Article XI, Section 3, Wisconsin Constitution
65 and Sections 62.23, 62.231, 66.01, 87.30 and 144.26 of the Wisconsin Statutes and amendments
66 thereto.
67 (Ord. 1196 § 1(part), 1990: Ord. 1060 § 5, 1985).

68

69 **19.03.030 Purpose.**

70 The purpose of this title is to promote the health, safety, and general welfare of this community.
71 (Ord. 994 § 1.3, 1982).

72

73 **19.03.040 Intent.**

74 It is the general intent of this title to regulate and restrict the use of all structures, lands and waters;
75 regulate and restrict lot coverage, population distribution and density, and the size and location of all
76 structures so as to lessen congestion and promote the safety and efficiency of the streets and highways;
77 secure safety from fire, flooding, panic and other dangers; prevent flood damage to persons and
78 property, and minimize expenditures for flood relief and flood control projects; provide adequate light,
79 air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the
80 adequate provision of public facilities and utilities; stabilize and protect property values; further the
81 appropriate use of land and conservation of natural resources; preserve and promote the beauty of the
82 community; and implement the community's master 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 violation.
84 (Ord. 60 § 6, 1985).

85

86 **19.03.050 Abrogation and greater restrictions.**

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

92

93 **19.03.060 Interpretation.**

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

97 (Ord. 994 § 1.6, 1982).

98

99 **19.03.070 Severability and nonliability.**

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

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

105 C. The city does not guarantee, warrant or represent that only those areas designated as floodlands will
106 be subject to periodic inundation and hereby asserts that there is no liability on the part of the common
107 council, its agencies or employees for any flood damages, sanitation problems or structural damages
108 that may occur as a result of reliance upon and conformance with this chapter.

109 (Ord. 1060 § 8, 1985).

110

111 **19.03.080 Effective date.**

112 This title was effective on June 24, 1982.

113 (Ord. 1060 § 7, 1985; Ord. 994 § 1.7, 1982).

114

115 **Chapter 19.06 GENERAL PROVISIONS**

116 Sections:

117 19.06.010 Jurisdiction.

118 19.06.020 Plan and architectural review commission--Created.

119 19.06.030 Plan and architectural review commission--Qualifications and functions.

120 19.06.040 Plan and architectural review commission--Architectural function.

121 19.06.050 Plan and architectural review commission--Organization.

122 19.06.060 Compliance required.

123 19.06.065 Municipalities and state agencies regulated.

124 19.06.070 Use restrictions.

125 19.06.080 Accessory uses and structures.

126 19.06.090 Unclassified or unspecified areas.

127 19.06.100 Temporary uses.

128 19.06.110 Height modifications.

129 19.06.120 Yard modifications.

130 19.06.130 Reduction or joint use.

131 19.06.140 Lots to abut street and frontage.

132 19.06.150 Structures to be located on a lot.

133 19.06.160 Lots on undedicated portion of street.

134 19.06.170 Private sewer and water service.

135 19.06.180 Average street yards.

136 19.06.190 Lots abutting more restrictive districts.

137 19.06.200 Animal raising.

138

139 **19.06.010 Jurisdiction.**

140 The jurisdiction of this title shall include all lands and water within the corporate limits of the city.

141 (Ord. 994 § 2.1, 1982).

142

143 **19.06.020 Plan and architectural review commission--Created.**

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

155
156 **19.06.030 Plan and architectural review commission--Qualifications and functions.**

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

162
163 **19.06.040 Plan and architectural review commission--Architectural function.**

164 The city plan and architectural review commission is empowered with the architectural function as
165 provided in Chapter 19.63, for the purpose of promoting compatible development, aesthetics, historic
166 preservation, and stability of property values. The aesthetic review function of the city plan and
167 architectural review commission shall be (a) limited to any guidelines established by the City for
168 reviewing aesthetic decisions and (b) intended to ensure compatibility between new buildings and their
169 surrounding built environment.
170 (Ord. 994 § 2.2(part), 1982).

171
172 **19.06.050 Plan and architectural review commission--Organization.**

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

- 175 A. Officers shall be elected from the membership for terms of one year.
- 176 B. Meetings shall be held at the call of the chairman or when requested by the zoning administrator
177 and shall be open to the public.
- 178 C. Minutes shall be kept showing all actions taken and shall be a public record.
- 179 D. Quorums shall be five members, and all actions shall require the concurring vote of at least four
180 members.
- 181 E. Alternate members shall be voting members of the commission in cases when any of the original
182 seven members are absent or abstaining from a vote.

183 (Ord. 994 § 2.2(part), 1982).

184
185 **19.06.060 Compliance required.**

186 All structures and uses of structures, land or water, and any development as defined in this title, shall
187 comply with this title and all other applicable local, county, state and federal regulations.
188 (Ord. 1060 § 9, 1985).

189
190 **19.06.065 Municipalities and state agencies regulated.**

191 Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with
192 this title and obtain all required permits. State agencies are required to comply if Section 13.48(13) of
193 the Wisconsin Statutes applies. The construction, reconstruction, maintenance and repair of state
194 highways and bridges by the Wisconsin Department of Transportation are exempt from compliance
195 when Section 30.12(4)(a) of the Wisconsin Statutes applies.
196 (Ord. 1196 § 1(part), 1990).

197
198 **19.06.070 Use restrictions.**

199 Only those principal uses specified for a district, their essential services, and the uses noted in this
200 chapter shall be permitted in that district.
201 (Ord. 994 § 2.4(part), 1982).

202
203 **19.06.080 Accessory uses and structures.**

204 Accessory uses and structures are permitted but not until their principal structure is present or under
205 construction. Residential accessory uses shall not involve the conduct of any business, trade or industry
206 except home occupations as defined. Accessory uses and structures include gardening, storage, parking
207 areas, private swimming ~~pool~~ pools, private emergency shelters and communications structures and
208 similar uses and structures.
209 (Ord. 1082 § 1, 1986).

210
211 **19.06.090 Unclassified or unspecified areas.**

212 A. Uses that are not specifically listed as a permitted use within a district but that are similar in
213 character or impact to other permitted uses may be authorized by interpretation of the zoning
214 administrator.
215 B. If a determination cannot be made by the zoning administrator, ~~as~~ an unclassified or unspecified use
216 may be permitted by the board of zoning appeals, provided that the use is found to be consistent with
217 the intent of this title.
218 (Ord. 994 § 2.4(B), 1982).

219
220 **19.06.100 Temporary uses.**

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

226
227 **19.06.110 Height modifications.**

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

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

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

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

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

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

245

246 **19.06.120 Yard modifications.**

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

248 A. Uncovered stairs, landings and fire escapes may project into any yard but not to exceed six feet and
249 not closer than ten feet to any lot line (excepting Section 19.30.030).

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

252 C. Residential fences and walls are permitted either within or on the property line. Fences and walls
253 shall not exceed a height of six feet in the side yard or rear yard area and shall not exceed a height of
254 four feet in the required street yard. All driveway openings abutting a public right-of-way shall have a
255 fifteen-foot free vision triangle set back from both sides of the driveway. (Similar to Section 19.51.010).

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

260 ~~E. Swimming Pool Fencing. Any public or private swimming pool shall be completely enclosed within a~~
261 ~~fence at least four feet in height.~~ Swimming Pools and Swimming Pool Fencing. Any public or private
262 swimming pool shall be completely enclosed within a fence at least four feet in height. For private
263 outdoor pools an outdoor tank of concrete, metal, plastic, or other material having a total area greater
264 than 80 square feet or depth exceeding 24 inches. For the purpose of this chapter, "pool" shall include
265 swimming pools, hot tubs, whirlpools or other similar devices, but shall not include: (a) storable
266 swimming or wading pools having a diameter of 18 feet or less and a wall height of 42 inches or less and
267 which are constructed in such a way as to be readily disassembled for storage and reassembled to
268 original integrity; or (b) storable swimming or wading pools with nonmetallic inflatable walls regardless
269 of dimension. All temporary swimming pools shall be removed and stored by November 1. Swimming
270 pools shall not be allowed in front yards. Swimming pools on side or in backyards shall be a minimum of
271 15 feet from the property line. All swimming pools shall be covered and ladders removed when not in
272 use

273

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

281 ~~G.~~ In non-residential districts the size and location of detached accessory structures shall be treated as
282 conditional uses when the square footage exceeds 800 square feet. G. Essential services, utilities,

283 electric power and communication transmission lines are exempt from the yard and distance
284 requirements of this title.
285 H. Landscaping and vegetation are exempt from the yard requirements of this title except that
286 landscaping and vegetation shall not extend over any public right-of-way within ten feet of the ground
287 level.
288 I. All decks are to maintain a setback from a property line of no less than the front yard and side yard
289 required setback of the zoning district in which they are located and must be a minimum of fifteen feet
290 from any rear lot line.
291 (Ord. 1364 §§ 2 and 3, 1997; Ord. 1313 § 1, 1995; Ord. 1166 § 1, 1989; Ord. 1165, 1989; Ord. 1082 § 3,
292 1986; Ord. 994 § 2.5(B), 1982).

293
294 **19.06.130 Reduction or joint use.**

295 No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not
296 to meet the provisions of this title. No part of any lot, yard, parking area, or other space required for
297 structure or use shall be used for any other structure or use.
298 (Ord. 994 § 2.6, 1982).

299
300 **19.06.140 Lots to abut street and frontage.**

301 All lots shall abut upon a public street, and each lot shall have a minimum frontage at the street line of
302 thirty feet. This requirement may be waived under planned residential development (~~PRD~~) and planned
303 community development (~~PCD~~) (PD) provisions of this title.
304 (Ord. 994 § 2.7, 1982).

305
306 **19.06.150 Structures to be located on a lot.**

307 Only one principal structure shall be located, erected or moved onto a lot. This requirement may be
308 waived as a conditional use under the highway commercial and light industrial district (B-3), planned
309 residential development (~~PRD~~PD) and planned community development (~~PCD~~PD) provisions of this title.
310 (Ord. 1452 § 2, 2000; Ord. 1316 § 1, 1995; Ord. 1082 § 4, 1986).

311
312 **19.06.160 Lots on undedicated portion of street.**

313 No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its
314 proposed width.
315 (Ord. 994 § 2.9, 1982).

316
317 **19.06.170 Private sewer and water service.**

318 Where public sewerage service is not available, the width and area of all lots shall be sufficient to permit
319 the use of an on-site sewage disposal system designed in accordance with Section H63 of the Wisconsin
320 Administrative Code. Any structure or use proposing to be served by private sewer and water service
321 shall be considered as conditional use within any district.
322 (Ord. 994 § 2.10, 1982).

323
324 **19.06.180 Average street yards.**

325 A property owner may decrease the required street yard in any residential or business district to the
326 average of the existing street yards of the adjacent structures on each side. Where the setback of
327 existing adjacent structures is greater than setbacks required by this code, the setback for the
328 intervening lot shall be determined by the average of the setback of the structures on each side. On
329 corner lots, the required setback shall be determined by averaging the setback of the adjacent structure
330 with the required setback of the district in which it is located. The setback of any structure may be

331 increased or decreased by a conditional use permit if there are substantial reasons to vary from the
332 requirements of the district.
333 (Ord. 1446 § 1, 2000: Ord. 994 § 2.11, 1982).

334
335 **19.06.190 Lots abutting more restrictive districts.**

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

341
342 **19.06.200 Animal raising.**

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

345
346 **Chapter 19.09 DEFINITIONS**

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524

525 **19.09.010 Generally.**

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

530

531 **19.09.015 A Zones.**

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

537

538 **19.09.020 Accessory use or structure.**

539 "Accessory use or structure" means a use or detached structure subordinate to the principal use of
540 structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental
541 to the principal use of the principal structure.
542 (Ord. 994 § 12.0(part), 1982).

543

544 **19.09.025 Adult-oriented establishments.**

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

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

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

552 3. "Adult bookstore" means an establishment having as a substantial or significant portion of its stock
553 and trade in books, magazines, and other periodicals which are distinguished or characterized by their
554 emphasis on matter depicting, describing, or relating to specified sexual activities or specified
555 anatomical areas as defined herein. The term includes an establishment having as its stock in trade, for
556 sale, rent, trade, lease, inspection or viewing books, films, video cassettes, compact discs, digital video
557 discs, computers or computer programs in any format, motion pictures, magazines or other periodicals
558 which are distinguished or characterized by their emphasis on matters depicting, describing or relating
559 to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for
560 the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or
561 other offered entertainment for observation by customers therein. The term includes a commercial
562 establishment that, as one of its principal business purposes, offers for sale or rental for any form of
563 consideration instruments, devices, or paraphernalia that are designed for use in connection with
564 "specified sexual activities."

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

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

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

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

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

576 6. "Adult mini-motion picture theater" means an enclosed building with a capacity for less than fifty
577 customers, including establishments that have coin-operated video or motion picture booths, used for
578 presenting material distinguished or characterized by an emphasis on matters depicting, describing, or
579 relating to specified sexual activities or specified anatomical areas as defined herein for observation by
580 customers therein.

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

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

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

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

600 11. "Miscellaneous adult-oriented establishment" means an establishment which includes, but is not
601 limited to, adult bookstores, adult motion picture theaters, outdoor adult motion picture theaters, adult
602 mini-motion theaters, adult theaters, adult bath houses, adult body painting studios, adult motels, adult
603 novelty shops or adult cabarets, sexual encounter centers, escort agencies, establishments featuring live
604 sexually explicit performances, and any premises to which public customers or members are invited or
605 admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments
606 or stalls separate from the common area of the premises for the purposes of viewing adult-oriented
607 motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a
608 customer or a member, whether or not such adult entertainment is held, conducted, operated or
609 maintained for profit, direct or indirect. An adult-oriented establishment further includes, without being
610 limited to, any adult entertainment studio or any premises that is physically arranged and used as such
611 whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio,
612 encounter studio, sensitivity studio, modeling studio or any other term of like import.

613 B. "Adult-oriented establishment" shall not include:
614 1. Theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music
615 and dramatic performances of serious artistic, social or political merit are offered on a regular basis; and
616 in which the predominant business or attraction is not the offering of entertainment which is intended
617 for the sexual interests or titillation of customers; and where the establishment is not distinguished by
618 an emphasis on or the advertising or promotion of nude or semi-nude performances; or

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

622
623 **19.09.030 Alley.**

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

626
627 **19.09.035 Alternative support structure.**

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

633
634 **19.09.040 Apartment-style building.**

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

639
640 **19.09.050 Arterial street.**

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

645
646 **19.09.055 Base flood.**

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

651
652 **19.09.060 Basement.**

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

656
657 **19.09.063 Bed and breakfast establishment.**

658 "Bed and breakfast establishment" means a place of temporary lodging that provides eight or fewer
659 sleeping rooms for paying lodgers, allows a maximum individual lodger stay of one month, provides
660 meals only to paying lodgers, also serves as the principal residence for the operator/owner (who shall
661 live on the premises at all times when the establishment is active), and meets all requirements of HFS
662 197 of the Wisconsin Administrative Code. Does not include "tourist homes," "lodginghouses," or "group
663 lodging houses" defined elsewhere in this chapter.
664 (Ord. 1580A § 1(part), 2005).

665
666 **19.09.064 Bedroom**

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

672

673 **19.09.065 Block.**

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

677

678 **19.09.070 Building.**

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

682

683 **19.09.080 Building, accessory.**

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

687

688 **19.09.090 Building area.**

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

692

693 **19.09.100 Building height.**

694 "Building height" means the vertical distance ~~measured~~ measured from the main elevation of the finished
695 lot grade along the street yard face of the structure to the ~~highest level~~ mid-point between the
696 ~~eaves eave and ridge~~ highest point of gable, gambrel, hip and pitch roofs; the roof, not including
697 ~~ornamental features or to the deck line of mansard roofs.~~ architectural projections.
698 (Ord. 994 § 12.0(part), 1982).

699

700 **19.09.110 Building, principal.**

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

704

705 **19.09.113 Building scale.**

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

710

711 **19.09.114 Bulkhead line.**

712 "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by a
713 municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11,

714 Wisconsin Statutes and which allows limited filling between this bulkhead line and the original ordinary
715 high-water mark, except where such filling is prohibited by the floodway provisions of this title.
716 (Ord. 1600 § 1(part), 2006).

717

718 **19.09.115 Campground.**

719 "Campground" means any parcel of land which is designed, maintained, intended or used for the
720 purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is
721 advertised or represented as a camping area.

722 (Ord. 1600 § 1(part), 2006).

723

724 **19.09.116 Camping unit.**

725 "Camping unit" means any portable device, no more than four hundred square feet in area, used as a
726 temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck,
727 tent, or other mobile recreational vehicle.

728 (Ord. 1600 § 1(part), 2006).

729

730 **19.09.117 Certificate of compliance.**

731 "Certificate of compliance" means a certification that the construction and the use of land or a building,
732 the elevation of fill, or the lowest floor of a structure is in compliance with all of the floodplain
733 provisions of this title.

734 (Ord. 1600 § 1(part), 2006).

735

736 **19.09.120 Classes of notice.**

737 References in this title to Class 1 and Class 2 notices refer to Chapter 985 of the Wisconsin Statutes.

738 (Ord. 994 § 12.0(part), 1982).

739

740 **19.09.125 Channel.**

741 "Channel" means the floodlands normally occupied by a stream of water under average annual high-
742 water flow conditions while confined within general well-established banks.

743 (Ord. 1060 § 10(part), 1985).

744

745 **19.09.128 Co-location.**

746 "Co-location" means the clustering of multiple antennas, dishes or similar telecommunications facilities
747 or devices operated by different service providers but located on a single, freestanding wireless
748 telecommunications facility or alternative support structure.

749 (Ord. 1499 § 3(part), 2001).

750

751 **19.09.130 Commercial use.**

752 "Commercial use" means and refers to activity carried out for pecuniary gain.

753 (Ord. 994 § 12.0(part), 1982).

754

755 **19.09.140 Commonly owned open space.**

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

759 (Ord. 994 § 12.0(part), 1982).

760

761 **19.09.150 Community living arrangements.**

762 "Community living arrangements" means a group lodging facility licensed or operated or permitted
763 under the authority of the Wisconsin Department of Health and Social Services (see Section 46.03(22),
764 Wisconsin Statutes) where three or more unrelated persons reside, and in which care, treatment or
765 services above the level of room and board but less than skilled nursing care is provided to persons
766 residing in the facility. Such care, treatment or services are provided as a major function of the facility.
767 Child care facilities, nursing homes, hospitals, prisons, jails, foster family homes which are the primary
768 domiciles of a foster parent and four or fewer children are not "community living arrangements" for
769 purposes of this title.
770 (Ord. 994 § 12.0(part), 1982).

771

772 **19.09.155 Comprehensive (master) plan.**

773 "Comprehensive (master) plan" means the plan for the physical development of the city, also called a
774 master plan or comprehensive plan, adopted by the city pursuant to Wisconsin Statutes, Sections 62.23
775 and/or 66.1001, including proposals for future land use, transportation, urban redevelopment and
776 public facilities.
777 (Ord. 1511 § 1(part), 2002).

778

779 **19.09.160 Conditional uses.**

780 "Conditional uses" means uses of a special nature as to make impractical their complete
781 predetermination as a use in a district.
782 (Ord. 994 § 12.0(part), 1982).

783

784 **19.09.170 Corner lot.**

785 "Corner lot" means a lot abutting two or more streets at their intersection, provided that the corner of
786 such intersection shall have an angle of one hundred thirty-five degrees or less, measured on the lot
787 side. For the purpose of determining yard requirements, the front yard shall be the yard where the main
788 door of the principal structure faces the street addressed.
789 (Ord. 994 § 12.0(part), 1982).

790

791 **19.09.171 Crawlways or crawlspace.**

792 "Crawlways or crawlspace" means an enclosed area below the first usable floor of a building, generally
793 less than five feet in height, used for access to plumbing and electrical utilities.
794 (Ord. 1600 § 1(part), 2006).

795

796 **19.09.173 Day care center, adult.**

797 "Day care center, adult" means a facility operated for the purpose of providing care, protection, and
798 guidance to adults during normal business hours and with no overnight facilities.
799 (Ord. 1452 § 3(part), 2000).

800

801 **19.09.177 Day care center, child.**

802 "Day care center, child" means a state licensed facility where a person or persons, other than a relative
803 or legal guardian, provides paid care and supervision for four or more children under seven years of age,
804 for less than twenty-four hours a day.
805 (Ord. 1452 § 3(part), 2000).

806

807 **19.09.178 Deck.**

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

810 (Ord. 1600 § 1(part), 2006).

811

812 **19.09.180 Development.**

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

817 (Ord. 994 § 12.0(part), 1982).

818

819 **19.09.185 District, basic.**

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

822 (Ord. 1060 § 10(part), 1985).

823

824 **19.09.190 Drive-in establishment.**

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

830 (Ord. 994 § 12.0(part), 1982).

831

832 **19.09.191 Driveway**

833 An improved access which is used primarily to connect off-street parking spaces to the public right-of-
834 way. New or substantially improved areas intended to be utilized as driveways shall be surfaced with
835 bituminous, concrete, or pavers to control dust and drainage, except in the case of farm dwellings and
836 operations. In all cases, permeable or pervious materials are preferred. Plans for surfacing and drainage
837 of driveways shall be submitted to the Neighborhood Services Department for review and approval.

838

839 **19.09.195 Dryland access.**

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

843 (Ord. 1196 § 1(part), 1990).

844

845 **19.09.200 Dwelling.**

846 "Dwelling" means a building or part of a building, containing one or more dwelling units and also
847 containing other directly associated elements such as hallways, storage areas or common laundry
848 facilities. For purposes of this title, the term "dwelling" does not include group lodging facilities.

849 (Ord. 994 § 12.0(part), 1982).

850

851 **19.09.210 Dwelling, attached.**

852 "Attached dwelling" means a dwelling attached to another dwelling unit by having any portion of any
853 roof, any wall, or any floor in common with another dwelling unit.

854 (Ord. 994 § 12.0(part), 1982).

855

856 **19.09.220 Dwelling, detached.**

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

860

861 **19.09.230 Dwelling, multiple-family.**

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

865

866 **19.09.240 Dwelling, single-family.**

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

869

870 **19.09.250 Dwelling, two-family.**

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

873

874 **19.09.260 Dwelling unit.**

875 "Dwelling unit" means an area of or within a dwelling that is designed, occupied or intended to be
876 occupied by a family (or by a non-family household) as permitted by this title as a separate living
877 quarters with private kitchen, sanitary, sleeping and living quarters within the dwelling unit. Quarters
878 are within the dwelling unit if they are within the same contiguous area. Kitchen quarters in a dwelling
879 must be designed and outfitted to have, at a minimum, a refrigerator, stove and range, kitchen sink and
880 cabinet facilities.
881 (Ord. 994 § 12.0(part), 1982).

882

883 **19.09.270 Dwelling unit, efficiency.**

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

887

888 **19.09.275 Encroachment.**

889 "Encroachment" means any fill, structure, equipment, building, use or development in the floodway.
890 (Ord. 1600 § 1(part), 2006).

891

892 **19.09.280 Essential services.**

893 "Essential services" means services provided by public and private utilities, necessary for the exercise of
894 the principal use or service of the principal structure. These services include underground, surface, or
895 overhead gas, electrical, television, steam, water, sanitary sewerage, storm water drainage, and
896 conventional, non-wireless telephonic communication systems and accessories thereto, such as poles,
897 towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, water storage tanks,
898 conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but
899 not including buildings, wireless telecommunications facilities, or wireless telecommunications support
900 facilities.
901 (Ord. 1499 § 2, 2001: Ord. 994 § 12.0(part), 1982).

902

903 **19.09.285 Existing manufactured home park or subdivision.**

904 "Existing manufactured home park or subdivision" means a parcel of land, divided into two or more
905 manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is
906 completed before January 1, 2006. At a minimum, this would include the installation of utilities, the
907 construction of streets and either final site grading or the pouring of concrete pads.
908 (Ord. 1600 § 1(part), 2006).

909
910 **19.09.286 Expansion to existing mobile/manufactured home park.**

911 "Expansion to existing mobile/manufactured home park" means the preparation of additional sites by
912 the construction of facilities for servicing the lots on which the manufactured homes are to be affixed.
913 This includes installation of utilities, construction of streets and either final site grading, or the pouring if
914 concrete pads.
915 (Ord. 1600 § 1(part), 2006).

916
917 **19.09.290 Family.**

918 "Family" means an individual or a group of two or more individuals who are related by blood, marriage
919 ~~or adoption~~adoption, domestic partnership, or civil union, (limited to immediate family members,
920 grandparents, aunts, uncles, nieces, nephews, and first cousins) together with not more than two
921 additional persons not so related, living as a single household in a dwelling unit. (For the purposes of this
922 title, "family" includes "non-family households.")
923 (Ord. 994 § 12.0(part), 1982).

924
925 **19.09.295 Federal Emergency Management Agency.**

926 "Federal Emergency Management Agency" means the federal agency that administers the National
927 Flood Insurance Program. Also referred to as FEMA.
928 (Ord. 1600 § 1(part), 2006).

929
930 **19.09.296 Flood frequency.**

931 "Flood frequency" means the probability of a flood occurrence which is determined from statistical
932 analyses. The frequency of a particular flood event is usually expressed as occurring, on the average,
933 once in a specified number of years or as a percent chance of occurring in any given year.
934 (Ord. 1600 § 1(part), 2006).

935
936 **19.09.300 First floor.**

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

940
941 **19.09.305 Flood.**

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

949
950 **19.09.306 Flood Insurance Rate Map.**

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

956
957 **19.09.307 Flood Insurance Study.**

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

965
966 **19.09.310 Flood Hazard Boundary Map.**

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

972
973 **19.09.312 Flood profile.**

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

978
979 **19.09.314 Flood protection elevation.**

980 "Flood protection elevation" means a point two feet above the water surface elevation of the one-
981 hundred-year recurrence interval flood. This safety factor, also called "freeboard," is intended to
982 compensate for the many unknown factors that contribute to flood heights greater than those
983 computed. Such unknown factors may include ice jams, debris accumulation, wave action, and
984 obstruction of bridge openings.
985 (Ord. 1060 § 10(part), 1985).

986
987 **19.09.315 Floodplain.**

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

992
993 **19.09.316 Flood stage.**

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

997
998 **19.09.318 Floodlands.**

999 For the purpose of this title, the "floodlands" are all lands contained in the "regional flood" or one-
1000 hundred-year recurrence interval flood.

1001 (Ord. 1600 § 1(part), 2006: Ord. 1196 § 1(part), 1990).

1002

1003 **19.09.320 Floodfringe.**

1004 "Floodfringe" means that a portion of the one-hundred-year recurrence interval floodplain located
1005 beyond the limits of the floodway. The floodfringe is generally associated with standing water rather
1006 than rapidly flowing water.

1007 (Ord. 1600 § 1(part), 2006: Ord. 1196 § 1(part), 1990).

1008

1009 **19.09.321 Floodplain island.**

1010 "Floodplain island" means a natural geologic land formation within the floodplain that is surrounded,
1011 but not covered, by floodwater during the regional flood.

1012 (Ord. 1600 § 1(part), 2006).

1013

1014 **19.09.322 Floodproofing.**

1015 "Floodproofing" means measures designed to prevent and reduce flood damage for those uses which
1016 cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from
1017 structural modifications through installation of special equipment or materials to operation and
1018 management safeguards, such as the following: reinforcing of basement walls; underpinning of floors;
1019 permanent sealing of all exterior openings; use of masonry construction; erection of permanent
1020 watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable
1021 utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of
1022 sump pumps; placement of automatic swing check valves; installation of sealtight windows and doors;
1023 installation of wire-reinforced glass; location and elevation of valuable items; waterproofing,
1024 disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable
1025 areas; temporary removal or waterproofing of merchandise; operation of emergency pump equipment;
1026 closing of backwater sewer valves; placement of plugs and flood drain pipes; placement of movable
1027 watertight bulkheads; and the shoring of weak walls or structures. Floodproofing of structures shall be
1028 extended at least to a point two feet above the elevation of the regional flood. Any structure that is
1029 located entirely or partially below the flood protection elevation shall be anchored to protect it from
1030 larger floods.

1031 (Ord. 1060 § 10(part), 1985).

1032

1033 **19.09.323 Floodplain management.**

1034 "Floodplain management" means policy and procedures to insure wise use of floodplains, including
1035 mapping and engineering, mitigation, education, and administration and enforcement of floodplain
1036 regulations.

1037 (Ord. 1600 § 1(part), 2006).

1038

1039 **19.09.324 Floodway.**

1040 "Floodway" means a designated portion of the one-hundred-year recurrence interval flood that will
1041 safely convey the regulatory flood discharge into small, acceptable upstream and downstream increases,
1042 limited in Wisconsin to 0.01 foot unless special legal measures are provided. The floodway, which
1043 includes the channel, is that portion of the floodplain needed to convey the regional flood discharges
1044 and is not suited for human habitation. All fill, structures and other development that would impair
1045 floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to
1046 flood damage should be prohibited in the floodway.

1047 (Ord. 1196 § 1(part), 1990).

1048

1049 **19.09.326 Flood storage.**

1050 "Flood storage" means those floodplain areas where storage of floodwaters has been taken into account
1051 during analysis in reducing the regional flood discharge.

1052 (Ord. 1600 § 1(part), 2006).

1053

1054 **19.09.330 Fraternity or sorority house.**

1055 "Fraternity or sorority house" means a building containing sleeping rooms, bathrooms, common rooms
1056 and a central kitchen and dining room maintained exclusively for fraternity or sorority members and
1057 their guests or visitors and affiliated with an institution of higher learning.

1058 (Ord. 1668A § 1, 2007; Ord. 994 § 12.0(part), 1982).

1059

1060 **19.09.333 Freeboard.**

1061 "Freeboard" means a safety factor expressed in terms of a specified number of feet above a calculated
1062 flood level. Freeboard compensates for any factors that cause flood heights greater than those
1063 calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and
1064 floodways, the effects of watershed urbanization, loss of flood storage areas due to development and
1065 aggregation of the river or stream bed.

1066 (Ord. 1600 § 1(part), 2006).

1067

1068 **19.09.335 Freestanding wireless telecommunications facility.**

1069 "Freestanding wireless communications facility" means a self-supporting telecommunications tower or
1070 other self-supporting wireless telecommunications facility that is not mounted, or otherwise attached
1071 to, an alternative support structure. A tower using guy wires shall be considered a freestanding wireless
1072 telecommunications facility.

1073 (Ord. 1499 § 3(part), 2001).

1074

1075 **19.09.340 Garage, private.**

1076 "Private garage" means a structure primarily intended for and used for the enclosed storage or shelter
1077 of the private motor vehicles of the families resident upon the premises. Carports shall be considered
1078 garages within this definition.

1079 (Ord. 994 § 12.0(part), 1982).

1080

1081 **19.09.350 Garage, public or commercial.**

1082 "Public or commercial garage" means any garage not falling within the definition of a "private garage" as
1083 established in this chapter.

1084 (Ord. 994 § 12.0(part), 1982).

1085

1086 **19.09.360 Group lodging facilities.**

1087 "Group lodging facilities" means buildings or parts of buildings designed, occupied or intended to be
1088 occupied as living quarters on a basis other than described in this ordinance under the defined terms:
1089 dwelling, dwelling unit, hotel or motel.

1090 (Ord. 994 § 12.0(part), 1982).

1091

1092 **19.09.370 Group lodging house.**

1093 "Group lodging house" means a group lodging facility containing several lodging rooms without kitchen
1094 facilities that are offered for rent or comparable compensation on a monthly or longer basis. Meals or

1095 access to common meal preparation facilities may be offered as part of the service to occupants.
1096 Facilities commonly known as dormitories are group lodging houses for purposes of this title.
1097 (Ord. 994 § 12.0(part), 1982).

1098
1099 **19.09.375 Habitable structure.**

1100 "Habitable structure" means any structure or portion thereof used or designed for human habitation.
1101 (Ord. 1600 § 1(part), 2006).

1102
1103 **19.09.376 Hearing notice.**

1104 "Hearing notice" means a publication or posting meeting the requirements of Chapter 985, Statutes. For
1105 appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required.
1106 For all zoning ordinance text and map amendments, a Class 2 notice, published twice, once each week
1107 consecutively, the last at least a week (seven days) before the hearing, is required.
1108 (Ord. 1600 § 1(part), 2006).

1109
1110 **19.09.377 High flood damage potential.**

1111 "High flood damage potential" means damage that could result from flooding that includes any danger
1112 to life or health or any significant economic loss to a structure or building and its contents.
1113 (Ord. 1600 § 1(part), 2006).

1114
1115 **19.09.380 Historic landmark.**

1116 "Historic landmark" means any building or structure which has a special historic, architectural or cultural
1117 interest, significance or value as part of the heritage, development or cultural characteristics of the city,
1118 state or nation and which has been designated as a landmark under this title.
1119 (Ord. 994 § 12.0(part), 1982).

1120
1121 **19.09.385 Historic structure.**

1122 For the purposes of the floodplain regulations in this title, "historic structure" means any structure that
1123 is either: listed individually in the National Register of Historic Places or preliminarily determined by the
1124 Secretary of the Interior as meeting the requirements for individual listing on the National Register,
1125 certified or preliminarily determined by the Secretary of the Interior as contributing to the historical
1126 significance of a registered historic district or a district preliminarily determined by the Secretary to
1127 qualify as a registered historic district; individually listed on a state inventory of historic places in states
1128 with historic preservation programs which have been approved by the Secretary of the Interior; or
1129 individually listed on a local inventory of historic places in communities with historic preservation
1130 programs that have been certified either by an approved state program, as determined by the Secretary
1131 of the Interior, or by the Secretary of the Interior in states without approved programs.
1132 (Ord. 1600 § 1(part), 2006).

1133
1134 **19.09.390 Household occupation or home occupation.**

1135 "Household occupation" or "home occupation" means an occupation for gain or support that is
1136 traditionally or customarily conducted within a residential building by resident occupants, and which
1137 meets all of the following criteria:

- 1138 A. Home occupation is incidental to the principal residential use of the premises.
1139 B. Space used for the home occupation(s) does not exceed either twenty-five percent of the usable
1140 floor area of the principal building or fifty percent of an accessory building.
1141 C. No article or service shall be sold or offered for sale on the premises except articles or services that
1142 are produced by such occupation.

1143 D. There shall be no exterior alterations that change the character of the dwelling or accessory
1144 building, or exterior evidence of the home occupation, other than permitted signage under Chapter
1145 19.54.
1146 E. There shall not be more than one employee other than members of the resident family.
1147 F. No home occupation shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small
1148 electrical interference, or any other nuisance not normally associated with the average residential use in
1149 the district.
1150 G. There shall be no exterior display or storage of any materials, supplies, equipment, or product
1151 produced or used by such occupation.
1152 (Ord. 1605A § 1, 2006: Ord. 994 § 12.0(part), 1982).

1153
1154 **19.09.400 Incidental repairs.**

1155 "Incidental repairs" are not considered structural repairs, modifications, or additions; incidental repairs
1156 include internal and external painting, decoration, paneling, and the replacement of doors, windows,
1157 and other nonstructural components.
1158 (Ord. 994 § 12.0(part), 1982).

1159
1160 **19.09.401 Increase in regional flood height.**

1161 "Increase in regional flood height" means a calculated upward rise in the regional flood elevation, equal
1162 to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions
1163 which is directly attributable to development in the floodplain but not attributable to manipulation of
1164 mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
1165 (Ord. 1600 § 1(part), 2006).

1166
1167 **19.09.403 Land use.**

1168 For the purposes of the floodplain regulations in this title, "use" means any nonstructural use made of
1169 unimproved or improved real estate.
1170 (Ord. 1600 § 1(part), 2006: Ord. 1452 § 3(part), 2000).

1171
1172 **19.09.405 Letter of Map Change (LOMC).**

1173 "Letter of Map Change" or "LOMC" means official notification from the Federal Emergency Management
1174 Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.
1175 (Ord. 1600 § 1(part), 2006: Ord. 1060 § 10(part), 1985).

1176
1177 **19.09.410 Living rooms.**

1178 "Living rooms" means all rooms within a dwelling except closets, foyers, storage areas, utility rooms and
1179 bathrooms.
1180 (Ord. 994 § 12.0(part), 1982).

1181
1182 **19.09.420 Loading area.**

1183 "Loading area" means a completely off-street space or berth on the same lot for the loading or
1184 unloading of freight carriers, having adequate ingress and egress to a public street or alley.
1185 (Ord. 994 § 12.0(part), 1982).

1186
1187 **19.09.430 Lodginghouse.**

1188 "Lodginghouse" means a building other than a hotel, restaurant or a dormitory where lodging is
1189 regularly furnished by prearrangement for a definite period for compensation for six or more persons
1190 not members of a family, but not exceeding twelve persons (individual) and not open to transient

1191 customers. A lodginghouse shall maintain a minimum green space area of three hundred fifty square
1192 feet per allowed occupant.
1193 (Ord. 1364 § 4, 1997: Ord. 994 § 12.0(part), 1982).

1194
1195 **19.09.440 Lodging rooms.**

1196 "Lodging rooms" means rooms within group lodging facilities that are rented as sleeping and living
1197 quarters, or spaces within a suite of rooms in a group lodging facility that provide sleeping
1198 accommodations. For purposes of this title any lodging room that is designed or intended to be
1199 occupied by one or two persons shall be counted as one lodging room.
1200 (Ord. 994 § 12.0(part), 1982).

1201
1202 **19.09.450 Lot.**

1203 "Lot" means a single parcel of contiguous land abutting and having frontage on a public street, being a
1204 part of a platted recorded subdivision or a parcel of land for which the deed is recorded, with the
1205 respective county register of deeds on or before June 24, 1982, the effective date of the ordinance
1206 codified in this title, occupied or intended to be occupied by a principal structure or principal group of
1207 structures or use and sufficient in size to meet the lot width, lot frontage, lot area, yard parking area,
1208 and other open space provisions of this title.

1209 Lot Types

1210 **GRAPHIC LINK:**[Click here](#)

1211 (Ord. 994 § 12.0(part), 1982).

1212
1213 **19.09.455 Lot width.**

1214 "Lot width" means the horizontal distance between side lot lines as measured at the minimum front
1215 yard setback required in the zoning district in which the lot is located or through a recorder final plat or
1216 certified survey map.
1217 (Ord. 1511 § 1(part), 2002).

1218
1219 **19.09.457 Major subdivision.**

1220 "Major subdivision" means the division of a lot or parcel, or tract of land by the owners thereof, or their
1221 agents, for the purpose of transfer of ownership or building development where a single act of division
1222 creates five or more parcels or building sites, each less than five acres in size; or an act of division results
1223 in the creation of five or more parcels or building sites by successive divisions within a period of five
1224 years, where at least five of the parcels or sites are less than one and one-half acres in size in the M-I
1225 general manufacturing district, or less than five acres in size in all other zoning districts.
1226 (Ord. 1600 § 1(part), 2006: Ord. 1580A § 1(part), 2005).

1227
1228 **19.09.458 Manufactured home.**

1229 "Manufactured home" means a type of single-family dwelling as defined in Wisconsin Statutes, Section
1230 101.91(2), fabricated in an off-site manufacturing facility for installation or assembly at the building site,
1231 and bearing a Department of Housing and Urban Development (HUD) label or insignia certifying that it
1232 was built in compliance with the Federal Manufactured Housing Construction Standards under 42 U.S.C.
1233 Sections 5401 to 5426. For the purposes of the floodplain regulations in this title only, the term
1234 "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
1235 (Ord. 1600 § 1(part), 2006: Ord. 1511 § 1(part), 2002).

1236
1237 **19.09.460 Maximum lot coverage.**

1238 "Maximum lot coverage" is the total buildable area that can be occupied by principal accessory
1239 structures. Parking areas, drives, sidewalks and similar at-grade structures shall not be included when
1240 figuring maximum lot coverage.

1241 (Ord. 994 § 12.0(part), 1982).

1242

1243 **19.09.470 Minor structures.**

1244 "Minor structures" meets all regulations for conventional construction, sections of which are built in a
1245 factory and joined on a permanent foundation.

1246 (Ord. 994 § 12.0(part), 1982).

1247

1248 **19.09.480 Mobile home.**

1249 "Mobile home" means a transportable factory built structure as is defined in Wisconsin Statutes Section
1250 101.91(2)(k), designed for long term occupancy by one family and built prior to June 15, 1976, the
1251 effective date of the Federal Manufactured Housing Construction and Safety Standards Act. A mobile
1252 home is not considered to be a type of single-family dwelling for the purposes of this title.

1253 (Ord. 1600 § 1(part), 2006; Ord. 994 § 12.0(part), 1982).

1254

1255 **19.09.490 Mobile home park.**

1256 "Mobile home park" means a site with required improvements and utilities for the long-term parking of
1257 mobile homes, which may include services and facilities for the residents.

1258 (Ord. 994 § 12.0(part), 1982).

1259

1260 **19.09.495 Mobile recreational vehicle.**

1261 "Mobile recreational vehicle" means a vehicle which is built on a single chassis; is four hundred square
1262 feet or less when measured at the largest horizontal projection; is designed to be self-propelled; is
1263 carried or permanently towable by a licensed, light-duty vehicle; is licensed for highway use if
1264 registration is required; and is designed primarily not for use as a permanent dwelling, but as temporary
1265 living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or
1266 carried onto a parcel of land, but do not remain capable of being towed or carried, including park model
1267 homes, do not fall within the definition of a "mobile recreational vehicle." Also referred to as
1268 "Recreational Vehicle" or "RV."

1269 (Ord. 1600 § 1(part), 2006).

1270

1271 **19.09.500 Modular home.**

1272 "Modular home" means a dwelling unit which meets all regulations for conventional construction,
1273 sections of which are built in a factory and joined on a permanent foundation.

1274 (Ord. 994 § 12.0(part), 1982).

1275

1276 **19.09.501 Motor vehicles.**

1277 "Motor vehicle" means a vehicle, including a combination of two or more vehicles or an articulated
1278 vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. "Motor vehicle" includes,
1279 without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power
1280 obtained from overhead trolley wires but not operated on rails. A snowmobile and an all-terrain vehicle
1281 shall only be considered motor vehicles for purposes made specifically applicable by ordinance.

1282 (Ord. 1364 § 5, 1997).

1283

1284 **19.09.502 Municipality or municipal.**

1285 "Municipality" or "municipal" means the City of Whitewater, Wisconsin. Also referred to as "City."

1286 (Ord. 1600 § 1(part), 2006).

1287

1288 **19.09.504 National geodetic vertical datum.**

1289 "National geodetic vertical datum" or NGVD means elevations referenced to mean sea level datum,
1290 1929 adjustment.

1291 (Ord. 1600 § 1(part), 2006).

1292

1293 **19.09.505 Navigable water.**

1294 "Navigable water" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all
1295 rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state,
1296 including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.
1297 The Wisconsin Supreme Court has declared navigable all bodies of water with a bed differentiated from
1298 adjacent uplands and with levels or flow sufficient to support navigation by a recreational craft of the
1299 shallowest draft on an annually recurring basis. [Muench v. Public Service Commission, 261 Wis. 492
1300 (1952), and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]

1301

1302 For the purpose of this title, rivers and streams will be presumed to be navigable if they are designated
1303 as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps
1304 until such time that the Wisconsin Department of Natural Resources has made a determination that the
1305 waterway is not, in fact, navigable.

1306 (Ord. 1196 § 1(part), 1990).

1307

1308 **19.09.507 Neighborhood development plan.**

1309 "Neighborhood development plan" means a city, developer, or property owner prepared plan for the
1310 future development of a part of the community, and including the proposed land use pattern, zoning,
1311 street alignments, lot patterns, locations of utilities and public buildings, parks, open spaces,
1312 environmental corridors, trails, and a development phasing timetable.

1313 (Ord. 1511 § 1(part), 2002).

1314

1315 **19.09.508 New construction.**

1316 For floodplain management purposes, "new construction" means structures for which the start of
1317 construction commenced on or after the effective date of the original floodplain zoning regulations
1318 adopted by the city and includes any subsequent improvements to such structures. For the purpose of
1319 determining flood insurance rates, it includes any structures for which the "start of construction"
1320 commenced on or after the effective date of an initial Flood Insurance Rate Map (FIRM) or after
1321 December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

1322 (Ord. 1600 § 1(part), 2006).

1323

1324 **19.09.510 Nonconforming structure.**

1325 A "nonconforming structure" means a structure, or portion thereof, that was legally established prior to
1326 the effective date of this title, or subsequent amendments thereto, which does not conform with one or
1327 more of the dimensional requirements applicable within the zoning district in which the structure is
1328 located.

1329 (Ord. 1600 § 1(part), 2006: Ord. 994 § 12.0(part), 1982).

1330

1331 **19.09.511 Nonconforming use.**

1332 A "nonconforming use" means an active and actual use of land, structure, or both that was legally
1333 established prior to the effective ~~date~~date of this title, or subsequent amendments thereto, which has

1334 continued the same use to the present, and which does not conform to the use regulations applicable
1335 within the zoning district in which the use is located. Also referred to as "nonconforming land use."
1336 (Ord. 1600 § 1(part), 2006).

1337
1338 **19.09.520 Non-family household.**

1339 "Non-family household" means a group of individuals who do not constitute a family under the terms of
1340 this title and who live as a single household in a dwelling unit. Within the R-1 and R-2 districts, a non-
1341 family household shall be limited to three unrelated persons. Within the R-3 district, a non-family
1342 household shall be limited to five unrelated persons. This section is meant to ensure the right of quiet
1343 enjoyment of each property owner, or resident of their home. The constant or consistent presence of
1344 visitors to a particular residence can constitute the equivalent of additional persons living there, for land
1345 use purposes, regardless if they are listed as residents on a lease or deed, if the "quiet enjoyment" of
1346 others' property rights is affected. For the purposes of this section, quiet enjoyment shall mean actions
1347 by occupants or visitors which unreasonably disturb other property owners' or occupants' enjoyment of
1348 their premises.

1349 (Ord. 994 § 12.0(part), 1982).

1350 (Ord. No. 1689A, 6-17-2008; Ord. No. 1694A, 8-5-2008)

1351

1352 **19.09.521 Obstruction to flow.**

1353 "Obstruction to flow" means any development which blocks the conveyance of floodwaters such that
1354 this development alone or together with any future development will cause an increase in regional flood
1355 height.

1356 (Ord. 1600 § 1(part), 2006).

1357

1358 **19.09.522 Official floodplain zoning map.**

1359 "Official floodplain zoning map" means that map, adopted and made part of this title, as described in
1360 Section 19.46.010(E)(2), which has been approved by the Department of Natural Resources and the
1361 Federal Emergency Management Agency (FEMA).

1362 (Ord. 1600 § 1(part), 2006).

1363

1364 **19.09.524 Open space use.**

1365 "Open space use" means those land uses having a relatively low flood damage potential, and not
1366 involving structures when in a floodplain.

1367 (Ord. 1600 § 1(part), 2006).

1368

1369 **19.09.525 Ordinary high water mark.**

1370 "Ordinary high water mark" means the point on the bank or shore up to which the presence and action
1371 of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or
1372 prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized
1373 characteristics.

1374 (Ord. 1196 § 1(part), 1990).

1375

1376 **19.09.527 Outdoor lighting fixture.**

1377 "Outdoor lighting fixture" means an outdoor artificial illuminating device, either permanent or portable,
1378 used for illumination or advertisement of parking lots, architecture, signage, landscaping, entryways, or
1379 areas requiring security.

1380 (Ord. 1452 § 3(part), 2000).

1381

1382 **19.09.528 Overlay Permission Area Map**
1383 A map depicting the boundary lines within which applications are allowed for changing the zoning
1384 district designation to that of a specific overlay zone

1385 **19.09.529 Overlay Zoning District**
1386 A type of zoning district that offers alternative regulations for an existing zoning district. The properties
1387 which can apply for an overlay zoning district map change are limited by boundaries as depicted in an
1388 Overlay Permission Area Map. The procedures for changing and amending a property to overlay zoning
1389 status are described in section 19.69 and in each of the overlay districts.

1390
1391 **19.09.530 Parking lot.**
1392 "Parking lot" means a structure or premises containing parking spaces open to the public. Curb cut
1393 openings shall be designed to facilitate traffic safety and pedestrian movement.
1394 (Ord. 994 § 12.0(part), 1982).

1395
1396 **19.09.540 Parking space or parking stall.**
1397 "Parking space" or "parking stall" means a graded and paved area of not less than one hundred eighty
1398 square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress
1399 and egress to a public street or alley except as additionally provided for in Section 19.50.010. New or
1400 substantially improved areas intended to be utilized for parking and driveways shall be surfaced with
1401 bituminous, concrete, or pavers to control dust and drainage, except in the case of farm dwellings and
1402 operations. In all cases, permeable or pervious materials are preferred. Plans for surfacing and drainage
1403 of stalls and driveways for five or more vehicles shall be submitted to the Neighborhood Services
1404 Department for review.
1405 (Ord. 994 § 12.0(part), 1982).

1406
1407 **19.09.550 Parties of interest.**
1408 "Parties of interest" includes all abutting property owners, all property owners within three hundred
1409 feet, and all property owners of opposite frontage. For purposes of this title, property ownership shall
1410 be determined from property tax billing records available within municipal records at the time the
1411 notification is sent.
1412 (Ord. 994 § 12.0(part), 1982).

1413
1414 **19.09.555 Person.**
1415 "Person" means an individual, or group of individuals, corporation, partnership, association, municipality
1416 or state agency.
1417 (Ord. 1600 § 1(part), 2006).

1418
1419 **19.09.560 Planting screen.**
1420 "Planting screen" means an arrangement of living vegetation reaching an anticipated height of four feet
1421 or more, which may or may not be accompanied by materials used to construct fences and the like,
1422 which is intended to provide a reasonable separation of vision between abutting lots or the lot and the
1423 street line.
1424 (Ord. 994 § 12.0(part), 1982).

1425
1426 **19.09.570 Principal use or structure.**
1427 "Principal use or structure" means a use or structure specified as a principal use under the district
1428 regulations of this title; such uses or structures must occur or be built prior to or concurrently with any
1429 accessory uses or structures.

1430 (Ord. 994 § 12.0(part), 1982).

1431

1432 **19.09.580 Private club or lodge.**

1433 "Private club or lodge" means a structure or grounds used for regular or periodic meetings or gatherings
1434 of a group of persons organized for a nonprofit purpose, but not groups organized to render a service
1435 customarily carried on as a business.

1436 (Ord. 994 § 12.0(part), 1982).

1437

1438 **19.09.585 Private sewage system.**

1439 "Private sewage system" means a sewage treatment and disposal system serving one structure with a
1440 septic tank and soil absorption field located on the same parcel as the structure. It also means an
1441 alternative sewage system approved by the Department of Commerce, including a substitute for the
1442 septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system
1443 located on a different parcel than the structure. Also referred to as "septic system" or "private on-site
1444 waste treatment system."

1445 (Ord. 1600 § 1(part), 2006).

1446

1447 **19.09.590 Professional home offices.**

1448 "Professional home offices" means residences of doctors of medicine, practitioners, dentists, clergymen,
1449 architects, landscape architects, professional engineers, real estate and insurance offices, registered
1450 land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions, used to
1451 conduct their professions, where the office does not exceed one-half of the area of only one floor of the
1452 residence and only one nonresident person is employed.

1453 (Ord. 994 § 12.0(part), 1982).

1454

1455 **19.09.600 Professional offices.**

1456 "Professional offices" means doctors of medicine, practitioners, dentists, clergymen, architects,
1457 landscape architects, professional engineers, real estate and insurance offices, registered land
1458 surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions not able to
1459 meet professional home office requirements.

1460 (Ord. 994 § 12.0(part), 1982).

1461

1462 **19.09.602 Public utilities.**

1463 "Public utilities" means those utilities using underground or overhead transmission lines such as electric,
1464 telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and
1465 storm sewer.

1466 (Ord. 1600 § 1(part), 2006).

1467

1468 **19.09.604 Reach.**

1469 "Reach" means longitudinal segment of a stream, generally including those floodlands wherein flood
1470 stages are primarily and commonly controlled by the same manmade or natural obstructions to flow.

1471 (Ord. 1060 § 10(part), 1985).

1472

1473 **19.09.605 Reasonably safe from flooding.**

1474 "Reasonably safe from flooding" means base flood waters will not inundate the land or damage
1475 structures to be removed from the special flood hazard area and that any subsurface waters related to
1476 the base flood will not damage existing or proposed buildings.

1477 (Ord. 1600 § 1(part), 2006: Ord. 1580A § 1(part), 2005).

1478
1479 **19.09.608 Regional flood.**
1480 "Regional flood" means a flood determined to be representative of large floods known to have generally
1481 occurred in Wisconsin and which may be expected to occur on a particular stream because of like
1482 physical characteristics. The flood frequency of the regional flood is once in every one hundred years;
1483 this means that in any given year, there is a one percent chance that the regional flood may occur or be
1484 exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent
1485 chance of occurrence.
1486 (Ord. 1060 § 10(part), 1985).

1487
1488 **19.09.609 Start of construction.**
1489 "Start of construction" means the date the building or zoning permit was issued, provided the actual
1490 start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement
1491 was within six months of the permit date. The actual start means either the first placement of
1492 permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the
1493 construction of columns, or any work beyond initial excavation, or the placement of a manufactured or
1494 mobile home on a foundation. Permanent construction does not include land preparation, such as
1495 clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it
1496 include excavation for a basement, footings, piers or foundations or the erection of temporary forms,
1497 nor does it include the installation on the property of accessory buildings, such as garages or sheds not
1498 occupied as dwelling units or not part of the main structure. For an alteration, the actual start of
1499 construction means the first alteration of any wall, ceiling, floor or other structural part of a building,
1500 whether or not that alteration affects the external dimensions of the building.
1501 (Ord. 1600 § 1(part), 2006).

1502
1503 **19.09.610 Story.**
1504 "Story" means that portion of a building included between the surface of a floor and the surface of the
1505 floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next
1506 above it. A basement or cellar having one-half or more of its height above grade shall be deemed a story
1507 for purposes of height regulation.
1508 (Ord. 994 § 12.0(part), 1982).

1509
1510 **19.09.620 Public or semipublic uses.**
1511 For purposes of this title, the following uses shall be considered "public and semipublic uses":
1512 government office buildings, fire and police stations, public garages, libraries, museums, community
1513 centers, churches, cemeteries, public and private elementary and secondary schools, colleges and
1514 universities, and similar uses not specifically listed but similar in character.
1515 (Ord. 994 § 12.0(part), 1982).

1516
1517 **19.09.623 Shielded light fixture.**
1518 "Shielded light fixture" means an outdoor lighting fixture which through design is shielded in such a
1519 manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture,
1520 are projected at least fifteen degrees below a horizontal plane running through the lowest point on the
1521 fixture where light is emitted. Except for ground and sign mounted light fixtures, that horizontal plane
1522 shall be parallel to the surface of the ground.
1523 (Ord. 1452 § 3(part), 2000).

1524
1525 **19.09.625 Shorelands.**

1526 "Shorelands" are those lands lying within the following distances from the ordinary high water mark of
1527 navigable waters: one thousand feet from a lake, pond or flowage; and three hundred feet from a river
1528 or stream; or to the landward side of the floodplain, whichever distance is greater. Shorelands shall not
1529 include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a
1530 navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were not
1531 navigable streams before ditching or had no previous stream history; and (c) such lands are maintained
1532 in nonstructural agricultural use.
1533 (Ord. 1196 § 1(part), 1990).

1534
1535 **19.09.630 Sign.**

1536 "Sign" means any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs,
1537 pictures, symbols, trade names or trademarks by which anything is made known, and which are used to
1538 advertise or promote an individual, firm, association, corporation, profession, business, commodity or
1539 product, located outside a structure or incorporated into the structure, and which are visible from any
1540 public street or highway ~~on the outside of buildings.~~
1541 (Ord. 994 § 12.0(part), 1982).

1542
1543 **19.09.640 Sign, directional.**

1544 "Directional sign" means a sign intended solely for the purpose of directing patrons or customers to an
1545 establishment off the main-traveled road, and not including promotional advertising unnecessary to
1546 such directional purpose.
1547 (Ord. 994 § 12.0(part), 1982).

1548
1549 **19.09.650 Sign, nonaccessory.**

1550 "Nonaccessory sign" means a sign related to commercial or similar activities other than those actually
1551 engaged in on the site on which such nonaccessory sign is located.
1552 (Ord. 994 § 12.0(part), 1982).

1553
1554 **19.09.660 Street.**

1555 "Street" means a public right-of-way not less than sixty feet wide providing primary access to abutting
1556 properties. Existing streets with rights-of-way less than sixty feet shall also be included in this definition.
1557 (Ord. 994 § 12.0(part), 1982).

1558
1559 **19.09.670 Street line.**

1560 "Street line" means a dividing line between a lot, tract, or parcel of land and a contiguous street.
1561 (Ord. 994 § 12.0(part), 1982).

1562
1563 **19.09.680 Structural alterations.**

1564 "Structural alterations" means the erection, strengthening, removal or other change of the supporting
1565 elements of a building or structure. Such elements shall include, but shall not be limited to, footings,
1566 foundations, bearing walls, columns, beams, girders, joists and decking. The enlargement of an existing
1567 building or structure shall be considered a structural alteration for the purpose of this title.
1568 (Ord. 994 § 12.0(part), 1982).

1569
1570 **19.09.690 Structure.**

1571 "Structure" means any erection or construction, above or below grade, to form a shelter, enclosure,
1572 retainer, container, support or decoration, such as, but not limited to, buildings, towers, tanks, masts,

1573 poles, booms, signs, sculpture, carports, tents, machinery and equipment (excluding driveways and on-
1574 grade parking lots).

1575 (Ord. 994 § 12.0(part), 1982).

1576

1577 **19.09.700 Structure, accessory.**

1578 "Accessory structure" means a structure or portion of a structure customarily incident to any permitted
1579 principal use of such lot and located on the same lot as such principal use.

1580 (Ord. 994 § 12.0(part), 1982).

1581

1582 **19.09.710 Structure, permanent.**

1583 "Permanent structure" means a structure placed on or in the ground or attached to another structure in
1584 a fixed and determined position, and intended to remain in place for a period more than nine months.

1585 (Ord. 994 § 12.0(part), 1982).

1586

1587 **19.09.720 Structure, principal.**

1588 "Principal structure" means a structure used or intended to be used for the principal use as permitted
1589 on such lot by the regulations of the district in which it is located.

1590 (Ord. 994 § 12.0(part), 1982).

1591

1592 **19.09.730 Structure, temporary.**

1593 "Temporary structure" means any structure other than a permanent structure.

1594 (Ord. 994 § 12.0(part), 1982).

1595

1596 **19.09.732 Substantial damage.**

1597 "Substantial damage" means damage of any origin sustained by a structure, whereby the cost of
1598 restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the
1599 equalized assessed value of the structure before the damage occurred.

1600 (Ord. 1600 § 1(part), 2006).

1601

1602 **19.09.735 Substantial improvement.**

1603 "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of
1604 which equals or exceeds fifty percent of the present equalized assessed value of the structure either
1605 before the improvement or repair is started or, if the structure has been damaged and is being restored,
1606 before the damage occurred. The term does not, however, include either: (a) any project for
1607 improvement of a structure to comply with existing state or local health, sanitary or safety code
1608 specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a
1609 structure or site documented as deserving preservation by the Wisconsin State Historical Society or
1610 listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered
1611 structural repairs, modifications or additions; such ordinary maintenance repairs include internal and
1612 external painting, decorating, paneling, and the replacement of doors, windows and other nonstructural
1613 components.

1614 (Ord. 1060 § 10(part), 1985).

1615

1616 **19.09.740 Tourist home.**

1617 "Tourist home" means a building in which lodging, with or without meals, is offered to transient guests
1618 for compensation and having no more than five sleeping rooms for this purpose, with no cooking
1619 facilities in any such individual room or apartment.

1620 (Ord. 994 § 12.0(part), 1982).

1621
1622 **19.09.750 ~~Townhouse style building.~~**
1623 "~~Townhouse style building~~" means a building having three or more attached dwelling units with each
1624 unit having separate primary ground level access to the outside. ~~Units may be, each unit having a first~~
1625 floor at ground level, and the units being attached either vertically or horizontally by vertical common
1626 walls.
1627 (Ord. 994 § 12.0(part), 1982).
1628
1629 **19.09.760 ~~Townhouse style dwelling units.~~**
1630 "~~Townhouse style dwelling units~~" means attached single-family dwellings having direct outside access
1631 from each unit. Units may be attached either vertically or horizontally.
1632 (Ord. 994 § 12.0(part), 1982).
1633
1634 **19.09.765 Traditional Neighborhood Development (TND).**
1635 "Traditional Neighborhood Development" means a compact, mixed-use neighborhood where
1636 residential, commercial and civic buildings are within close proximity to each other; with interconnected
1637 pedestrian and vehicular circulation and public open space systems; and with careful attention to the
1638 design, layout, and relationships between different land uses.
1639 (Ord. 1511 § 1(part), 2002).
1640
1641 **19.09.770 Trailer camp.**
1642 "Trailer camp" means any tract or parcel of land upon which two or more trailers, camp cabins, house
1643 cars, or other mobile homes are located, or trailer or camp sites are provided for the purpose of either
1644 temporary or permanent habitation.
1645 (Ord. 994 § 12.0(part), 1982).
1646
1647 **19.09.775 Unnecessary hardship.**
1648 "Unnecessary hardship" is that circumstance where special conditions, which are not self-created, affect
1649 a particular property and make strict conformity with the restrictions governing dimensional standards
1650 (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome
1651 or unreasonable in light of the purpose of the ordinance. Unnecessary hardship is present only where, in
1652 the absence of a variance, no feasible use can be made of the property.
1653 (Ord. 1196 § 1(part), 1990).
1654
1655 **19.09.780 Usable open space.**
1656 "Usable open space" means land used for recreation, resource protection, amenity or buffers, is freely
1657 accessible to all residents, and is protected by the provisions of this title to ensure that it remains in such
1658 uses. Usable open space does not include land occupied by buildings, roads, road right-of-ways or
1659 drives, nor does it include the yards of single, two-family or multifamily dwellings used for parking areas.
1660 (Ord. 994 § 12.0(part), 1982).
1661
1662 **19.09.790 Use, accessory.**
1663 "Accessory use" means a use customarily incident to the permitted principal use of property and on the
1664 same lot as the principal permitted use.
1665 (Ord. 994 § 12.0(part), 1982).
1666
1667 **19.09.800 Use, legal nonconforming.**

1668 "Legal nonconforming use" means a use not in compliance with the regulations of this title, but which
1669 existed lawfully in April, 1982.
1670 (Ord. 994 § 12.0(part), 1982).

1671
1672 **19.09.810 Use, permitted.**

1673 "Permitted use" means that utilization of land by occupancy, activity, building or other structure which is
1674 specifically enumerated as permissible by the regulations of the zoning district in which the land is
1675 located.
1676 (Ord. 994 § 12.0(part), 1982).

1677
1678 **19.09.820 Use, principal.**

1679 "Principal use" means the main or primary use of property or structures as permitted on such lot by the
1680 regulations of the district in which it is located.
1681 (Ord. 994 § 12.0(part), 1982).

1682
1683 **19.09.830 Utilities.**

1684 "Utilities" means public and private facilities such as water wells, water and sewage pumping stations,
1685 water storage tanks, power and communication transmission lines, electrical power substations, static
1686 transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation
1687 stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and
1688 storage yards.
1689 (Ord. 994 § 12.0(part), 1982).

1690
1691 **19.09.833 Variance.**

1692 "Variance" means an authorization granted by the zoning board of appeals to construct, alter, or use a
1693 building or structure in a manner that deviates from the dimensional standards of this title. A variance
1694 may not permit the use of a property that is otherwise prohibited by the ordinance codified in this title
1695 or allow floodland construction that is not protected to the flood protection elevation.
1696 (Ord. 1196 § 1(part), 1990).

1697
1698 **19.09.834 Vehicle.**

1699 "Vehicle" means every device in, upon or by which any person or property is or may be transported or
1700 drawn upon a highway, except railroad trains. A snowmobile shall not be considered a vehicle except for
1701 purposes made specifically applicable by ordinance.
1702 (Ord. 1364 § 6, 1997).

1703
1704 **19.09.835 Violation.**

1705 With respect to the floodplain regulations of this chapter, "violation" means the failure of a structure or
1706 other development to be fully compliant with the floodplain zoning provisions of this title. A structure or
1707 other development without required permits, lowest floor elevation documentation, floodproofing
1708 certificates or required floodway encroachment calculations is presumed to be in violation until such
1709 time as that documentation is provided.
1710 (Ord. 1600 § 1(part), 2006).

1711
1712 **19.09.836 Watershed.**

1713 "Watershed" means the entire region contributing runoff or surface water to a watercourse or body of
1714 water.
1715 (Ord. 1600 § 1(part), 2006: Ord. 1196 § 1(part), 1990).

1716
1717 **19.09.837 Water surface profile.**
1718 "Water surface profile" means a graphical representation showing the elevation of the water surface of
1719 a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface
1720 profile of the regional flood is used in regulating floodplain areas.
1721 (Ord. 1600 § 1(part), 2006: Ord. 1499 § 3(part), 2001).
1722
1723 **19.09.838 Well.**
1724 "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or other
1725 methods, to obtain groundwater regardless of its intended use.
1726 (Ord. 1600 § 1(part), 2006: Ord. 1499 § 3(part), 2001).
1727
1728 **19.09.839 Wetland.**
1729 "Wetland" means an area where water is at, near, or above the land surface long enough to be capable
1730 of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.
1731 (Ord. 1600 § 1(part), 2006).
1732
1733 **19.09.840 Wireless telecommunications facility.**
1734 "Wireless telecommunications facility" means a facility that consists of or includes one or more
1735 antennas, antenna arrays, telecommunications towers, microwave relay systems, satellite dish antennas
1736 of at least thirty-six inches in diameter, or other similar communications devices used for transmitting,
1737 receiving, or relaying radio, microwave, digital, cellular, or other wireless telecommunications signals.
1738 For the purposes of this title, wireless telecommunications facilities shall not include conventional, non-
1739 wireless telephone poles (unless also serving as an alternative support structure), residential satellite
1740 dishes less than thirty-six inches in diameter, residential television antennas, and amateur radio
1741 facilities.
1742 (Ord. 1600 § 1(part), 2006: Ord. 994 § 12.0(part), 1982).
1743
1744 **19.09.841 Wireless telecommunications support facility.**
1745 "Wireless telecommunications support facility" means any and all ancillary structures, mechanicals,
1746 shelters, devices, or equipment, other than attached antennas, that are incidental or accessory to the
1747 operation of a wireless telecommunications facility.
1748 (Ord. 1600 § 1(part), 2006).
1749
1750 **19.09.845 Yard.**
1751 "Yard" means the space on the same lot with a principal structure, between such structure and the
1752 street line and the lot lines, unoccupied and unobstructed from the ground upward except for
1753 vegetation, and with the exception of allowed accessory structures.
1754 (Ord. 1600 § 1(part), 2006).
1755
1756 **19.09.850 Yard, rear.**
1757 "Rear yard" means a yard extending across the full width of the lot, the depth of which shall be the
1758 minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest
1759 point of the principal structure.
1760 (Ord. 994 § 12.0(part), 1982).
1761
1762 **19.09.860 Yard, shore.**

1763 "Shore yard" means a yard extending across the full width or depth of a lot, the depth of which shall be
 1764 the minimum horizontal distance between a line intersecting both side lots at the same angle and
 1765 containing the point of the high-water elevation of a pond, stream or lake nearest the principal structure
 1766 and a line parallel thereto containing the point of the principal structure nearest the high-water line.
 1767 (Ord. 994 § 12.0(part), 1982).

1768
 1769 **19.09.870 Yard, side.**

1770 "Side yard" means a yard extending from the street yard to the rear yard of the lot, the width of which
 1771 shall be the minimum horizontal distance between the side lot line and a line parallel thereto through
 1772 the nearest point of the principal structure.
 1773 (Ord. 994 § 12.0(part), 1982).

1774
 1775 **19.09.880 Yard, street (front yard).**

1776 "Street yard (front yard)" means a yard extending across the full width of the lot, the depth of which
 1777 shall be the minimum horizontal distance between the existing or proposed street or highway line and a
 1778 line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such
 1779 yards.
 1780 (Ord. 994 § 12.0(part), 1982).

1781
 1782
 1783 **Title 19 ZONING***

1784
 1785
 1786
 1787 **Chapter 19.12 ZONING DISTRICTS**

1788 Sections:

- 1789 19.12.010 Districts--Established.
- 1790 19.12.020 Districts--Boundaries.
- 1791 19.12.030 Vacation of streets and alleys.
- 1792 19.12.040 Annexations and consolidations.
- 1793 19.12.050 Zoning map.

1794
 1795 **19.12.010 Districts--Established.**

1796 For the purpose of this title, the city is divided into the following zoning districts:
 1797 TABLE |INSET[LW2]:

R-1	One-family residence district
R-2	One and two-family residence district
<u>R-2A</u>	<u>Residential occupancy overlay district</u>
R-3	Multifamily residence district
<u>R-3A</u>	<u>University residential density west overlay district</u>
<u>R-3B</u>	<u>University residential density south overlay district</u>
R-4	Mobile home district

<u>R-O</u>	<u>Non-Family Residential Restriction Overlay District</u>
B-1	General business district
<u>B-1A</u>	<u>University mixed-use neighborhood overlay district</u>
B-2	Central business district
<u>B-2A</u>	<u>Downtown housing overlay district</u>
B-3	Commercial service and light manufacturing district
M-1	General manufacturing district
PCDPD	Planned community 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.

1799 (Ord. 1196 § 1(part), 1990).

1800

1801 **19.12.020 Districts--Boundaries.**

1802 A. Boundaries of all districts shall be as shown on the map entitled "Zoning Map, City of Whitewater,
 1803 Wisconsin," which accompanies and is a part of the ordinance codified in this title. The district
 1804 boundaries in all districts, except the C-1 shoreland wetland district, the C-2 nonshoreland wetland
 1805 district, FW floodway district, the FWW floodway/wetland district, and the FFO floodplain fringe overlay
 1806 district, shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines;
 1807 centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended.

1808 B. Boundaries of the FW floodway district shall be determined by use of the scale contained on the
 1809 map. The boundaries of the FFO floodplain fringe overlay district shall be determined by the floodland
 1810 limits shown on the map entitled, "Flood Hazard Investigation--Whitewater Creek, Spring Brook-City of
 1811 Whitewater," dated May 1979, which accompanies and is made a part of the ordinance codified in this
 1812 title. The flood stages, under floodway conditions, contained in the Flood Hazard Investigation map
 1813 were developed from technical data contained in the "Flood Insurance Study--City of Whitewater,
 1814 Walworth County, Wisconsin," published by the Federal Emergency Management Agency (FEMA) and
 1815 dated December 1, 1981. The information contained in the flood insurance study is further illustrated in
 1816 FEMA "Floodway and Flood Boundary Map" and "Flood Insurance Rate Map," both maps dated June 1,
 1817 1982. Where a conflict exists between the floodland limits as shown on the flood hazard investigation
 1818 map and actual field conditions, the elevations from the one hundred year recurrence interval flood
 1819 profile shall be the governing factor in locating the regulatory floodland limits.

1820 C. Boundaries of the C-1 shoreland wetland district, the C-2 nonshoreland wetland district, and the
 1821 FWW floodway/wetland district are based on the Wisconsin Wetland Inventory Maps for the City of
 1822 Whitewater, dated July 2, 1987, and stamped "FINAL." The C-1 district includes all shoreland wetlands,
 1823 five acres or greater in area shown on those maps.

1824 (Ord. 1196 § 1(part), 1990).

1825

1826 **19.12.030 Vacation of streets and alleys.**

1827 Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same
1828 district as the abutting side to which the vacated land reverts.

1829 (Ord. 994 § 3.3, 1982).

1830

1831 **19.12.040 Annexations and consolidations.**

1832 A. Annexations to or consolidations with the city subsequent to June 24, 1982, the effective date of the
1833 ordinance codified in this title shall be placed in the AT agricultural transition district, unless the
1834 annexation ordinance temporarily places the land in another district. Within one year, the city plan
1835 commission shall evaluate and recommend a permanent classification to the common council.

1836 B. Annexations containing floodlands and shorelands shall be governed in the following manner:

1837 1. Annexations containing floodlands shall be governed by the provisions of the Walworth County
1838 floodplain zoning ordinance until such time that the Wisconsin Department of Natural Resources (DNR)
1839 certifies that amendments to the City of Whitewater zoning ordinance meet the requirements of
1840 Chapter NR 116 of the Wisconsin Administrative Code.

1841 2. Annexations containing shorelands. Pursuant to Section 59.971(7) of the Wisconsin Statutes, any
1842 annexation of land after May 7, 1982, which lies within shorelands, as defined in this title, shall be
1843 governed by the provisions of the Walworth County shoreland zoning ordinance until such time that the
1844 City of Whitewater adopts an ordinance which is at least as restrictive as the Walworth County
1845 shoreland zoning ordinance. Said regulations shall be administered and enforced by the City of
1846 Whitewater building inspector.

1847 (Ord. 1196 § 1(part), 1990).

1848

1849 **19.12.050 Zoning map.**

1850 A certified copy of the zoning map shall be adopted and approved with the text as part of this title, and
1851 shall bear upon its face the attestation of the city manager and city clerk and shall be available to the
1852 public in the office of the city clerk. Changes thereafter to the districts shall be entered and attested on
1853 this certified copy.

1854 (Ord. 994 § 3.5, 1982).

1855

1856

1857 **Chapter 19.15 R-1 ONE-FAMILY RESIDENCE DISTRICT**

1858 Sections:

1859 19.15.010 Purpose.

1860 19.15.020 Permitted uses.

1861 19.15.030 Conditional uses.

1862 19.15.040 Lot area.

1863 19.15.050 Lot width.

1864 19.15.060 Yards.

1865 19.15.070 Coverage.

1866 19.15.080 Building height.

1867 19.15.090 Park fees.

1868

1869 **19.15.010 Purpose.**

1870 The R-1 one-family residence district is established to stabilize and protect the essential characteristics
1871 of low-density residential areas. A non-family household in R-1 shall be limited to three unrelated
1872 persons.

1873 (Ord. 994 § 3.6(part), 1982).

1874

1875 **19.15.020 Permitted uses.**

1876 Permitted uses in the R-1 district include:

1877 A. One-family detached dwellings;

1878 B. The second or greater wireless telecommunications facility located on an alternative support
1879 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
1880 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
1881 accessory uses, all per the requirements of Chapter 19.55.

1882 C. Home occupations/professional home offices for non-retail goods and services (defined in this
1883 district as businesses that do not require customer access).

1884 (Ord. 1499 § 4, 2001; 1149 § 1, 1988; Ord. 994 § 3.6(A), 1982).

1885

1886 **19.15.030 Conditional uses.**

1887 Conditional uses in the R-1 district include:

1888 A. Public and semipublic uses, to include public and private schools; churches and religious institutions;
1889 government facilities; active recreational parks; museums, hospitals, public transportation terminals,
1890 and similar uses;

1891 B. Planned residential developments such as townhouses, condominiums and cluster housing. In order
1892 to allow increasing the intensity of use, the plan commission may allow as a conditional use the
1893 following variations from the district requirements:

1894 1. In an approved planned residential development, each dwelling structure need not have an
1895 individual lot or parcel having the requisite size and dimensions normally required in the districts.
1896 However, the size and the entire development parcel divided by the number of dwellings shall be equal
1897 to or larger than the minimum lot area for the district where the site is located,

1898 2. The yard requirements between buildings shall be fixed by the plan commission. Building setbacks
1899 from the perimeter of the site shall comply with the front yard, rear yard and side yard requirements of
1900 the district,

1901 3. Private streets may be approved to serve uses within the site, provided that the site proposed for
1902 ~~RRD~~PD has frontage on a public street;

1903 C. Home occupations/professional home offices. (Subject to issuance of zoning permit.)

1904 D. The first wireless telecommunications facility located on an alternative support structure only, per
1905 the requirements of Chapter 19.55.

1906 E. Real estate sales offices, subject to the following requirements:

1907 1. May only be placed within a major subdivision with twenty or more lots;

1908 2. Shall occupy a maximum of one building within any major subdivision;

1909 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
1910 ninety days from the date when ninety percent of the lots or units within the subdivision or
1911 development are initially sold or leased, or five years from the date of initial establishment of the use,
1912 whichever comes first;

1913 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
1914 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
1915 sales office is removed or converted to a permitted use in the district;

1916 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
1917 uses open to the public;

1918 6. Shall be compatible in character, materials, placement, and design with other existing and planned
1919 buildings within the subdivision;
1920 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
1921 19.54.052 of this title.
1922 F. Bed and breakfast establishments.
1923 G. Keeping of horses, subject to the standards in Section 19.57.160 of this title.
1924 (Ord. 1589A § 1, 2005; Ord. 1580A § 2, 2005; Ord. 1499 § 5, 2001; Ord. 1149 § 5, 1988; Ord. 1082 § 5,
1925 1986; Ord. 994 § 3.6(B), 1982).
1926
1927 **19.15.040 Lot area.**
1928 Minimum lot area in the R-1 district is ten thousand square feet.
1929 (Ord. 1174 § 1, 1990; Ord. 994 § 3.6(C), 1982).
1930
1931 **19.15.050 Lot width.**
1932 Minimum lot width in the R-1 district is eighty feet.
1933 (Ord. 994 § 3.6(D), 1982).
1934
1935 **19.15.060 Yards.**
1936 Minimum yard requirements in the R-1 district are as follows:
1937 A. Front, twenty-five feet; not more than 40% of the front yard may be a paved surface except as a
1938 conditional use).
1939 B. Side, ten feet, corner lot, twenty-five feet;
1940 C. Rear, thirty feet;
1941 D. Shore, seventy-five feet.
1942 (Ord. 994 § 3.6(E), 1982).
1943
1944
1945 **19.15.070 Coverage.**
1946 Maximum lot coverage in the R-1 district is thirty percent.
1947 (Ord. 994 § 3.6(F), 1982).
1948
1949 **19.15.080 Building height.**
1950 Maximum building height in the R-1 district is two and one-half stories or thirty-five feet.
1951 (Ord. 994 § 3.6(G), 1982).
1952
1953 **19.15.090 Park fees.**
1954 All residential development shall be subject to a park acquisition fee of ~~two hundred fourteen dollars~~ \$214.00
1955 per dwelling unit and a park improvement fee of ~~five hundred five dollars~~ \$505.00 per dwelling unit, payable
1956 before a building permit is issued. The amount of these fees may be reduced by any fee amount
1957 previously paid or credited at the time of subdivision, or by fifty percent (50%) if the new housing units
1958 are created as a result of the conversion or remodeling of a preexisting building. The park acquisition fee
1959 may also be reduced if sufficient land area was provided for park purposes at the time of subdivision,
1960 based on the calculations in ~~section~~ Section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee
1961 amounts shall be ~~adjusted during the first quarter of each year by a percentage equal to the rate of consumer inflation based on the~~
1962 ~~percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported~~ set by the U.S. Department of Labor,
1963 Bureau of Labor Statistics,
1964 (Ord. 1481 § 1, 2001).

1965
1966
1967 City Council. Chapter 19.16 R-1X DISTRICT
1968 Sections:
1969 19.16.010 R-1 district provisions--Applicability.
1970 19.16.020 Lot area.
1971 19.16.021 Maximum lot coverage.
1972 19.16.030 Lot width.
1973 19.16.040 Yards.
1974 19.16.050 Park fees.
1975
1976 **19.16.005 Purpose.**
1977 The R-1x one-family residence district is established to stabilize and protect the essential characteristics
1978 of residential areas whose density is lower than R-1. A non-family household in R-1 shall be limited to
1979 three unrelated persons.
1980 (Ord. 994 § 3.6(part), 1982).
1981
1982 **19.16.010 R-1x district provisions--Applicability.**
1983 All of the provisions of the R-1 district not in conflict with the requirements of this chapter shall apply in
1984 the R-1X district.
1985 (Ord. 1174 § 2(part), 1990).
1986
1987 **19.16.020 Lot area.**
1988 Minimum lot area in the R-1X district is twelve thousand square feet.
1989 (Ord. 1174 § 2(part), 1990).
1990
1991 **19.16.021 Maximum lot coverage.**
1992 Maximum lot coverage by buildings in the R-1X district shall be twenty percent.
1993 (Ord. 1364 § 7, 1997).
1994
1995 **19.16.030 Lot width.**
1996 Minimum lot width in the R-1X district is one hundred feet.
1997 (Ord. 1174 § 2(part), 1990).
1998
1999 **19.16.040 Yards.**
2000 Minimum yard requirements in the R-1X district are:
2001 A. Front, thirty feet; (not more than 40% of the front yard may be a paved surface except as a
2002 conditional use)
2003 B. Side, fifteen feet; corner lot, thirty feet;
2004 C. Rear, thirty feet;
2005 D. Shore, seventy-five feet.
2006 (Ord. 1174 § 2(part), 1990).
2007
2008
2009 **19.16.050 Park fees.**
2010 All residential development shall be subject to a park acquisition fee of ~~two hundred fourteen dollars~~ \$214.00
2011 per dwelling unit and a park improvement fee of ~~five hundred five dollars~~ \$505.00 per dwelling unit, payable
2012 before a building permit is issued. The amount of these fees may be reduced by any fee amount

2013 | previously paid or credited at the time of subdivision, or by fifty percent (50%) if the new housing units
2014 | are created as a result of the conversion or remodeling of a preexisting building. The park acquisition fee
2015 | may also be reduced if sufficient land area was provided for park purposes at the time of subdivision,
2016 | based on the calculations in ~~section~~Section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee
2017 | amounts shall be ~~adjusted during the first quarter of each year by a percentage equal to the rate of consumer inflation based on the~~
2018 | ~~percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported~~set by the ~~U.S. Department of Labor,~~
2019 | ~~Bureau of Labor Statistics,~~
2020 | ~~(Ord. 1481 § 2, 2001).~~
2021 | City Council.

2023 | **Chapter 19.18 R-2 ONE- AND TWO-FAMILY RESIDENCE DISTRICT**

2024 | Sections:

2025 | 19.18.010 Purpose.

2026 | 19.18.020 Permitted uses.

2027 | 19.18.030 Conditional uses.

2028 | 19.18.040 Lot area.

2029 | 19.18.050 Lot width.

2030 | 19.18.060 Yard requirements.

2031 | 19.18.070 Lot coverage.

2032 | 19.18.080 Building height.

2033 | 19.18.090 Park fees.

2035 | **19.18.010 Purpose.**

2036 | The R-2 two-family residence district is established to provide medium-density residential areas. A
2037 | non-family household in R-2 shall be limited to three unrelated persons.
2038 | (Ord. 994 § 3.7(part), 1982).

2040 | **19.18.020 Permitted uses.**

2041 | Permitted uses in the R-2 district include:

2042 | A. One-family detached dwellings;

2043 | B. Two-family attached dwellings;

2044 | C. Home occupations/professional home offices for non-retail goods and services (defined in this
2045 | district as businesses that do not require customer access);

2046 | D. The second or greater wireless telecommunications facility located on an alternative support
2047 | structure already supporting a wireless telecommunications facility or on a pre-existing wireless
2048 | telecommunications facility, with wireless telecommunications support facilities allowed as permitted
2049 | accessory uses, all per the requirements of Chapter 19.55.

2050 | (Ord. 1499 § 6, 2001; Ord. 1174 § 3(A), 1990; Ord. 1149 § 2, 1988; Ord. 994 § 3.7(A), 1982).

2052 | **19.18.030 Conditional uses.**

2053 | Conditional uses in the R-2 district include:

2054 | A. Attached townhouse ~~and condominium~~ dwellings, up to four units per building: minimum lot area
2055 | requirements for such uses shall be regulated by Chapter 19.21;

2056 | B. Two-family attached dwellings (new construction only);

2057 | C. Planned residential developments (See Section 19.15.030);

2058 | D. Public and semipublic uses;

2059 | E. Home occupations/professional home offices ~~(LMB3)~~, for retail goods and services (defined in this
2060 | district as businesses requiring customer access).

- 2061 F. The first wireless telecommunications facility located on an alternative support structure only, per
2062 the requirements of Chapter 19.55;
- 2063 G. Real estate sales offices, subject to the following requirements:
- 2064 1. May only be placed within a major subdivision with twenty or more lots or a multiple-family
2065 residential development with forty or more dwelling units,
- 2066 2. Shall occupy a maximum of one building within any major subdivision, or one unit within any
2067 multiple-family residential development,
- 2068 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
2069 ninety days from the date when ninety percent of the lots or units within the subdivision or
2070 development are initially sold or leased, or five years from the date of initial establishment of the use,
2071 whichever comes first,
- 2072 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
2073 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
2074 sales office is removed or converted to a permitted use in the district,
- 2075 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
2076 uses open to the public,
- 2077 6. Shall be compatible in character, materials, placement, and design with other existing and planned
2078 buildings within the subdivision or development,
- 2079 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
2080 19.54.052 of this title;
- 2081 H. Bed and breakfast establishments;
- 2082 I. Keeping of horses, subject to the standards in Section 19.57.160 of this title.
2083 (Ord. 1589A § 2, 2005; Ord. 1580A § 3, 2005; Ord. 1499 § 7, 2001; Ord. 1299 § 1, 1994; Ord. 1174 § 3(B),
2084 1990; Ord. 1149 § 6, 1988; Ord. 1082 § 6, 1986; Ord. 994 § 3.7(b), 1982).

2085
2086 **19.18.040 Lot area.**

2087 Minimum lot area in the R-2 district is:

- 2088 A. Eight thousand square feet for single-family;
- 2089 B. Twelve thousand square feet for two-family.
2090 (Ord. 1174 § 3(C), 1990; Ord. 994 § 3.7(C), 1982).

2091
2092 **19.18.050 Lot width.**

2093 Minimum lot width in the R-2 district is:

- 2094 A. Sixty-six feet for all lots of record at the time of adoption of the ordinance codified in this section;
- 2095 B. Seventy feet for all new single-family development after the adoption of the ordinance codified in
2096 this section;
- 2097 C. One hundred feet for all duplexes developed after the adoption of the ordinance codified in this
2098 section.
2099 (Ord. 1174 § 3(D), 1990; Ord. 994 § 3.7(D), 1982).

2100
2101 **19.18.060 Yard requirements.**

2102 Minimum yard requirements in the R-2 district are:

- 2103 A. Front, twenty-five feet; (not more than 50% of the front yard may be a paved surface)
- 2104 B. Side, ten feet for one family, fifteen feet for two family and multifamily; corner lots, twenty-five feet;
- 2105 C. Rear, thirty feet;
- 2106 D. Shore, seventy-five feet;
- 2107 E. For all structures larger than a one-family dwelling unit, the building setback standards established in
2108 the R-3 multifamily residence district shall apply.

2109 (Ord. 1174 § 3E, 1990: Ord. 994 § 3.7(E), 1982).

2110

2111 **19.18.065 Off-street Parking.**

2112 Off-street parking, including both surface parking and enclosed parking, shall conform to City guidelines
2113 for parking areas which include materials, access, visibility, potential impact on abutting properties,
2114 screening, and economic viability of the associated use.

2115

2116

2117 **19.18.070 Lot coverage.**

2118 Maximum lot coverage in the R-2 district is thirty percent.

2119 (Ord. 994 § 3.7(F), 1982).

2120

2121 **19.18.080 Building height.**

2122 Maximum building height in the R-2 district is thirty-five feet, or two and one-half stories.

2123 (Ord. 994 § 3.7(G), 1982).

2124

2125 **19.18.090 Park fees.**

2126 All residential development shall be subject to a park acquisition fee of ~~two hundred fourteen dollars~~ \$214.00
2127 per dwelling unit and a park improvement fee of ~~five hundred five dollars~~ \$505.00 per dwelling unit, payable
2128 before a building permit is issued. The amount of these fees may be reduced by any fee amount
2129 previously paid or credited at the time of subdivision, or by fifty percent (50%) if the new housing units
2130 are created as a result of the conversion or remodeling of a preexisting building. The park acquisition fee
2131 may also be reduced if sufficient land area was provided for park purposes at the time of subdivision,
2132 based on the calculations in ~~section~~ Section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee
2133 amounts shall be ~~adjusted during the first quarter of each year by a percentage equal to the rate of consumer inflation based on the~~
2134 ~~percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported~~ set by the U.S. Department of Labor,
2135 Bureau of Labor Statistics, City Council.

2136

2137 **Chapter 19.19 R-2A Residential Increased Occupancy Overlay District**

2138 Sections:

2139 19.19.010 Purpose and intent.

2140 19.19.015 Relationship to underlying zoning district classification 19.19.020 Overlay district application.

2141 19.19.030 Non-family residential overlay district permissions and conditions.

2142

2143 19.19.050 Exceptions.

2144

2145 **19.19.010 Purpose and intent.**

2146 The purpose and intent of the residential occupancy overlay district is to allow increased occupancy in a
2147 focused area near campus where housing structures can accommodate higher occupancy.

2148 **19.19.015 Relationship to underlying zoning district classification.**

2149 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
2150 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
2151 zoning is applied unless specifically described in this overlay district.

2152

2153 **19.19.020 Overlay zoning district application.**

2154 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2155 R-2A designation. No party other than the owner of the property, City Manager or Common Council may
2156 apply for the R-2A residential occupancy overlay zoning. Permission will require conformance with the

2157 requirements established for the duties of the zoning administrator (section 19.75.061) Applications
2158 may also require a conditional use permit. This overlay district is restricted to structures that were in
2159 existence as of the adoption date of the creation of this overlay district. Procedures for zoning changes
2160 and amendments are further elaborated in section 19.69

2161
2162

2163 **19.19.030 Residential occupancy overlay district permitted and conditional uses.**

2164 Three unrelated occupants are a permitted use in the R-2A overlay district with no conditional use
2165 permit required. A conditional use permit is required for four or five unrelated individuals. The
2166 conditional use permit shall take into consideration, among other issues, the size of the building and the
2167 original character of the building when bedrooms are being added as part of an internal remodeling or
2168 external addition. Occupancy by more than five unrelated individuals requires both a conditional use
2169 permit and inspection by zoning administrator of the property and its surrounding area (section
2170 19.75.061

2171

2172 **19.19.050 Exceptions.**

2173 The limitations in this district overlay for maximum occupancy and parking shall not apply to community
2174 living arrangements allowed by federal and state law (such as foster homes and adult family homes for
2175 the disabled) and those allowed under Wis. Stats. § 62.23 (7) (l)
2176 (Ord. ~~1481 § 3, 2001; Ord. 1174 § 3F, 1990~~) No. 1788A, § 1, 6-1-2010)

2177

2178

2179

2180 =
2181 The

2182

2183 **Chapter 19.21 R-3 MULTIFAMILY RESIDENCE DISTRICT**

2184 Sections:

2185 19.21.010 Purpose.

2186 19.21.020 Permitted uses.

2187 19.21.030 Conditional uses.

2188 19.21.040 Lot area.

2189 19.21.050 Lot width.

2190 19.21.060 Yard Requirements.

2191 19.21.070 Lot coverage.

2192 19.21.080 Building height.

2193 19.21.090 Park fees.

2194

2195 **19.21.010 Purpose.**

2196 The R-3 multifamily residence district is established to provide high-density residential areas, and to
2197 allow mixing of certain compatible land uses. A non-family household in R-3 shall be limited to five
2198 unrelated persons.

2199 (Ord. 994 § 3.8(part), 1982).

2200

2201 **19.21.020 Permitted uses.**

2202 Permitted uses in the R-3 district include:

2203 A. One-family detached dwellings;

2204 B. Two-family attached dwellings (new construction);

- 2205 C. ~~Attached Multi-family dwellings and attached dwellings, up to four units per building. Minimum lot area~~
 2206 ~~requirements for such uses shall be regulated by Chapter 19.21.~~ "Attached dwelling" means a one-family dwelling
 2207 attached to two or more one-family dwellings by common vertical walls;
 2208 D. Home occupations/professional home offices for non-retail (goods and services for businesses that
 2209 do not require customer access);
 2210 E. The second or greater wireless telecommunications facility located on an alternative support
 2211 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
 2212 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
 2213 accessory uses, all per the requirements of Chapter 19.55.
 2214 (Ord. 1499 § 8, 2001; 1174 § 4A, 1990: Ord. 1149 § 3, 1988; Ord. 994 § 3.8(A), 1982).

2215
 2216 **19.21.030 Conditional uses.**

2217 Conditional uses in the R-3 district include:

- 2218 A. Professional business offices in a building where the principal use is residential;
 2219 B. Multifamily dwellings and attached dwellings, over four units, new construction only;
 2220 C. Walk-in type retail trade (food stores, bookstores, gift shops, galleries, beauty shops and similar
 2221 uses) located in a building where the principal use is residential and fronts on an arterial street;
 2222 (Conditional use approval under this provision shall be granted for a specified use. Any subsequent
 2223 change in use or expansion shall require additional conditional use approval.)
 2224 D. Fraternity or sorority houses and group lodging facilities;
 2225 E. Any building over ~~three stories or~~ forty feet;
 2226 F. Planned residential developments (see Section 19.15.030);
 2227 G. Conversions of existing structures resulting in more dwelling units, than four dwelling units; and
 2228 conversion of existing units with less than 5 bedrooms to 5 or more bedrooms.
 2229 H. Public and semipublic uses;
 2230 I. Home occupations/professional home office, ~~in one~~ for retail goods and two family dwellings [LMB4], services
 2231 (businesses requiring customer access),
 2232 J. Bed and breakfast establishments;
 2233 K. The first wireless telecommunications facility located on an alternative support structure only, per
 2234 the requirements of Chapter 19.55;
 2235 L. Real estate sales offices, subject to the following requirements:
 2236 1. May only be placed within a major subdivision with twenty or more lots or a multiple-family
 2237 residential development with forty or more dwelling units,
 2238 2. Shall occupy a maximum of one building within any major subdivision, or one unit within any
 2239 multiple-family residential development,
 2240 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
 2241 ninety days from the date when ninety percent of the lots or units within the subdivision or
 2242 development are initially sold or leased, or five years from the date of initial establishment of the use,
 2243 whichever comes first,
 2244 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
 2245 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
 2246 sales office is removed or converted to a permitted use in the district,
 2247 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
 2248 uses open to the public,
 2249 6. Shall be compatible in character, materials, placement, and design with other existing and planned
 2250 buildings within the subdivision or development,
 2251 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
 2252 19.54.052 of this title.

2253 (Ord. 1668A § 2, 2007; Ord. 1580A §§ 4, 5, 2005; Ord. 1499 § 9, 2001; Ord. 1174 § 4B, 1990; Ord. 1149 §
2254 7, 1988; Ord. 994 § 3.8(B), 1982).

2255

2256 **19.21.040 Lot area.**

2257 A. Minimum lot area in the R-3 district is as follows:

2258 TABLE INSET:

2259

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

2260 Provided, however, that minimum parcel sizes for multifamily dwellings and group lodging facilities may
2261 be increased if the following ratios indicate a larger parcel size.

2262 B. Ratios to determine minimum parcel size, (to be used if operation of the table indicates parcel size in
2263 excess of twelve thousand square feet):

2264 TABLE INSET:

2265

<u>Type of Unit</u>	<u>Square Feet</u>
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

2266

2267 C. Minimum lot area for group lodging facilities will be set in conditional use review.

2268 (Ord. 1174 § 4C, 1990; Ord. 994 § 3.8(C), 1982).

2269

2270 **19.21.050 Lot width.**

2271 Minimum lot width in the R-3 district is:

2272 A. One-family and two-family dwellings, sixty-six feet for all improved lots existing at the time of
2273 adoption of the ordinance codified in this section;

2274 B. One family, sixty-six feet for all new single-family dwellings constructed after the adoption of the
2275 ordinance codified in this section;

2276 C. Two-family, eighty-feet for all newly constructed two-family dwellings;

2277 D. Multifamily dwellings, one hundred feet.

2278 (Ord. 1174 § 4D, 1990; Ord. 994 § 3.8(D), 1982).

2279

2280 **19.21.060 Yard Requirements.**

2281 A. Front, thirty feet first floor; (not more than 50% of the front yard may be a paved surface)

2282 B. Side, fifteen feet; corner lots twenty-five feet;

2283 C. Rear, thirty feet;

2284 D. Shore, seventy-five feet;

2285 ~~E. Modifications to Minimum Required Yards. All structures within the R-3 district will be further required to comply with the sky exposure~~
2286 ~~plane setback requirements (see graph attached to the ordinance codified in this section).~~

2287 | E
2288 | (Ord. 1174 § 4E, 1990: Ord. 994 § 3.8(E), 1982).

2289
2290

2291 | **19.21.070 Lot coverage.**

2292 | A. Three hundred fifty square feet of usable open space shall be required for each dwelling unit for
2293 | structures with two or more units.

2294 | B. Usable Open Space. Usable open space is that part of the ground level of a zoning lot, other than in a
2295 | required front or corner side yard, which is unoccupied by driveways, drive aisles, service drives, off-
2296 | street parking spaces and/or loading berths and is unobstructed to the sky. This space of minimum
2297 | prescribed dimension shall be available to all occupants of the building and shall be usable for greenery,
2298 | drying yards, recreational space, gardening and other leisure activities normally carried on outdoors.
2299 | Where and to the extent prescribed in these regulations, balconies and roof areas, designed and
2300 | improved for outdoor activities, may also be considered as usable open space. The usable open space
2301 | shall be planned as an assemblage or singularly designed area that maximizes the size for open space
2302 | usage. The only exception to this standard is where the required open space is designed to be a part of
2303 | the individual living units in the form of patios or decks.

2304 | (Ord. 1174 § 4F, 1990: Ord. 994 § 3.8(F), 1982).

2305

2306 | **19.21.080 Building height.**

2307 | Maximum building height in the R-3 district is forty-five feet ~~or four stories~~. The maximum building height is
2308 | also subject to fire safety limitations. The maximum building height may be increased under the
2309 | provisions of a conditional use permit
2310 | (Ord. 994 § 3.8(G), 1982).

2311

2312 | **19.21.090 Park fees.**

2313 | All residential development shall be subject to a park acquisition fee of ~~two hundred fourteen dollars~~ \$214.00
2314 | per dwelling unit and a park improvement fee of ~~five hundred five dollars~~ \$505.00 per dwelling unit, payable
2315 | before a building permit is issued. The amount of these fees may be reduced by any fee amount
2316 | previously paid or credited at the time of subdivision, or by fifty percent (50%) if the new housing units
2317 | are created as a result of the conversion or remodeling of a preexisting building. The park acquisition fee
2318 | may also be reduced if sufficient land area was provided for park purposes at the time of subdivision,
2319 | based on the calculations in ~~section~~ Section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee
2320 | amounts shall be ~~adjusted during the first quarter of each year by a percentage equal to the rate of consumer inflation based on the~~
2321 | ~~percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported~~ set by the U.S. Department City
2322 | Council.

2323

2324 | **Chapter 19.22 R-3A University Residential Density Overlay District**

2325 | Sections:

2326 | 19.22.010 Purpose and intent.

2327 | 19.22.020 Overlay district application.

2328 | 19.22.030 Non-family residential overlay district permissions and conditions.

2329 | 19.22.040 Lot area

2330 | 19.22.050 Exceptions.

2331

2332 | **19.22.010 Purpose and intent.**

2333 The purpose and intent of the university residential density overlay district is to allow increased density
2334 for new housing in a focused area near campus, and therefore reduce the impact of ~~Labor, Bureau~~ student
2335 housing on lower density neighborhoods.

2337 **19.22.015 Relationship to underlying zoning district classification.**

2338 Requirements for permitted uses, conditional uses, lot width, yards, building height, signage, and park
2339 fees remain the same as the underlying zoning district to which the overlay zoning is applied unless
2340 specifically described in this overlay district. At least 10% of ~~Labor Statistics~~ the lot should be usable open
2341 space.

2344 **19.22.020 Overlay district application.**

2345 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2346 R-3A designation. To the extent there is a conflict between the restrictions or requirements associated
2347 with the district, the requirements that most restrictively limit the use of the site shall apply. No party
2348 other than the owner of the property may apply for the R-3A university residential density overlay
2349 zoning. Permission will require conformance with the requirements established for the duties of the
2350 zoning administrator (section 19.75.061) Applications may also require a conditional use permit.
2351 Procedures for zoning changes and amendments are further elaborated in section 19.69

2354 **19.22.030 University residential density overlay district permitted and conditional uses.**

2355 Within this district, a multifamily building with up to sixteen units is a permitted use for new
2356 construction. More than 16 units per building and up to 32 units per building may be requested as a
2357 conditional use. Among other issues, conditional use permits should consider long term impacts of the
2358 proposal on the surrounding area. More than 32 units per building are not allowed in the district but
2359 may be considered as part of a PD district. Architectural quality shall be subject to the review of the
2360 plan and architectural commission and include consideration of any design and planning criteria as
2361 established by the City, for buildings in this zoning district.

2364 **19.22.040 Lot area.**

2365 The minimum lot area in the R-3A district is the same as R-3. The minimum parcel sizes for multifamily
2366 dwelling and group lodging facilities may be increased if the following ratios indicate a larger parcel
2367 size. The ratios to determine minimum parcel size, (to be used if operation of the table indicates parcel
2368 size in excess of twelve thousand square feet) shall be the same as indicated in R-3 except that the
2369 number of square feet shall be reduced by 50% for each type of unit.

2371 **19.22.050 Exceptions.**

2372 This limitation shall not apply to community living arrangements allowed by federal and state law (such
2373 as foster homes and adult family homes for the disabled) and those allowed under Wis. Stats. § 62.23.
2374 (Ord. ~~1481 § 4, 2001; Ord. 1174 § 4C, 1990~~). No. 1788A, § 1, 6-1-2010 (7)(I))

2375
2376
2377
2378

2379
2380 **Chapter 19.24 R-4 MOBILE HOME DISTRICT**

2381 Sections:

2382 19.24.010 Purpose.

2383 19.24.020 Permitted uses.

2384 19.24.030 Conditional uses.

2385 19.24.040 Lot area.

2386 19.24.050 Lot width.

2387 19.24.060 Yard requirements.

2388 19.24.065 Parking

2389 19.24.070 Lot coverage.

2390 19.24.080 Wrecked or damaged homes.

2391 19.24.090 Park fees.

2392

2393 **19.24.010 Purpose.**

2394 The R-4 mobile home district is established to provide areas for placing mobile homes and associated
2395 service facilities.

2396 (Ord. 994 § 3.9(part), 1982).

2397

2398 **19.24.020 Permitted uses.**

2399 Permitted uses in the R-4 district include:

2400 A. Single-family mobile home dwellings, and the sanitary, washing, recreational, and office facilities to
2401 service mobile home dwellings;

2402 B. The second or greater wireless telecommunications facility located on an alternative support
2403 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
2404 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
2405 accessory uses, all per the requirements of Chapter 19.55.

2406 (Ord. 1499 § 10, 2001; Ord. 1149 § 4, 1988; Ord. 994 § 3.9(A), 1982).

2407

2408 **19.24.030 Conditional uses.**

2409 Conditional uses in the R-4 district include:

2410 A. Public and semipublic uses;

2411 B. Home occupations;

2412 C. The ~~first~~ first wireless telecommunications facility located on an alternative support structure only, per
2413 the requirements of Chapter 19.55;

2414 D. Real estate sales offices, subject to the following requirements:

2415 1. May only be placed within a manufactured or mobile home development with twenty or more home
2416 sites,

2417 2. Shall occupy a maximum of one building within any mobile home development,

2418 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
2419 ninety days from the date when ninety percent of the lots or units within the subdivision or
2420 development are initially sold or leased, or five years from the date of initial establishment of the use,
2421 whichever comes first,

2422 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
2423 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
2424 sales office is removed or converted to a permitted use in the district,

2425 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
2426 uses open to the public,

2427 6. Shall be compatible in character, materials, placement, and design with other existing and planned
2428 buildings within the development,

2429 7. Signage shall be in accordance with standards in the district, per Section 19.54.052 of this title.
2430 (Ord. 1580A § 6, 2005; Ord. 1499 § 11, 2001; Ord. 1149 § 8, 1988; Ord. § 3.9(B), 1982).

2431

2432 **19.24.040 Lot area.**

2433 Minimum lot area in the R-4 district is:

2434 A. Exterior boundaries, four acres;

2435 B. Mobile home space, three thousand, six hundred square feet.

2436

2437 **19.24.050 Lot width.**

2438 Minimum lot width in the R-4 district is:

2439 A. Exterior boundaries, two hundred feet;

2440 B. Mobile home space, thirty-six feet.

2441 (Ord. 994 § 3.9(D), 1982).

2442

2443 **19.24.060 Yard requirements.** Minimum yard requirements in the R-4 district are:

2444 TABLE INSET:

2445

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

2446 (Ord. 994 § 3.9(E), 1982).

2447

2448

2449

2450

2451 **19.24.070 Lot coverage.**

2452 Maximum lot coverage in the R-4 district is as follows:

2453 The mobile home dwelling unit shall not occupy more than fifty percent of the mobile home space.

2454 (Ord. 994 § 3.9(F), 1982).

2455

2456 **19.24.080 Wrecked or damaged homes.**

2457 Wrecked, damaged or dilapidated mobile homes shall not be kept or stored on a lot in a mobile home
2458 park. The health officer shall determine if a mobile home is damaged or dilapidated to a point which
2459 makes such mobile home unfit for human occupancy on either a temporary or permanent basis.
2460 Whenever such a determination is made, the mobile home shall be vacated and removed from the
2461 premises by the owner of the lot within thirty days of formal notice by the health officer.

2462 (Ord. 994 § 3.9(G), 1982).

2463

2464 **19.24.090 Park fees.**

2465 All residential development shall be subject to a park acquisition fee of ~~two hundred fourteen dollars~~ \$214.00
2466 per dwelling unit and a park improvement fee of ~~five hundred five dollars~~ \$505.00 per dwelling unit, payable
2467 before a building permit is issued. The amount of these fees may be reduced by any fee amount
2468 previously paid or credited at the time of subdivision, or by fifty percent (50%) if the new housing units

2469 | are created as a result of the conversion or remodeling of a preexisting building. The park acquisition fee
2470 | may also be reduced if sufficient land area was provided for park purposes at the time of subdivision,
2471 | based on the calculations in ~~section~~Section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee
2472 | amounts shall be ~~adjusted during the first quarter of each year by a percentage equal to the rate of consumer inflation based on the~~
2473 | ~~percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported~~set by the U.S. Department of Labor,
2474 | Bureau of Labor Statistics, City Council.
2475 | ~~(Ord. 1481-55, 2001).~~

2476 |
2477 | **Chapter 19.25 R-O NON-FAMILY RESIDENTIAL RESTRICTION OVERLAY DISTRICT**

2478 | Sections:

2479 | 19.25.010 Purpose and intent.

2480 | 19.25.020 Overlay district application.

2481 | 19.25.030 Non-family residential overlay district additional restrictions.

2482 | 19.25.035 Parking

2483 | 19.25.040 Exceptions.

2484 | 19.25.050 Non-conforming use and registration.

2485 |

2486 | **19.25.010 Purpose and intent.**

2487 | The purpose and intent of the non-family residential overlay district is to stabilize and protect property
2488 | values and to provide a mechanism to protect, preserve, and enhance essential characteristics of low-
2489 | density single-family residential areas, in particular, areas where due to economic factors and housing
2490 | pressure in the immediate area there is the potential for the reduction of family-occupied residences,
2491 | and therefore the loss of the single-family character of the neighborhood which will potentially lead to
2492 | overcrowding, undue population concentration and lower property values.

2493 | (Ord. No. 1788A, § 1, 6-1-2010)

2494 |

2495 | **19.25.020 Overlay district application.**

2496 | There is no separate Overlay Permission Area Map for the R-O overlay. Applications for the R-O district
2497 | may be made in any residential zoning district. The restrictions set forth herein are in addition to the
2498 | restrictions and requirements of the basic district applicable to a particular site. To the extent there is a
2499 | conflict between the restrictions or requirements associated with the district, the requirements that
2500 | most restrictively limit the use of the site shall apply. No party other than the owner of the property may
2501 | initiate an action for the imposition of R-O non-family residential zoning on any particular property if
2502 | such a petition has been made within the previous twelve months. Procedures for zoning changes and
2503 | amendments are further elaborated in section 19.69 (Ord. No. 1788A, § 1, 6-1-2010)

2504 | ~~(Ord. No. 1788A, § 1, 6-1-2010)~~

2505 |

2506 | **19.25.030 Non-family residential overlay district additional restrictions.**

2507 | In all non-family residential overlay districts, the non-family household limitation set forth in
2508 | Whitewater Municipal Ordinance [Section] 19.09.520 is reduced from three to two. Therefore, in any
2509 | non-family residential overlay district, a non-family household shall be limited to two unrelated persons.
2510 | (Ord. No. 1788A, § 1, 6-1-2010)

2511 |

2512 | **19.25.035 Parking**

2513 | Parking spaces permitted for units with R-O zoning shall be limited to the number of parking spaces
2514 | allowed for the underlying zoning.

2515 |

2516 | **19.25.040 Exceptions.**

2517 This limitation shall not apply to community living arrangements allowed by federal and state law (such
2518 as foster homes and adult family homes for the disabled) and, in particular, those allowed under Wis.
2519 Stats. § 62.23.

2520 (Ord. No. 1788A, § 1, 6-1-2010; (7)(l))

2521

2522 **19.25.050 Non-conforming use and registration.**

2523 In order to assist the enforcement of this zoning classification, the owner of any property claiming non-
2524 conforming use status regarding the unrelated persons limitation imposed by R-O zoning shall register
2525 with the city clerk on a form provided by the clerk within ninety days of the imposition of the zoning on
2526 the property. The information required on the registration form shall include the history of the property
2527 that supports its designation as a non-conforming use which shall include the three letter initials and
2528 dates of residency of current tenants (or most recent tenants if not currently occupied), and the three
2529 letter initials and dates of residency of all tenants who resided at the premises for the last one hundred
2530 twenty days. The party claiming the non-conforming use status shall also have a continuing requirement
2531 to update the registration information to provide the initials of current tenants. Failure to register within
2532 ninety days of the imposition of the R-O zoning classification shall cause the non-conforming use status
2533 to terminate. The city shall mail a notice of this requirement to the address on the property's real estate
2534 tax statement within fifteen days of the imposition of the zoning on the property. The non-conforming
2535 use status of any property under this chapter will be subject to the provisions contained in City of
2536 Whitewater Ordinance [Section] 19.60.010, existing non-conforming uses.

2537 (Ord. No. 1788A, § 1, 6-1-2010)

2538

2539 **Chapter 19.27 B-1 COMMUNITY BUSINESS DISTRICT**

2540 Sections:

2541 19.27.010 Purpose.

2542 19.27.020 Permitted uses.

2543 19.27.025 Permitted accessory uses.

2544 19.27.030 Conditional uses.

2545 19.27.040 Lot area.

2546 19.27.050 Lot width.

2547 19.27.060 Yard requirements.

2548 19.27.070 Lot coverage.

2549 19.27.080 Building height.

2550 19.27.090 Plan review.

2551 19.27.100 Park fees.

2552

2553 **19.27.010 Purpose.**

2554 The B-1 community business district is established to accommodate retail shopping and service needs in
2555 a manner compatible with the desired community character. The district should be located in relative
2556 proximity to residential areas and major traffic routes. ~~High quality site layout, building design, and landscaping is~~
2557 ~~required.~~

2558 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(part), 1982).

2559

2560 **19.27.020 Permitted uses.**

2561 Permitted uses in the B-1 district include:

2562 A. Art, music and school supply stores and galleries;

2563 B. Antique, hobby and craft shops;

2564 C. Automotive and related parts stores, without servicing;

- 2565 D. Hotels and motels;
- 2566 E. Small appliance repair stores, computer or software sales and service;
- 2567 F. Barbershops and beauty parlors;
- 2568 G. Banks and other financial institutions without drive-through facilities;
- 2569 H. Camera and photographic supply stores;
- 2570 I. Caterers;
- 2571 J. Clothing and shoe stores and repair shops;
- 2572 K. Clinics, medical and dental;
- 2573 L. Department stores;
- 2574 M. Drugstores;
- 2575 N. Florist shops;
- 2576 O. Food and convenience stores without gasoline pumps;
- 2577 P. Furniture stores;
- 2578 Q. Hardware stores;
- 2579 R. Insurance agencies;
- 2580 S. Jewelry stores;
- 2581 T. Liquor stores without drive-through facilities;
- 2582 U. Meat markets;
- 2583 V. Resale shops;
- 2584 W. Paint, wallpaper, interior decorating and floor covering stores;
- 2585 X. Professional offices;
- 2586 Y. Restaurants without drive-through facilities;
- 2587 Z. Self-service laundries and drycleaning establishments;
- 2588 AA. Sporting goods stores;
- 2589 BB. Stationery stores, retail office supply stores;
- 2590 CC. Variety stores;
- 2591 DD. Movie theaters;
- 2592 EE. Charitable or nonprofit institutions and facilities;
- 2593 FF. Tourist homes and bed and breakfasts;
- 2594 GG. Existing residences regulated by R-2 dimensional standards;HH. New residential uses meeting
- 2595 the standards of the R-3 district, when mixed with permitted uses in a unified project;
- 2596 II. Any other similar uses not specifically listed above that are consistent with the purpose of this
- 2597 district;
- 2598 III. The second or greater wireless telecommunications facility located on an alternative support
- 2599 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
- 2600 telecommunications facility, per the requirements of Chapter 19.55.
- 2601 (Ord. 1499 § 12, 2001; 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(A), 1982).
- 2602 KK. Light assembly uses including electronics, pottery, printing, contractor shops (heating, electrical,
- 2603 plumbing, general contracting) provided that there are no significant environmental emissions (odor and
- 2604 waste)
- 2605
- 2606 **19.27.025 Permitted accessory uses.**
- 2607 Permitted accessory uses in the B-1 district include:
- 2608 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
- 2609 principal use on the lot;
- 2610 B. Off-street parking and loading areas, subject to landscaping and screening requirements where
- 2611 applicable;

- 2612 C. Outside storage and trash ~~Dumpsters~~dumpsters where located outside of the required yards in Section
- 2613 19.27.060 of this chapter and enclosed by a decorative opaque fence, wall or landscaping designed to
- 2614 provide a total visual screen;
- 2615 D. Outside display of merchandise, which may be subject to limitations as part of site plan review;
- 2616 E. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
- 2617 the sale, repair or servicing of such motor vehicles. No vehicle in inoperable condition shall be stored for
- 2618 greater than thirty days;
- 2619 F. Up to two vending machines for dispensing of a product, but only if accessory to a commercial
- 2620 business use. Vending machines may be lit only when the principal use on the lot is in operation, unless
- 2621 such machines are screened from the public right-of-way and adjacent properties;
- 2622 G. Outdoor seating for restaurants within designated areas;
- 2623 H. Temporary retail uses, such as seasonal and special event sales, subject to the approval of the zoning
- 2624 administrator, who may set specific time and area limitations;
- 2625 I. Essential services;
- 2626 J. Wireless telecommunications support facilities, per the requirements of Chapter 19.55.
- 2627 (Ord. 1499 § 13, 2001; 1452 § 1(part), § 4(part), 2000).

19.27.030 Conditional uses.

Conditional uses in the B-1 district include:

- 2632 A. Entertainment establishments, including ~~dancehalls and clubs~~clubs, but excluding adult entertainment;
- 2633 B. All uses with drive-in and drive-through facilities; (for which the conditions shall, among other issues,
- 2634 maintain visual continuity and attractive pedestrian movement along the primary street
- 2635 front)C. Automobile and small engine vehicle sales or rental facilities, including incidental repair and
- 2636 service within the principal building;
- 2637 D. Automobile repair and service within the principal building;
- 2638 E. Car washes;
- 2639 F. Private recreation uses;
- 2640 G. Public and semipublic uses;
- 2641 H. Taverns and other places selling alcoholic beverages by the drink; for which consideration shall be
- 2642 given but is not limited to, the following issues:
- 2643 1. parking
- 2644 2. type of business
- 2645 3. signage
- 2646 4. outdoor seating
- 2647 5. provisions for avoiding noise and lighting nuisances
- 2648 6. buffering and fencing;
- 2649 7. compatibility with the immediately surrounding neighborhood or district
- 2650 I. New residential uses meeting the standards of the R-3 district, when mixed with ~~commercial~~conditional
- 2651 uses in a unified project;
- 2652 J. ~~Light assembly/retail uses such as:~~not permitted elsewhere in this district
- 2653 ~~a. Electronics,~~
- 2654 ~~b. Pottery,~~
- 2655 ~~c. Printing,~~
- 2656 ~~d. Contractor shops (heating, electrical, plumbing, general contractor office),~~
- 2657 ~~e. Other similar uses,~~
- 2658 ~~2- Subject~~subject to the following restrictions:
- 2659 a. No environmental emission (noise, odor, waste),
- 2660 b. All truck delivery during weekdays,

- 2661 c. All of the requirements of Chapter 19.51, Traffic, Parking and Access, and Chapter 19.57, General
- 2662 Performance Standards, to be met;
- 2663 K. Gasoline service stations, including incidental repair and service within the principal building;
- 2664 L. Day care centers, adult and child;
- 2665 M. Funeral homes and crematory services;
- 2666 N. Veterinary clinics, provided that no service including animal boarding is offered outdoors;
- 2667 O. More than one principal structure on a lot;
- 2668 P. Large retail and commercial service developments, as described and regulated in Chapter 19.485.
- 2669 Q. The first wireless telecommunications facility located on an alternative support structure only, per
- 2670 the requirements of Chapter 19.55.
- 2671 (Ord. 1499 § 14, 2001; 1452 § 1(part), § 4(part), 2000: Ord. 1379 § 1, 1997; Ord. 1314 § 1, 1995; Ord.
- 2672 1296 § 2(part), 1994; Ord. 994 § 13.10(B), 1982).
- 2673 (Ord. No. 1796A, § 1, 8-3-2010)
- 2674

19.27.040 Lot area.

2676 Minimum lot area in the B-1 district is seven thousand square feet for lots existing at the time of
 2677 adoption of the ordinance codified in this chapter, and fifteen thousand square feet for all other lots.
 2678 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(C), 1982).

19.27.050 Lot width.

2681 Minimum lot width in the B-1 district is sixty-five feet ~~for lots existing at the time of adoption of the ordinance codified in this~~
 2682 ~~chapter, and one hundred feet for all other lots.~~
 2683 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.19(D), 1982).

19.27.060 Yard requirements.

2686 Minimum required yards for principal buildings, outside storage, and ~~Dumpsters~~dumpsters in the B-1
 2687 district are:

- 2688 A. Front and street side, ~~thirty feet;~~
- 2689 ~~B. Interior side, ten feet, except that no side yard will be required for buildings designed for common wall construction;~~
- 2690 ~~C. Rear, twenty feet, except the rear yard setback to any railroad right of way shall be at least fifteen feet under a conditional use;~~
- 2691 ~~D. Shore yard, seventy-five feet;~~
- 2692 ~~E. Any yard abutting a residential district or residential use, thirty feet or the height of the nearest principal building or structure on the lot~~
 2693 ~~being developed, whichever is (but may be greater. Such yards shall be subject to the landscape buffer yard if needed to meet~~
 2694 ~~fire safety requirements of Section 19.57.140, except where abutting a railroad right of way with the approval of the plan and~~
 2695 ~~architectural review commission.);~~
- 2696 ~~F. There shall be no parking areas, circulation drives or accessory buildings within the required front yard.~~
 2697 ~~(Ord. 1460 § 2, 2000; Ord. 1452 § 1(part), § 4(part), 2000; Ord. 994 § 3.10(E), 1982).~~

~~**19.27.060 Yard requirements.**~~

2700 ~~Minimum required yards for principal buildings, outside storage, and Dumpsters in the B-1 district are:~~

- 2701 ~~A. Front and street side, thirty feet;~~
- 2702 B. Interior side, ten feet, except that no side yard will be required for buildings designed for common
 2703 wall construction;
- 2704 C. Rear, twenty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
 2705 feet under a conditional use;
- 2706 D. Shore yard, seventy-five feet;
- 2707 E. Any yard abutting a residential district or residential use, thirty feet or the height of the nearest
 2708 principal building or structure on the lot being developed, whichever is greater. Such yards shall be
 2709 subject to the landscape buffer yard requirements of Section 19.57.140, except where abutting a
 2710 railroad right-of-way with the approval of the plan and architectural review commission;

2711 F. There shall be no parking areas, circulation drives or accessory buildings within the required front
2712 yard setback.
2713 (Ord. 1460 § 2, 2000; Ord. 1452 § 1(part), § 4(part), 2000; Ord. 994 § 3.10(E), 1982).

2714
2715

2716 **19.27.070 Lot coverage.**

2717 ~~Maximum building~~ There is no maximum percentage lot coverage for buildings with the B-1 district is fifty percent.
2718 ~~Minimum landscaped surface area is thirty percent. The plan and architectural review commission may reduce~~ exception of the minimum
2719 ~~landscaped surface area by up~~ provisions needed for landscape, circulation, and other site planning
2720 considerations. . Building size, coverage, and locations must still conform to ten percent if the project provides
2721 ~~plantings~~ other regulations including stormwater management. Landscape and environmental features
2722 shall follow principles of sustainability and environmental quality and shall give locate landscape
2723 elements in highly visible locations and includes ten, especially in the fronts of buildings, and should include
2724 canopy trees, twenty understory and/or evergreen trees, and sixty four shrubs per acre, or fraction thereof.
2725 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(F), 1982).

2726

2727 **19.27.080 Building height.**

2728 Maximum building height in the B-1 district is three stories or forty five stories or 100 feet, (whichever is
2729 ~~less or~~ greater), with the exception that the maximum building height is three stories within 100' of a
2730 property zoned R-1, R1-x, R-2, or R-4,, The maximum building height is also subject to fire safety
2731 limitations. The maximum building height may be increased under the provisions of a conditional use
2732 permit.
2733 (Ord. 1580A § 7, 2005: Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(G), 1982).

2734

2735 **19.27.090 Plan review.**

2736 Plan review in accordance with Chapter 19.63 shall be required for any development in the B-1 district.
2737 Building design shall be consistent with the recommendations of the city's comprehensive (master) plan;
2738 contribute to the uniqueness and character of the neighborhood, district and community; and include
2739 materials, colors, styles and features tailored to the building's site and context. Substantial modifications
2740 to standardized prototype and corporate franchise designs may be required to meet these criteria.
2741 Landscaping shall be consistent with the recommendations of the city's comprehensive (master) plan;
2742 generous in quantity; aesthetically pleasing; appropriate to the site, community and region; and in
2743 accordance with a plan prepared by a registered landscape architect or designer accepted professional standards.
2744 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(H), 1982).

2745

2746 **19.27.100 Park fees.**

2747 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2748 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
2749 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
2750 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
2751 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
2752 was provided for park purposes at the time of subdivision, based on the calculations in Section
2753 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

2754

2755 **Chapter 19.28 B-1A University Mixed-Use Neighborhood Overlay District**

2756 Sections:

2757 19.28.010 Purpose and intent.

2758 19.28.020 Overlay district application.

2759 19.28.030 Non-family residential overlay district permissions and conditions.

2760 19.28.040 Parking.

2761

2762 **19.28.010 Purpose and intent.**

2763 The purpose and intent of the university mixed-use neighborhood overlay district is to provide multi-
2764 family housing options within an active, pedestrian friendly neighborhood, and with residential units
2765 located on upper floors while the ground level contains non-residential uses. Development and uses
2766 should attract university students on a daily basis and provide year-round activities to encourage
2767 students to remain in the City on weekends and summers. The district provides an opportunity for
2768 mixed housing and commercial uses, serving both students and adjacent residents.

2769

2770 **19.28.015 Relationship to underlying zoning district classification.**

2771 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
2772 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
2773 zoning is applied unless specifically described in this overlay district.

2774 **19.28.020 Overlay district application.**

2775 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2776 B-1A designation. No party other than the owner of the property, City Manager or Common Council may
2777 apply for the B-1A university mixed-use neighborhood overlay zoning. Applications may also require a
2778 conditional use permit. Procedures for zoning changes and amendments are further elaborated in
2779 section 19.69

2780

2781 **19.28.030 University mixed-use neighborhood overlay district permitted and conditional uses.**

2782 Within this district, In addition to the permitted and conditional uses for B-1 a multifamily residential
2783 building or a mixed-use building (a) with up to twelve residential units is a permitted use for new
2784 construction and (b) more than twelve residential units per building and up to twenty-four residential
2785 units per building may be requested as a conditional use. More than twenty-four residential units per
2786 building are not allowed in the district. Residential units shall be limited to no more than four bedrooms
2787 and have a minimum of two bathrooms. Architectural quality shall be subject to the architectural
2788 review of the plan and architectural commission and include application of any architectural standards
2789 as established by the City, for buildings in this zoning district.

2790

2791

2792 **Chapter 19.30 B-2 CENTRAL BUSINESS DISTRICT***

2793 Sections:

2794 19.30.010 Purpose.

2795 19.30.020 Permitted uses.

2796 19.30.025 Permitted accessory uses.

2797 19.30.030 Conditional uses.

2798 19.30.040 Development standards.

2799 19.30.050 Park fees.

2800 * Prior ordinance history: Ords. 994, 1296 and 1481.

2801

2802 **19.30.010 Purpose.**

2803 The B-2 district is established in the city's historic downtown area to accommodate retail, service, office,
2804 community, and support residential uses for citywide and regional benefit; and to advance the city's
2805 downtown revitalization objectives as expressed in adopted city plans.

2806 (Ord. 1611A § 1(part), 2006).

2807
2808
2809 **19.30.020 Permitted uses.**
2810 Permitted uses in the B-2 district include:
2811 A. Art and school supply stores;
2812 B. Arts and crafts galleries;
2813 C. Automotive parts sales stores, automobile sales lot and show rooms and lots;
2814 D. Antique or collectible shops;
2815 E. Bakeries or candy stores, with products for sale on premises only;
2816 F. Catalog and e-commerce sales outlets;
2817 G. Hotels and motels;
2818 H. Appliance repair stores, including computer sales and service;
2819 I. Barbershops, day spas, and beauty parlors;
2820 J. Banks and other financial institutions;
2821 K. Bookstores, stationery stores, retail office supply stores, and newsstands;
2822 L. Caterers;
2823 M. Clothing and shoe sales and repair shops;
2824 N. Clinics, medical and dental;
2825 O. Coffee shops;
2826 P. Cultural arts centers and museums;
2827 Q. Department stores;
2828 R. Drug stores;
2829 S. Florist or garden shops;
2830 T. Gift shops;
2831 U. Grocery stores;
2832 V. Hardware stores;
2833 W. Insurance, real estate, or similar agencies;
2834 X. Interior decorating shops;
2835 Y. Jewelry stores;
2836 Z. Paint stores;
2837 AA. Offices;
2838 BB. Post offices;
2839 CC. Public parking lots;
2840 DD. Restaurants, ice cream shops, and cafes;
2841 EE. Sporting goods shops;
2842 FF. Tourist information and hospitality centers;
2843 GG. Toy stores;
2844 HH. Travel agencies;
2845 II. Variety stores;
2846 JJ. Dance studios;
2847 KK. Movie theaters;
2848 LL. Charitable or nonprofit institutions and facilities; MM. Tourist homes and bed and breakfasts;
2849 NN. Residential uses above the first floor, limited to non-family household sizes applicable in the R-1
2850 and R-2 districts (see Section 19.09.520);
2851 OO. Existing residences regulated by R-2 standards;
2852 PP. Any other similar uses not specifically listed above.
2853 (Ord. 1611A § 1(part), 2006).

2854
2855 **19.30.025 Permitted accessory uses.**
2856 Permitted accessory uses in the B-2 district include:
2857 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
2858 principal use on the lot;
2859 B. Off-street parking and loading areas, subject to landscaping and screening requirements where
2860 applicable;
2861 C. Outside storage or trash dumpsters where enclosed by a decorative opaque fence, wall and/or
2862 landscaping designed to provide a total visual screen;
2863 D. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
2864 the sale, repair, or servicing of such motor vehicles. No vehicle in an inoperable condition shall be stored
2865 outdoors for greater than thirty days;
2866 E. Outdoor seating for restaurants, coffee shops, cafes, taverns, or similar uses, within areas designated
2867 by site plan review or other city approval processes;
2868 F. Essential services.
2869 (Ord. 1611A § 1(part), 2006).

2870
2871 **19.30.030 Conditional uses.**
2872 Conditional uses in the B-2 district include:
2873 A. Drive-in or drive-through type establishments;
2874 B. Entertainment establishments, not including adult entertainment establishments;
2875 C. Taverns and other places selling alcoholic beverages by the drink; including expansion of existing
2876 uses; for which consideration shall be given but is not limited to, the following issues:
2877 1. parking
2878 2. type of business
2879 3. signage
2880 4. outdoor seating
2881 5. provisions for avoiding noise and lighting nuisances
2882 6. buffering and fencing;
2883 7. compatibility with the immediately surrounding neighborhood or district
2884 D. Liquor or tobacco stores;
2885 E. Public and semipublic uses, except for parking;
2886 F. Automotive servicing and repairs;
2887 G. First floor residential uses are allowed as a conditional use; except as provided below:
2888 First floor residential uses are prohibited in any building located in the area within the boundary of
2889 Whitewater Creek on the east (prohibited on west side of creek only), North Street on the north
2890 (prohibited on south side of street only), Fremont Street on the west (prohibited on east side of street
2891 only), Whitewater Street on the south (prohibited on north side of street only), and the portion of West
2892 Main Street from the intersection of Whitewater Street east to the Whitewater Creek (prohibited on
2893 north side of street only).
2894 H. Light industrial/retail uses such as:
2895 1. Electronics,
2896 2. Pottery,
2897 3. Craft/woodwork,
2898 4. Printing,
2899 5. Contractor shops (heating, electrical, plumbing, general contractor office),
2900 6. Lumberyards,
2901 7. Other similar uses,

2902
2903 Subject to the following restrictions:
2904 1. No outside storage, unless screened as to Chapter 19.57.140,
2905 2. No environmental emission,
2906 3. All truck delivery during weekdays,
2907 4. All dumpster locations outdoors must be screened by a fence and landscaping,
2908 5. All of the requirements of Chapter 19.51, Traffic, Parking and Access, and Chapter 19.57, General
2909 Performance Standards, to be met;
2910 I. Laundromats or dry cleaning;
2911 J. Hospitals;
2912 K. Wholesale trade of durable and nondurable goods.
2913 (Ord. 1611A § 1(part), 2006).
2914 (Ord. No. 1681A, 5-20-2008)

2915
2916 **19.30.040 ~~Development~~ Architectural design standards.**

2917 Within the B-2 district, there shall be no minimum required ordinance design and dimensional standards
2918 or setbacks. This is being done to allow the most flexibility in the reuse and redevelopment of the
2919 downtown. Because of the lack of predefined ~~ordinance development~~ architectural design standards, all
2920 proposed construction and remodeling activities requiring a zoning permit shall require the design
2921 review and approval of the city plan and architectural review commission in compliance with Chapter
2922 19.63, Plan Review. Also within the B-2 district, all uses are exempted from the parking requirements of
2923 Section 19.51.130, except if off-street parking is specifically required for a particular conditional use
2924 under Section 19.30.030.
2925 (Ord. 1611A § 1(part), 2006).

2926
2927 **19.30.050 Park fees.**

2928 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2929 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
2930 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
2931 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
2932 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
2933 was provided for park purposes at the time of subdivision, based on the calculations in Section
2934 18.04.030(a)(1) of the Whitewater Municipal Code. ~~The fee amounts shall be adjusted during the first quarter of each year~~
2935 ~~by a percentage equal to the rate of consumer inflation based on the percent of yearly change for the previous year for the Milwaukee~~
2936 ~~metropolitan area, as reported by the U.S. Department of Labor, Bureau of Labor Statistics.~~ The fee amounts shall be set by the
2937 City Council.
2938 (Ord. 1611A § 1(part), 2006).

2939
2940
2941
2942 ~~shall be limited to no more than four bedrooms, have a minimum of two bathrooms, and have individual entries~~

2943
2944 **Chapter 19.31 B-2A Downtown Housing Overlay District**

2945 Sections:

2946 19.31.010 Purpose and intent.

2947 19.31.020 Overlay district application.

2948 19.31.030 Non-family residential overlay district permissions and conditions.

2949 19.31.040 Parking.

2950
2951 **19.31.010 Purpose and intent.**
2952 The purpose and intent of downtown housing overlay district is to provide multi-family housing options
2953 adjacent to downtown that can spur additional investment in the area.

2954
2955 **19.31.015 Relationship to underlying zoning district classification.**
2956 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
2957 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
2958 zoning is applied unless specifically described in this overlay district.

2959
2960 **19.31.020 Overlay district application.**
2961 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2962 B-2A designation. No party other than the owner of the property, City Manager or Common Council may
2963 apply for the B-2A downtown housing overlay zoning. Permission will require conformance with the
2964 requirements established for the duties of the zoning administrator (section 19.75.061) Applications
2965 may also require a conditional use permit. Procedures for zoning changes and amendments are further
2966 elaborated in section 19.69**19.31.030 Downtown housing overlay district permitted and conditional**
2967 **uses**

2968 Multi-family buildings with up to four units per building are a permitted use for new construction
2969 provided that the units shall be limited to no more than four bedrooms, have a minimum of two
2970 bathrooms, and have individual entries. Multi-family building plans shall demonstrate the inclusion or
2971 availability of adequate parking for the occupants and building users. In addition, the design of such
2972 units shall be reviewed by the Plan and Architectural Review Commission as limited to the following
2973 issues: the design can easily accommodate both student and non-student housing; the design
2974 exemplifies high quality site planning and architectural; quality open space features, or garden yards
2975 are integrated to serve as an amenity for residents.

2976
2977
2978
2979 **Chapter 19.33 B-3 HIGHWAY COMMERCIAL AND LIGHT INDUSTRIAL DISTRICT**

2980 Sections:

2981 19.33.010 Purpose.
2982 19.33.020 Permitted uses.
2983 19.33.025 Permitted accessory uses.
2984 19.33.030 Conditional uses.
2985 19.33.040 Lot area.
2986 19.33.050 Lot width.
2987 19.33.060 Yard requirements.
2988 19.33.070 Lot coverage.
2989 19.33.080 Building height.
2990 19.33.090 Plan review.
2991 19.33.100 Park fees.

2992
2993 **19.33.010 Purpose.**

2994 The B-3 highway commercial and light industrial district is established to accommodate nonnuisance
2995 type industrial commercial uses that are highway oriented or have large land area requirements. To
2996 ensure a minimum of disruption to residential neighborhoods, no development within this district shall

2997 | take direct access to a local residential street, except by conditional use permit. ~~High quality site layout, building~~
2998 | ~~design and landscaping is required.~~N
2999 | (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(part), 1982).

3000 |
3001 | **19.33.020 Permitted uses.**
3002 | Permitted uses in the B-3 district include:
3003 | A. All uses listed as permitted uses in the B-1 district;
3004 | B. Agricultural services;
3005 | C. General contracting shops;
3006 | D. Lumberyards, building supply stores, and greenhouses;
3007 | E. Private recreation facilities;
3008 | F. Mini-warehouses;
3009 | G. Public and semipublic uses;
3010 | H. Other similar uses not specifically listed in this section that are consistent with the purpose of this
3011 | district;
3012 | I. The second or greater wireless telecommunications facility located on an alternative support
3013 | structure already supporting a wireless telecommunications facility or on a pre-existing wireless
3014 | telecommunications facility, per the requirements of Chapter 19.55.
3015 | (Ord. 1499 § 15, 2001; Ord. 1452 § 1(part), § 5(part), 2000: Ord. 1082 § 7, 1986; Ord. 994 § 3.12(A),
3016 | 1982).

3017 |
3018 | **19.33.025 Permitted accessory uses.**
3019 | Permitted accessory uses in the B-3 district include:
3020 | A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
3021 | principal use on the lot;
3022 | B. Off-street parking and loading areas, subject to landscaping and screening requirements if
3023 | applicable;
3024 | C. Outside storage and trash ~~Dumpsters~~dumpsters, which may be subject to screening as part of site plan
3025 | review;
3026 | D. Outside display of merchandise, which may be subject to limitations as part of site plan review;
3027 | E. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
3028 | the sale, repair, or servicing of such motor vehicles. No vehicle in inoperable condition shall be stored
3029 | for greater than thirty days;
3030 | F. Outdoor seating for restaurants within designated areas;
3031 | G. Temporary retail uses, such as seasonal and special event sales, subject to the approval of the zoning
3032 | administrator, who may require specific time and area limitations;
3033 | H. Vending machines for dispensing of a product, but only if accessory to a commercial business use. If
3034 | more than two vending machines are accessory to one business use, such vending machines shall be
3035 | screened from the public right-of-way and adjacent properties. Vending machines may be lit only when
3036 | the principal use on the lot is in operation, unless such machines are completely screened from the
3037 | public right-of-way and adjacent properties;
3038 | I. Essential services;
3039 | J. Wireless telecommunications support facilities, per the requirements of Chapter 19.55.
3040 | (Ord. 1499 § 16, 2001; 1452 § 1(part), § 5(part), 2000).

3041 |
3042 | **19.33.030 Conditional uses.**
3043 | Conditional uses in the B-3 district include:
3044 | A. Taverns and other establishments selling alcoholic beverages by the drink;

3045 for which consideration shall be given but is not limited to, the following issues:

3046 1. parking

3047 2. type of business

3048 3. signage

3049 4. outdoor seating

3050 5. provisions for avoiding noise and lighting nuisances

3051 6. buffering and fencing;

3052 7. compatibility with the immediately surrounding neighborhood or district

3053 B. All uses with drive-through facilities;

3054 C. More than one principal structure on a lot;

3055 D. New residential uses in conformance with the standards of the R-3 multifamily residence district;

3056 E. Automobile repair and service within a principal or accessory building;

3057 F. Automobile, boat, trailer and small engine vehicle sales and rental facilities, including incidental

3058 repair and service within a principal or accessory building;

3059 G. Car washes;

3060 H. Entertainment establishments, including ~~dancehalls and clubs~~, but excluding adult entertainment;

3061 I. Funeral homes and crematory services;

3062 J. Gasoline service stations, including incidental repair and service within the principal building;

3063 K. Light industry;

3064 L. Motor freight transportation;

3065 M. Veterinary clinics, provided that no service including animal boarding is offered outdoors;

3066 N. Warehousing;

3067 O. Wholesale trade of durable and nondurable goods;

3068 P. Large retail and commercial service developments, as described and regulated in Chapter 19.485.

3069 Q. Light manufacturing and retail uses

3070 R. All nonresidential uses with vehicular access onto a local (not a collector or arterial) street that is

3071 intended to provide access to mostly residential uses;

3072 S. The first wireless telecommunications facility located on an alternative support structure only, per

3073 the requirements of Chapter 19.55.

3074 (Ord. 1499 § 17, 2001; 1452 § 1(part), § 5(part), 2000: Ord. 1380 § 1, 1997; Ord. 994 § 3.12(B), 1982).

3075 (Ord. No. 1796A, § 2, 8-3-2010)

3076

3077 **19.33.040 Lot area.**

3078 Minimum lot area in the B-3 district is ten thousand square feet ~~for lots existing at the time of adoption of the~~

3079 ~~ordinance codified in this chapter, and fifteen thousand square feet for all other lots.~~

3080 ~~(Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(C), 1982).~~

3081

3082 **19.33.050 Lot width.**

3083 Minimum lot width in the B-3 district is one hundred feet.

3084 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(D), 1982).

3085

3086 **19.33.060 Yard requirements.**

3087 Minimum required yards for principal buildings, outside storage, and ~~Dumpsters~~ dumpsters in the B-3

3088 district are:

3089 A. Front and street side, ~~thirty feet~~, fifteen feet (but may be greater if needed to meet fire safety

3090 requirements);

3091 B. Interior side, fifteen feet; (but may be greater if needed to meet fire safety requirements); C. Rear,
3092 ~~thirty~~twenty feet, except the rear yard setback to any railroad right-of-way shall be fifteen feet under a
3093 conditional use;
3094 (but may be greater if needed to meet fire safety requirements);

3095
3096 D. Shore yard, seventy-five feet;

3097 E. Any yard abutting a residential district or use, thirty feet or the height of the nearest principal
3098 building or structure being developed, whichever is greater. Such yards shall be subject to the landscape
3099 buffer yard requirements of Section 19.57.140, except where abutting a railroad right-of-way with the
3100 approval of the plan and architectural review commission.
3101 (Ord. 1460 § 1, 2000; Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(E), 1982).

3102
3103 **19.33.070 Lot coverage.**

3104 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
3105 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations
3106 must still conform to the other regulations including stormwater management. Landscape and
3107 environmental features shall follow principles of sustainability and environmental quality and shall give
3108 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
3109 include canopy trees, understory and/or evergreen trees, and shrubs.

3110
3111 **19.33.080 Building height.**

3112 Maximum building height in the B-3 district is ~~three stories or forty-five stories~~ or 100 feet, (whichever is
3113 less greater), with the exception that the maximum building height is three stories within 100' of a
3114 property zoned R-1, R1-x, R-2, or R-4., The maximum building height is also subject to fire safety
3115 limitations. The maximum building height may be increased under the provisions of a conditional use
3116 permit.
3117 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(G), 1982).

3118
3119 **19.33.090 Plan review.**

3120 Plan review in accordance with Chapter 19.63 shall be required for any development in the B-3 district.
3121 Building design shall be consistent with the recommendations of the city's comprehensive (master) plan
3122 and include materials, colors, styles, and features tailored to the building's site and context. Landscaping
3123 shall be consistent with the recommendations of the city's comprehensive (master) plan; appropriate to
3124 the site, community and region; and in accordance with ~~a plan prepared by a registered landscape architect or~~
3125 ~~designer.~~accepted professional standards
3126 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(H), 1982).

3127
3128 **19.33.100 Park fees.**

3129 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
3130 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
3131 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
3132 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
3133 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
3134 was provided for park purposes at the time of subdivision, based on the calculations in Section
3135 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

3136
3137 **Chapter 19.36 M-1 GENERAL MANUFACTURING DISTRICT**

3138 Sections:

- 3139 19.36.010 Purpose.
- 3140 19.36.020 Permitted uses.
- 3141 19.36.030 Conditional uses.
- 3142 19.36.040 Lot area.
- 3143 19.36.050 Lot width.
- 3144 19.36.060 Yard requirements.
- 3145 19.36.070 Lot coverage.
- 3146 19.36.080 Building height.
- 3147 19.36.090 Buffer screening.

3148

3149 **19.36.010 Purpose.**

3150 The M-1 general manufacturing district is established to accommodate a wide range of
 3151 industrial uses, and to preserve and protect lands for future industrial use.
 3152 (Ord. 994 § 3.13(part), 1982).

3153

3154 **19.36.020 Permitted uses.**

3155 Permitted uses in the M-1 district include:

- 3156 A. Manufacturing, fabrication, packing, packaging and assembly of products from furs, glass, leather,
- 3157 metals, paper, plaster, plastics, textiles, clays and woods, and similar materials;
- 3158 B. Freight terminals, truck servicing and parking, warehousing and inside storage;
- 3159 C. Research facilities;
- 3160 D. Offices;
- 3161 E. Retail sales and services that are ~~incidental~~ linked to a manufacturing or warehousing use; F. Public and
- 3162 semipublic uses; \
- 3163 ~~F. Public and semipublic uses;~~
- 3164 ~~G. Salvage yards;~~
- 3165 H. More than one principal structure on a lot when the additional building is a material and direct part
- 3166 of the primary business
- 3167 H. Any similar uses not specifically listed that can comply with the performance standards listed in
- 3168 Chapter 19.57;
- 3169 I. The second or greater wireless telecommunications facility located on an alternative support
- 3170 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
- 3171 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
- 3172 accessory uses, all per the requirements of Chapter 19.55.
- 3173 (Ord. 1499 § 18, 2001; Ord. 994 § 3.13(A), 1982).

3174

3175 **19.36.030 Conditional uses.**

3176 Conditional uses in the M-1 district include:

- 3177 ~~A. More than one principal structure on a lot;~~
- 3178 AB. Wireless telecommunications facilities, per the requirements of Chapter 19.55.
- 3179 (Ord. 1499 § 19, 2001; Ord. 1315 § 1, 1995: Ord. 994 § 3.13(B), 1982).
- 3180 C. Salvage yards;

3181

3182 **19.36.040 Lot area.**

3183 Minimum lot area in the M-1 district is twenty thousand square feet.
 3184 (Ord. 994 § 3.13(C), 1982).

3185

3186 **19.36.050 Lot width.**

3187 Minimum lot width in the M-1 district is one hundred fifty feet.

3188 (Ord. 994 § 3.13(D), 1982).

3189

3190 **19.36.060 Yard requirements.**

3191 Minimum yard requirements for the M-1 district are:

3192 A. Front, thirty feet;

3193 B. Side, fifteen feet, corner lots thirty feet;

3194 C. Rear, thirty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
3195 feet under a conditional use;

3196 D. Shore, seventy-five feet.

3197 (Ord. 1460 § 3, 2000; Ord. 994 § 3.13(E), 1982).

3198

3199 **19.36.070 Lot coverage.**

3200 ~~Maximum lot coverage in the M-1 district is fifty percent.~~

3201 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
3202 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations
3203 must still conform to the other regulations including stormwater management. Landscape and
3204 environmental features shall follow principles of sustainability and environmental quality and shall give
3205 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
3206 include canopy trees, understory and/or evergreen trees, and shrubs.

3207 (Ord. 994 § 3.13(F), 1982).

3208

3209 **19.36.080 Building height.**

3210 Maximum building height in the M-1 district is 100 feet., with the exception that the maximum building
3211 height is three stories within 100' of a property zoned R-1, R1-x, R-2, or ~~forty five feet~~R-4., The maximum
3212 building height is also subject to fire safety limitations. The maximum building height may be increased
3213 under the provisions of a conditional use permit.

3214 (Ord. 994 § 3.13(G), 1982).

3215

3216 **19.36.090 Buffer screening.**

3217 Where the M-1 district boundaries adjoin any residential district boundary, a screen or buffer yard as
3218 described in Section 19.57.140 shall be required. This provision shall be applied to new construction and
3219 alterations to existing structures or uses that result in an increase in the level of nuisance. Only the area
3220 of the nuisance shall require screening.

3221 (Ord. 994 § 3.13(H), 1982).

3222

3223 ~~**19.36.100 Architectural review.**~~

3224 ~~No building or improvements shall be erected, placed or altered on any building site in an M-1 district~~
3225 ~~park until the plans and use for such building or improvements (including site plans, landscaping plans,~~
3226 ~~accommodation of environmental features, building plans, and specifications) have been approved~~
3227 ~~through the architectural review process. The plan and architectural review commission's functions~~
3228 ~~under Chapter 19.63 shall be delegated to the Community Development Authority or its designee as~~
3229 ~~approved by the City Council.~~

3230

3231 **Chapter 19.37 M-2 MANUFACTURING AND MISCELLANEOUS USE DISTRICT**

3232 Sections:

3233 19.37.010 Purpose.

3234 19.37.020 Permitted uses.

3235 19.37.030 Conditional uses.

3236 19.37.040 Lot area.
3237 19.37.050 Lot width.
3238 19.37.060 Yard requirements.
3239 19.37.070 Lot coverage.
3240 19.37.080 Building height.
3241 19.37.090 Buffer screening.
3242
3243 **19.37.010 Purpose.**
3244 The M-2 manufacturing and miscellaneous use district is established to accommodate a wide range of
3245 industrial uses, to preserve and protect lands for future industrial use, and to provide an opportunity for
3246 miscellaneous uses set forth herein which are not specifically allowed in other districts. Adult-oriented
3247 establishments shall only be allowed in the M-2 district.
3248 (Ord. 1613A § 1(part), 2006).
3249
3250 **19.37.020 Permitted uses.**
3251 Permitted uses in M-2 district include:
3252 A. All uses listed as permitted uses in the M-1 district;
3253 B. Adult-oriented establishments as defined in Section 19.09.025.
3254 (Ord. 1613A § 1(part), 2006).
3255
3256 **19.37.030 Conditional uses.**
3257 Conditional uses in the M-2 district include:
3258 A. All uses listed as conditional uses in the M-1 district.
3259 (Ord. 1613A § 1(part), 2006).
3260
3261 **19.37.040 Lot area.**
3262 Minimum lot area in the M-2 district is twenty thousand square feet. ~~The plan commission~~The
3263 Community Development Authority can decrease the minimum lot area for adult-oriented
3264 establishments if it finds that a decrease is appropriate.
3265 (Ord. 1613A § 1(part), 2006).
3266 1613A § 1(part), 2006).
3267
3268 **19.37.050 Lot width.**
3269 Minimum lot width in the M-2 district is one hundred fifty feet. ~~The plan commission~~The Community
3270 Development Authority can decrease the minimum lot width for adult-oriented establishments if it finds
3271 that a decrease is appropriate.
3272 (Ord. 1613A § 1(part), 2006).
3273 1613A § 1(part), 2006).
3274
3275 **19.37.060 Yard requirements.**
3276 Minimum yard requirements for the M-2 district are:
3277 A. Front, thirty feet;
3278 B. Side, fifteen feet; corner lots, thirty feet;
3279 C. Rear, thirty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
3280 feet under a condition use;
3281 D. Shore, seventy-five feet.
3282 (Ord. 1613A § 1(part), 2006).

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19.37.070 Lot coverage.

~~Maximum lot coverage in the M-2 district is fifty percent.
(Ord. 1613A § 1(part), 2006).~~

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

19.37.080 Building height.

Maximum building height in the M-2 district is 100 feet, with the exception that the maximum building height is three stories ~~or forty five feet~~ within 100' of a property zoned R-1, R1-x, R-2, or R-4., The maximum building height is also subject to fire safety limitations. The maximum building height may be increased under the provisions of a conditional use permit. (Ord. 1613A § 1(part), 2006).

19.37.090 Buffer screening.

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

19.37.100 Architectural review.

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

Chapter 19.38 WHITEWATER UNIVERSITY TECHNOLOGY PARK DISTRICT (WUTP DISTRICT)

19.38.010 Purpose.

19.38.020 Creation of architectural review committee.

19.38.030 Permitted uses.

19.38.040 Conditional uses.

19.38.050 Lot area and lot width requirements.

19.38.060 Floor area ratio.

19.38.070 Yard requirements.

19.38.090 Lot coverage.

19.38.100 Building height.

19.38.110 Development standards.

19.38.010 Purpose.

The WUTP district is established to provide an aesthetically attractive working environment exclusively for and conducive to the development and protection of offices; research, testing, and development

3331 institutions; and certain specialized manufacturing establishments compatible with an office and
3332 research setting, all of a non-nuisance-type and public parks. The essential purpose of this district is to
3333 achieve development which is practical, feasible and economical and an asset to the owners, neighbors
3334 and the community and to promote and maintain desirable economic development activities in a park
3335 like setting with well designed sites and buildings.

3336 (Ord. No. 1747A, § 1, 9-15-2009)

3337

3338 **19.38.020 Creation of architectural review committee.**

3339 Upon the mapping of any WUTP district, there shall be established an architectural review committee
3340 for the district. No building or improvements shall be erected, placed or altered on any building site in
3341 the technology park until the plans and use for such building or improvements, including site plans,
3342 landscaping plans, building plans, and specifications have been approved by the WUTP architectural
3343 review committee (ARC). Zoning permit applicants in the WUTP district are subject to all plan review
3344 requirements set forth in Chapter 19.63 of the Whitewater Municipal Code. The plan and architectural
3345 review commission's functions under Chapter 19.63 shall be delegated to the architectural review
3346 commission. The ARC shall consist of one city council member, a member of the plan and architectural
3347 review commission of the City of Whitewater to be appointed annually by the plan commission, the City
3348 Manager of the City of Whitewater, the Chancellor of the University of Wisconsin-Whitewater, two
3349 members appointed by the Chancellor of the University of Wisconsin-Whitewater, two citizens of the
3350 City of Whitewater appointed by the city council of the City of Whitewater, and one member of the
3351 community development authority of the City of Whitewater to be appointed by the CDA. The ARC shall
3352 organize and adopt rules for its own governance. Officers shall be elected from the membership for
3353 terms of one year. Meetings shall be open to the public unless closed for appropriate legal reasons, and
3354 shall be held at the call of the chairman. Minutes shall be kept showing actions taken, and shall be a
3355 public record. Quorum shall be five members, and all actions shall require the concurring vote of at least
3356 five members. In cases where the ARC has not been formed or is unable to act on the matter, all actions
3357 normally assigned to the ARC shall be reassigned to the City of Whitewater Plan and Architectural
3358 Review Commission. The City of Whitewater Plan and Architectural Review Commission shall retain the
3359 exclusive authority to grant and review or deny conditional use permits in the WUTP district, where
3360 required.

3361 (Ord. No. 1747A, § 1, 9-15-2009)

3362

3363 **19.38.030 Permitted uses.**

3364 Permitted uses in the WUTP district include:

- 3365 1. Production, or processing, cleaning, servicing, testing or repair of materials, goods or products,
3366 limited to the following uses, products, components, or circumstances:
- 3367 a. Electronic and electrical products and instruments, such as transistors, semiconductors, small
3368 computers, scanners, monitors and compact communication devices.
 - 3369 b. High technology products related to the fields of physics, oceanography, astrophysics, metallurgy,
3370 chemistry, biology, or other scientific field offered for study at the University of Wisconsin-Whitewater.
 - 3371 c. Laser technology, radiology, X-ray and ultrasound products, manufacturing and assembly.
 - 3372 d. Medical and dental supplies.
 - 3373 e. Optical, fiber optical and photographic products and equipment.
 - 3374 f. Orthopedic and medical appliances, such as artificial limbs, brace supports and stretchers.
 - 3375 g. Products related to process design, process simulation, computer hardware and software
3376 development, and safety engineering.
 - 3377 h. Scientific and precision instruments and components, including robotics.
- 3378 2. Research, development and testing laboratories, including testing facilities and equipment.

- 3379 3. Business and professional offices.
- 3380 4. Pilot plants or other facilities for the testing of manufacturing, processing or fabrication methods, or
- 3381 for the testing of products or materials.
- 3382 5. Telecommunication centers (not including wireless telecommunication facilities as regulated in
- 3383 Section 19.55).
- 3384 6. Accessory uses, (which shall be accessory uses to principal use on-site), including the following:
- 3385 a. Educational or training centers or institutions.
- 3386 b. Nursery schools or day care centers for children of employees on the site.
- 3387 c. Temporary buildings for construction purposes, for a period not to exceed the duration of such
- 3388 construction.
- 3389 d. Reproduction processes related to a primary function including printing, blueprinting, photostating,
- 3390 lithographing, engraving, stereotyping, publishing and bookbinding.
- 3391 e. Wholesaling of goods and merchandise manufactured or produced on the premises.
- 3392 f. The generation of power via a local energy system, with the primary purpose of supplying energy to
- 3393 the principal use being conducted on the lot.
- 3394 g. The fabrication of products in conjunction with a research, development, or testing laboratory as the
- 3395 principal use.
- 3396 h. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
- 3397 principal use on the lot;
- 3398 i. Off-street parking and loading areas, subject to landscaping and screening requirements where
- 3399 applicable;
- 3400 j. Trash dumpsters where located outside of the required yards in Section 19.38.070 of this chapter
- 3401 and enclosed by a decorative opaque fence, wall or landscaping designed to provide a total visual
- 3402 screen;
- 3403 k. Outdoor seating for restaurants within designated areas;
- 3404 l. Outdoor eating and recreation areas;
- 3405 m. Essential services;
- 3406 n. Health clubs, banks and other financial institutions, medical, dental and optical clinics, barbershops,
- 3407 beauty parlors, or similar retail establishments;
- 3408 o. Conference centers.
- 3409 7. Restaurants, without drive-up or drive-through service.
- 3410 8. Colleges and universities (not including housing or residential uses).
- 3411 9. Public parks and public recreation use facilities, including but not limited to Moraine View Park and
- 3412 the planned athletic facilities, trail and possible playground therein.
- 3413 (Ord. No. 1747A, § 1, 9-15-2009)

3414
3415 **19.38.040 Conditional uses.**

- 3416 Conditional uses in the WUTP district include:
- 3417 1. Parking facilities, open and accessory, for the storage of private passenger automobiles only, when
 - 3418 located elsewhere than on the same zoning lot as the principal use served.
 - 3419 2. Public utility and public service uses as follows:
 - 3420 a. Bus turnarounds (off-street), bus transfer points.
 - 3421 b. Electric substations.
 - 3422 c. Gas regulator stations, mixing stations and gate stations.
 - 3423 d. Radio, television, and telecommunication towers and wireless telecommunication facilities meeting
 - 3424 the standards of Section 19.55.
 - 3425 e. Railroad passenger stations.
 - 3426 f. Railroad rights-of-way.

3427 g. Sewerage system lift stations.

3428 h. Telephone exchanges, microwave relay towers, telephone transmission equipment buildings and
3429 service yards.

3430 i. Electric generator which serves a principal use located on the zoning lot and is capable of providing
3431 electricity for off-site use provided:

3432 i. The electric output is less than three thousand kilowatts and said generator is operated no more than
3433 two hundred hours per year;

3434 ii. The location of every generator shall be not less than twenty feet from any zoning lot which permits
3435 residential uses; and,

3436 iii. Said generator shall be located and screened so as to reduce the visual impact of the generator from
3437 neighboring property and to be compatible with neighboring structures and the character of the
3438 community. This may include screening with materials similar in appearance to those used for the
3439 principal structure on the zoning lot, and landscaping or fencing as approved by the architectural review
3440 committee.

3441 j. Water pumping stations and reservoirs.

3442 3. Any production, or processing, cleaning, servicing, testing or repair of materials, goods or products,
3443 limited to the following uses, products, components, or circumstances:

3444 a. Cameras and other photographic equipment.

3445 b. Ceramic products, such as pottery, figurines and small glazed tiles.

3446 c. Cosmetics and toiletries, drugs, perfumes, and perfumed soaps.

3447 d. Drugs and pharmaceutical products.

3448 e. Electrical appliances, such as lighting fixtures, irons, fans and toasters.

3449 f. Electrical equipment assembly, such as home radio and television receivers and home movie
3450 equipment, but not including electrical machinery.

3451 g. Electrical supplies manufacturing and assembly, such as wire and cable assembly, switches, lamps,
3452 insulation and dry cell batteries.

3453 h. Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork,
3454 feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious and semiprecious stones,
3455 rubber, shell, wood (but not including a ~~planing~~ planing mill) and yarn.

3456 i. Products related to material research and development in such areas as prepared glass, ceramics,
3457 carbon fiber, metals, textiles, polymers, plastics, chemical foams and inorganic chemicals such as liquid
3458 crystals, and synthetic fuels.

3459 j. Small-scale products (finished weight not exceeding fifty pounds) related to energy, environmental,
3460 telecommunications, or satellite applications.

3461 k. Small-scale products (finished weight not exceeding fifty pounds) related to the resource industries
3462 of agriculture and food production, forestry, petrochemicals and mining.

3463 l. Specific products not listed above but similar in intent and character and which may be defined as
3464 being produced or assembled manually or by a light industrial process by virtue of the use of only light
3465 machinery; being conducted entirely within enclosed substantially constructed buildings; in which the
3466 open area around such buildings is not used for storage of raw materials or manufactured products, or
3467 for any industrial purpose other than loading and unloading operations; which are not noxious or
3468 offensive by reason of emission of smoke, dust, fumes, odors, noise, or vibrations beyond the confines
3469 of the building.

3470 5. Outside storage areas, subject to the development standards in Section 19.38.110.

3471 6. Day care centers.

3472 7. Other uses substantially consistent with or linked to the goals of the WUTP including
3473 retail sales and services and food and beverage sales and services.

3474 (

3475 Ord. No. 1747A, § 1, 9-15-2009)

3476

3477 **19.38.050 Lot area and lot width requirements.**

3478 In the WUTP district, there shall be provided a lot area of not less than one acre and a lot width
3479 of not less than one hundred feet.

3480 (Ord. No. 1747A, § 1, 9-15-2009)

3481

3482 **19.38.060 Floor area ratio.**

3483 In the WUTP district, the floor area ratio shall not exceed ~~4.5~~ 3.0.

3484 (Ord. No. 1747A, § 1, 9-15-2009)

3485

3486 **19.38.070 Yard requirements.**

3487 Minimum required yards for principal buildings, outside storage areas, parking lots, and
3488 dumpsters in the WUTP district are:

3489 1. Front ~~yard~~ yard twenty-five feet, except fifty feet on any roadway with a right of way of eighty feet or greater
3490 existing at the time of development or as indicated on the city's official map.

3491 2. Side yard--Each side, fifteen feet. On corner lots, twenty-five feet for side yard adjoining an arterial
3492 highway and twenty-five feet for side yard adjoining other streets.

3493 3. Rear yard--Thirty feet.

3494 4. Environmental corridor or wetland yard. Adjacent to any mapped environmental corridor, as defined
3495 by the Southeastern Wisconsin Regional Planning Commission, or a delineated wetland as approved by
3496 the agency with jurisdiction--Thirty feet.

3497 5. Parking lots and associated circulation drive aisles may extend into normal interior side or rear yard
3498 setbacks, but not into front or street side yard setbacks.

3499 (Ord. No. 1747A, § 1, 9-15-2009)

3500

3501 **19.38.090 Lot coverage.**

3502 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
3503 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations
3504 must still conform to the other regulations including stormwater management. Landscape and
3505 environmental features shall follow principles of sustainability and environmental quality and shall give
3506 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
3507 include canopy trees, understory and/or evergreen trees, and shrubs.

3508 (Ord. No. 1747A, § 1, 9-15-2009)

3509

3510 **19.38.100 Building height.**

3511 Maximum building height in the WUTP district is ~~four stories or sixty~~ 100 feet, ~~whichever is less~~, except as
3512 may be otherwise approved by the architectural review committee upon the finding that such increased
3513 height will not be detrimental to the character of the park or adjoining buildings and uses.

3514 (Ord. No. 1747A, § 1, 9-15-2009)

3515

3516 **19.38.110 Development standards.**

3517 In the WUTP district, the following development standards shall apply, in addition to any
3518 standards that may be required by covenant:

3519 1. Building design and materials. The exterior appearance of any building constructed in this district
3520 shall be compatible with that of adjoining structures within the district, especially as it relates to
3521 rooflines and building materials. Permitted materials shall include masonry, concrete, stone, Exterior

3522 Insulation and Finish System (EIFS), Dry-vit, glass, and decorative architectural grade metal as a design
3523 detail, except where other quality materials are also allowed by the architectural review committee.

3524 2. Accessory off-street parking and loading. Accessory off-street parking lots, loading berths, and access
3525 driveways shall be located, designed and improved so as to provide for safe and convenient access from
3526 adjoining streets, safe and convenient circulation within the site, and an aesthetically pleasing site
3527 design. Parking lots and access driveways shall be designed and located so that such facilities do not
3528 provide a direct unlandscaped view from the street to the parking lot or access driveway.

3529 3. Landscaping and site development. To provide a park-like setting, all lots shall be landscaped,
3530 including the provision of canopy-type shade trees. ~~Where possible,~~ When adjacent, connected, or within 30
3531 feet of an environmental corridor or environmental corridor buffer : all existing mature, healthy trees
3532 shall be retained and protected, where possible, during construction as per City of Whitewater Forestry
3533 ~~Guidelines~~ Guidelines. All land areas not covered by buildings, structures, storage areas, parking lots,
3534 loading areas and driveways, shall be landscaped and maintained. Landscaping shall mean decorative
3535 plazas, mounds, environmental preserves, enhancements of wetlands, stormwater features designed as
3536 landscape enhancements, features incorporated into the landscape for the purpose of improving
3537 sustainability of the site, pools or the planting of grass, shrubs, trees and other plant materials or other
3538 comparable surface cover.

3539 4. Storage areas. All storage, except for licensed motor vehicles in operable condition, shall be within
3540 completely enclosed buildings or effectively screened from adjoining properties and public rights-of-way
3541 by an opaque screening wall or fence with such wall or fence not less than six feet nor more than eight
3542 feet in height, and no materials stored shall exceed the height of such screening wall or fence. All
3543 outside storage areas shall be located to the rear of buildings and shall be limited to not more than five
3544 percent of the total lot area. Landscaping shall be required on the outside of the opaque screen wall or
3545 fence.

3546 5. Signs. All signs shall meet applicable standards in Chapter 19.54, and the specific requirements set
3547 forth for the M-1 district in the table contained in 19.54.052.

3548 a. No ground sign shall exceed a maximum height of eight feet and a maximum gross area of forty-eight
3549 square feet. All ground signs shall be incorporated in the landscape plan, including the provision of plant
3550 materials at the base of such signs.

3551 6. Prohibited site uses. No use shall be so conducted as to cause the harmful discharge of any waste
3552 materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any
3553 water system or water, or into the atmosphere. All uses shall be conducted in such a manner so as to
3554 preclude any nuisance, hazard, or commonly recognized offensive conditions or characteristics,
3555 including creation or emission of dust, gas, smoke, noise, fumes, odors, vibrations, particulate matter,
3556 chemical compounds, electrical disturbance, humidity, heat, cold, glare, or night illumination. ~~Prior to~~
3557 ~~issuance of a zoning permit or occupancy permit, the zoning administrator may require evidence that adequate controls, measures, or devices~~
3558 ~~have been provided to ensure and protect the public interest, health, comfort, convenience, safety, and general welfare from such nuisance,~~
3559 ~~hazard, or offensive condition.~~

3560 ~~7.~~ 7. Uses required to be enclosed. All business, servicing, or processing shall be conducted within
3561 completely enclosed buildings, except for the following:

3562 a. Off-street parking and off-street loading;

3563 b. Drive-up service windows for banks and other financial institutions.

3564 8. Truck parking. Parking of trucks as an accessory use, when used in the operation of a permitted
3565 business, shall be limited to vehicles of not over one and one-half tons of capacity when located within
3566 one hundred fifty feet of a residential district boundary line.
3567 (Ord. No. 1747A, § 1, 9-15-2009)

3568
3569
3570 **Chapter 19.39 ~~PCDP~~ PLANNED COMMUNITY DEVELOPMENT DISTRICT***

3571 Sections:
3572 19.39.010 Purpose and intent.
3573 19.39.020 Permitted uses.
3574 19.39.030 Lot, building, yard and parking requirements.
3575 19.39.040 Proposed developments--Criteria for approval.
3576 19.39.050 Procedures for rezoning, general development plan, (GDP), and specific implementation plan
3577 approval.
3578 ~~19.39.055 Design standards for traditional neighborhood developments (PCD TND).~~
3579 19.39.060 Modifications and changes.
3580 19.39.070 Park fees.
3581 * Prior Ordinance History: Ords. 994, 1452, and 1481.

3582
3583 **19.39.010 Purpose and intent.**

3584 A. The planned ~~community~~ development (PD) district is established to promote improved environmental
3585 design and innovative uses of land in the city. To this intent, this district allows variation in the
3586 relationship of uses, structures and open spaces in developments conceived and implemented as
3587 cohesive, unified projects.

3588 B. The PD District is intended to allow desirable innovative development activities that demonstrate
3589 cohesive site planning, higher quality urban design, architectural design, and public places. This district is
3590 also intended to facilitate developments which would add substantially to the net economic value of the
3591 community (as determined by measuring the expected short-term and long-term costs and revenues).
3592 This district is not intended solely to simply circumvent the intent of other zoning districts, or seek
3593 variance from other district regulations, or avoid practices consistent with the general health and social
3594 and economic value of the neighborhood or immediate context..

3595 ~~C. The Traditional Neighborhood Development (TND) option of the PCD District is intended to promote the development and redevelopment~~
3596 ~~of land consistent with the design principles of traditional neighborhoods. Lands developed under the traditional neighborhood option of the~~
3597 ~~PCD District shall be labeled as PCD TND on the zoning map. Specifically, a traditional neighborhood development:~~

- 3598 ~~1. Is compact;~~
3599 ~~2. Is designed for the human scale (sizes of buildings in proportion to sizes of people);~~
3600 ~~3. Provides a mix of uses, including residential, commercial, civic, and open space uses in close proximity to one another;~~
3601 ~~4. Provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes;~~
3602 ~~5. Incorporates a system of relatively narrow, interconnected streets with sidewalks and paths that offer multiple routes for motorists,~~
3603 ~~pedestrians, and bicyclists within and through the neighborhood;~~
3604 ~~6. Retains, to the extent reasonably practical, existing buildings with historical or architectural features that enhance the visual character of~~
3605 ~~the community;~~
3606 ~~7. Incorporates significant environmental features into the design; and~~
3607 ~~8. Is consistent with the City of Whitewater's comprehensive (master) plan~~
3608 ~~(Ord. 1511 § 2(part), 2002).~~

3609
3610 **19.39.020 Permitted uses.**

3611 In the PD District, any permitted or conditional use in any of the other districts in this title, or
3612 mix of uses, may be permitted subject to the criteria listed below. ~~Within a PCD TND District, the mix of permitted uses~~
3613 ~~shall be further defined by Section 19.39.055(A).~~ Any plans, uses, or requirements approved by the city as part of a
3614 PD general development plan or specific implementation plan shall be construed to be and enforced as
3615 part of this title.
3616 (Ord. 1511 § 2(part), 2002).

3617
3618 Permitted uses, subject to the criteria listed below, also include large retail and commercial service
3619 developments (with 80,000 square feet or more on the ground floor). All large format retail
3620 developments shall address the issues in Chapter 19.485 for Large Retail and Commercial Service
3621 Development Standards, and shall include, as part of the PD, specific plans for short-term and long-term

3622 redevelopment of the PD if and when the initial retail development should diminish in economic activity
3623 and value. Diminishment of economic activity and value shall include: (a) vacancy of 25% or more of the
3624 primary buildings, (b) new uses of the primary buildings which result in a significant reduction of
3625 property value, and (c) new uses which result in a material decrease in use of the buildings by customers
3626 and thereby reduce the viability of surrounding economic activities. Such plans should be achievable
3627 with no significant cost to the City and in a manner that protects the economic value of adjacent
3628 development.

3629
3630 **19.39.030 Lot, building, yard and parking requirements.**

3631 In the PD District, there shall be no specified lot area, lot width, yard, height, parking or open space
3632 requirements. Recommendations to be discussed are defined by Sections 19.39.040. Any lot, building,
3633 yard, or parking requirements approved by the city as part of a PD general development plan or specific
3634 implementation plan shall be construed to be and enforced as part of this title.
3635 (Ord. 1511 § 2(part), 2002).

3636
3637 ~~**19.39.030 Lot, building, yard and parking requirements.**~~

3638 ~~In the District, there shall be no specified lot area, lot width, yard, height, parking or open space requirements. Within a PCD TND~~
3639 ~~District, the lot, building, yard, and parking requirements shall be further defined by Sections 19.39.055(D) through (G). Any lot, building, yard,~~
3640 ~~or parking requirements approved by the city as part of a general development plan or specific implementation plan shall be construed to be~~
3641 ~~and enforced as part of this title.~~
3642 ~~(Ord. 1511 § 2(part), 2002).~~

3643
3644 **19.39.040 Proposed developments--Criteria/Issues for approval/consideration.**

3645 As a basis for determining the acceptability of applications for rezoning to the PD District, and
3646 with regard to the principles of Traditional Neighborhood Development the following criteria shall be
3647 applied to/considered in the review of the proposed development (these are not requirements, but issues
3648 to be considered by all parties involved in the PD review and approval process:

3649 A. ~~The proposed development shall be compatible with the physical nature of the site~~Compatibility with particular concern for
3650 preserving natural features, existing vegetation and topography and with the visual character of the surrounding
3651 buildings in the neighborhood or district context.

3652 B. ~~The value of the proposed development shall be an asset~~project to the community aesthetically. The and the
3653 way in which the buildings and uses shall blend in with the , harmonize, improve, and/or complement the
3654 surrounding neighborhood.

3655 C. ~~The proposed development shall not create a~~Impact on traffic or parking demand incompatible with existing or
3656 the surrounding area, proposed facilities. The, the width and location of streets, other the appropriateness
3657 of paving and lighting should be appropriate to the uses proposed. In no case shall standards be less than those necessary to
3658 insure/relative to proposed uses and the surrounding area, and public safety as determined by the city.

3659 D. ~~The Impact of the proposed development shall not place avoidable stress on the city's~~upon the City's water
3660 supply, sanitary sewer and storm water drainage systems.

3661 E. ~~The Impact of the proposed development shall make adequate provisions~~on existing businesses in the
3662 immediate area as well as other businesses outside the immediate area that are likely to be impacted by
3663 the new development

3664 F. ~~Provisions for the permanent~~long-term preservation and maintenance of open space.

3665 ~~F. For a PCD TND~~G. Compactness of the development, the minimum zoning district area shall be five acres

3666 H. Integration of different uses, including residential, commercial, civic, and open space; the desirable
3667 proximity of uses to one another; the degree to which the mix of uses accommodates the needs of
3668 different types of people, ages, and social groups

3669 I. Preservation and/or reuse of existing buildings and buildings with historical or architectural features
3670 that enhance the visual character of the community;

3671 J. Incorporation of significant environmental features into the design ~~shall meet the requirements of Section~~
3672 ~~19.39.055;~~ and

3673 K. General consistency with the City of Whitewater's comprehensive (master) plan.
3674 (Ord. 1511 § 2(part), 2002).

3675
3676 (Ord. 1511 § 2(part), 2002).

3677
3678 **19.39.050 Procedures for rezoning, general development plan, (GDP), and specific implementation**
3679 **plan (SIP) approval.**

3680 A. Step 1: Procedure for Rezoning.

3681 1. The procedure for rezoning to the PD District shall be the same as for any other zoning district
3682 change (see Chapter 19.69), except that in addition, twenty copies of a general development plan shall
3683 be submitted to and approved by the city council following a recommendation by the plan commission.
3684 The general development plan of the proposed project shall include the following.

3685 a. A site inventory and analysis map with topography at two foot contours to identify site assets,
3686 resources, and constraints, including but not limited to floodplains, wetlands, soils with limitations for
3687 building development, utility easements, slopes greater than fifteen percent, and existing trees over
3688 four inches in diameter;

3689 b. A conceptual site plan or neighborhood development plan, at a scale of no less than one inch equals
3690 one hundred feet, which indicates ~~existing and~~ proposed building outlines within the context of the
3691 surrounding streets and blocks, location of streets, options (if any) for cross-easements, driveways,
3692 parking areas, (including options, if any, for shared parking), sidewalks and bicycle paths, service access
3693 areas for receiving material and trash removal, and other impervious surfaces;

3694 c. A utility feasibility analysis, including a map showing the general locations of proposed public utility
3695 connections;

3696 d. The location of recreational and open space areas reserved or dedicated to the public;

3697 e. A conceptual landscape plan showing general locations and types of proposed landscaping, including
3698 maintenance of existing vegetation where appropriate;

3699 f. A phasing plan, where applicable;

3700 g. A conceptual stormwater management plan identifying the proposed patterns of major stormwater
3701 run-off, locations of stormwater infiltration areas, and other significant stormwater management
3702 features;

3703 h. Typical proposed ~~building~~ building elevations identifying the architectural style(s) of the development
3704 shown in the context of street elevations that depict several of the buildings on each side of the
3705 proposed building ;

3706 i. A written report that provides general information about the site conditions, development objectives,
3707 covenants, conservation easements, or agreements that will influence the use and maintenance of the
3708 proposed development may be required for larger or more complex projects;

3709 j. Any other data required by the plan commission in order to evaluate the development.

3710 2. Upon city council approval and adoption of the general development plan and associated zoning
3711 change to the ~~District or PCD TND~~ PD District, all plans submitted as well as other commitments, conditions of
3712 approval, restrictions and other factors pertinent to assuring that the project will be carried out as
3713 presented, shall be filed with the zoning administrator and shall be referred to in regard to enforcement
3714 or modification of the general development plan.

3715 3. If applicant does not submit and have approved at least one specific implementation plan for a
3716 planned ~~community~~ development within two years of city approval of a rezoning to the planned ~~community~~
3717 development district ~~or PCD TND District~~, the previously approved general development plan shall be

3718 considered null and void. A new petition and approval process shall be required to obtain approval of
3719 the same or a revised general development plan.

3720 B. Step 2: Specific Implementation Plan Approval.

3721 1. Detailed plans, described below under the Specific Implementation Plan (SIP) submittal
3722 requirements, are not required to be submitted at the time the ~~of PCD TND PD~~ zoning is approved;
3723 however, the GDP and SIP review process may be combined and made faster by doing so. Before any
3724 building permit is issued, the plan commission shall review and approve ~~the~~ a SIP. If the approved GDP
3725 specified that development of the site would proceed in phases, the plan commission may approve an
3726 SIP covering only a portion of the previously approved GDP area. The applicant shall file twenty copies of
3727 the SIP with the plan commission. In addition to meeting all application requirements for plan review
3728 under Section 19.63.020, the SIP application shall include the following:

3729 a. Where a land division or lot consolidation is proposed, a final plat or Certified Survey Map (CSM) of
3730 the entire development area included in the SIP, meeting all requirements of Chapter 18, the city's land
3731 division and subdivision regulations;

3732 b. For multi-lot ~~PD's~~, a detailed neighborhood development plan showing the arrangement, design,
3733 and uses of different lots, buildings, driveways, parking areas, parks and open spaces, and paths.

3734 c. Typical elevations or detailed design standards for single- and two-family residential buildings and
3735 detailed elevations of all proposed non-residential, mixed use, and multi-family residential buildings.
3736 Such detailed elevations shall meet the requirements of Section 19.63.020 and identify all wall signs; the
3737 percentage of ground floor commercial facade in windows; and the location, height and materials for
3738 screening walls and fences, including those proposed to surround outdoor trash and recyclable storage
3739 areas, electrical, mechanical and gas metering equipment, and rooftop equipment; where building
3740 construction is not imminent, detailed design standards that will apply to all non-residential buildings
3741 may substitute for detailed elevations, if approved by the zoning administrator;

3742 d. Signage plans demonstrating a unified or compatible sign design theme for major signage in the ~~-~~
3743 ~~TND PD~~;

3744 e. A detailed storm water management and erosion control plan;

3745 f. Arrangements, bylaws, provisions or covenants which govern the organizational structure, use,
3746 architectural standards, maintenance and continued protection of the planned ~~community~~ development.

3747 2. At a regular meeting, the plan commission shall approve, conditionally approve with changes
3748 consistent with the approved general development plan, or reject the SIP. An SIP for a ~~PCD TND PD~~
3749 development that is consistent with the GDP and meets other applicable ordinance provisions shall be
3750 entitled to approval or conditional approval. A final plat or certified survey map associated with the
3751 development may also be subject to city council approval under the provisions of Chapter 18. Upon final
3752 approval of the SIP, it shall be filed with the zoning administrator, and shall be referred to in regard to
3753 enforcement of modification of the development plans. All covenants, restrictions or contractual
3754 agreements with the city shall be recorded with the register of deeds before final issuance of building
3755 permits.

3756 3. If an applicant does not commence construction within one year after city approval of an SIP for a
3757 planned ~~community development or PCD TND~~ development, or complete construction within two years of
3758 approval of the SIP, the previously approved SIP shall be considered null and void; except where the plan
3759 commission approves an alternative phasing plan with the SIP. A new petition and approval process shall
3760 be required to obtain SIP approval.

3761 (Ord. 1511 § 2(part), 2002).

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~~19.39.055 Design standards for traditional neighborhood developments (PCD-TND districts)~~

3766 PCD TND developments that meet the following design standards and any other applicable ordinance provisions shall be entitled to
 3767 approval or conditional approval:
 3768 ~~A. Required Mix of Uses. A traditional neighborhood development shall consist of a mix of residential uses, a mixed use area, and open space~~
 3769 ~~areas as provided below:~~
 3770 ~~1. Mix of Residential Uses. A mix of two or more of the following uses shall be proposed within the PCD TND:~~
 3771 ~~a. Single family Detached Dwellings. Minimum lot size shall be four thousand five hundred square feet. Minimum lot width shall be forty five~~
 3772 ~~feet with an attached garage and forty feet with a detached garage. Dwellings within condominium developments shall be subject to similar~~
 3773 ~~density standards.~~
 3774 ~~b. Single family attached dwellings, including duplexes, townhouses, and row houses. Minimum lot size shall equal three thousand five~~
 3775 ~~hundred square feet per dwelling unit. Minimum lot width shall equal thirty feet per dwelling unit. Dwellings within condominium~~
 3776 ~~developments shall be subject to similar density standards.~~
 3777 ~~c. Multi family dwellings, including senior housing. Minimum lot size shall equal one thousand two hundred fifty square feet for each efficiency~~
 3778 ~~dwelling unit, with an additional two hundred fifty square feet of lot area required for each additional bedroom in the dwelling unit.~~
 3779 ~~d. "Special needs" housing, including community living arrangements and assisted living facilities on lots of suitable size to accommodate the~~
 3780 ~~project.~~
 3781 ~~2. Mixed Use Area. A mixed use area shall be included within the PCD TND. At least ninety percent of the residences within the PCD TND shall~~
 3782 ~~be within 1/4 mile from a mixed use area within or outside of the project. The total gross land area of nonresidential development uses,~~
 3783 ~~including off street parking areas, shall not exceed twenty five percent of the area of the entire PCD TND. A mixed use area within the PCD TND~~
 3784 ~~shall include a mix or two or more of the following uses:~~
 3785 ~~a. Commercial uses, such as services, retail, restaurants, and accommodations. Individual businesses shall not exceed six thousand square feet~~
 3786 ~~each in primary floor area.~~
 3787 ~~b. Attached residential dwellings, including single family attached, multi family, second story residential units, live/work units, and "special~~
 3788 ~~needs" housing.~~
 3789 ~~c. Civic or institutional uses, such as municipal offices, libraries, post offices, places of worship, and educational facilities.~~
 3790 ~~d. Small open space areas, such as a central square, neighborhood park, or playground.~~
 3791 ~~3. Open Space Area. Protected common open space, in public or private ownership, shall be incorporated into the PCD TND. At least fifteen~~
 3792 ~~percent of the gross land area of the PCD TND must remain as permanently protected common open space, not including private yards. Large~~
 3793 ~~outdoor recreation areas should generally be located at the periphery of the PCD TND rather than a central location. Open spaces may include~~
 3794 ~~environmental corridors, other protected natural areas, parks, or stormwater facilities. At least ninety percent of the residences within the PCD~~
 3795 ~~TND shall be within one fourth mile from a protected common open space area. The PCD TND shall be subject to all city parkland dedication~~
 3796 ~~and fee requirements.~~
 3797 ~~B. Stormwater Management. The design and development of the PCD TND shall meet the requirements of the city's stormwater management~~
 3798 ~~ordinance and demonstrate the following principles:~~
 3799 ~~1. Minimize off site stormwater runoff;~~
 3800 ~~2. Promote on site filtration;~~
 3801 ~~3. Utilize natural stormwater management systems wherever practical;~~
 3802 ~~4. Utilize stormwater management Best Management Practices (BMPs);~~
 3803 ~~5. Minimize the discharge of pollutants to ground and surface water; and~~
 3804 ~~6. Maintain and protect natural topography and existing land cover to the extent reasonably practicable.~~
 3805 ~~C. Lot and Block Design Standards.~~
 3806 ~~1. Block and Lot Size Diversity. Street layouts shall provide for perimeter blocks that are a maximum of four hundred feet deep and eight~~
 3807 ~~hundred feet long. A variety of lot sizes in accordance with subsection (A)(1) shall be provided to facilitate housing choice and meet the~~
 3808 ~~requirements of people with different housing needs.~~
 3809 ~~2. Building Setbacks.~~
 3810 ~~Table 1: Building Setbacks~~
 3811 ~~TABLE INSET:~~
 3812

Use Area	Maximum Front Yard Setback	Minimum Building Separation
Mixed Residential Area	25 feet	10 feet 2
Mixed Use Area	15 feet 1	10 feet 2

3813 ~~1. Commercial, civic or institutional buildings should generally abut the sidewalks in the mixed use area.~~
 3814 ~~2. Minimum building separation standards shall substitute for required side and rear lot setbacks.~~
 3815 ~~D. Circulation Standards. The circulation system shall allow for different modes of transportation, provide functional and visual links among~~
 3816 ~~the residential areas, mixed use area, and open space areas within the PCD TND; connect to existing and proposed development outside the~~
 3817 ~~PCD TND; provide adequate traffic capacity; provide connected pedestrian and bicycle routes including off street paths or bicycle lanes on~~
 3818 ~~streets; control through traffic; limit direct lot access on streets with higher expected traffic volumes; and promote safe and efficient mobility,~~
 3819 ~~throughout the neighborhood. More specific design standards that shall be met are as follows:~~
 3820 ~~1. Pedestrian Circulation. Convenient and continuous pedestrian circulation systems, including walkways and paths, that minimize pedestrian~~
 3821 ~~motor vehicle conflicts shall be provided throughout the PCD TND through the following design characteristics:~~
 3822 ~~a. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced.~~
 3823 ~~b. All streets, except for alleys, shall be bordered by sidewalks on both sides in accordance with the specifications listed in Table 2.~~
 3824 ~~c. Clear and well lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas.~~

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d. Sidewalks and walkways shall comply with the applicable requirements of the Americans with Disabilities Act.
 e. Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be well lit and clearly marked with contrasting paving materials at the edges, raised pavement or with striping. Curb bulb outs, median refuges, and other related techniques should also be incorporated along collector streets and at key intersections to shorten the pedestrian crossing distance.
 f. Where necessary to maintain the continuity of the pedestrian circulation system, between lot walkways or paths may be required.
 2. Bicycle Circulation. Facilities for bicycle travel shall be included in the project, and may include off-street bicycle paths (generally shared with pedestrians and other non-motorized users), separate striped, bicycle lanes on streets per Table 2, signed bicycle routes, or some combination. Any existing bicycle routes through the site shall be preserved, enhanced, or relocated if necessary. Selected bicycle routes and facilities shall implement the recommendations in the City of Whitewater comprehensive bikeway plan. The developer may be required to dedicate land or easements and construct bicycle and pedestrian facilities.
 3. Motor Vehicle Circulation. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as curb extensions, traffic circles, and medians are encouraged slow traffic speeds on local streets.
 a. Street Hierarchy. Arterial streets should generally not bisect a PCD TND. Other streets within a PCD TND shall be classified as follows: Collector streets are intended to be used to carry traffic from minor streets to arterial streets, include the principal entrance street to a residential development, and may be subject to access controls. Minor streets are intended to be used primarily for access to abutting properties, and are usually not subject to access controls. Alleys are special public ways affording secondary access to abutting properties.
 b. Minimum Street Design Standards. Minimum street design standards for a PCD TND shall be in accordance with Table 2 and the graphic that follows.

Table 2: Minimum Street Design Requirements in a Traditional Neighborhood Development

TABLE INSET:

Type of Street	Street Width, curb face to curb face feet	Curb & Gutter	Street Terrace	Sidewalks	Bicycle Lanes
Collector Street	36 (2-sided parking)	Both sides, 2 feet wide	Both sides, min. 8 feet wide	Both sides, min. 5 feet wide*	Where required, add 4 foot wide lanes
=	30 (1-sided parking)	=	=	=	=
=	24 (no parking)	=	=	=	=
Minor Street	28 (2-sided parking)	Both sides, 2 feet wide	Both sides, min. 6 feet wide	Both sides, min. 5 feet wide*	None
=	26 (1-sided parking)	=	=	=	=
=	20 (no parking)	=	=	=	=
Alley	14 (no parking)	None	None	None	None

*The city also requires one foot between the edge of the sidewalk and the property line.

GRAPHIC LINK: [Click here](#)

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e. Street Layout. The PCD TND should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. The orientation of streets shall enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, minimize street gradients, and minimize the use of double frontage lots. All streets shall extend through the development or terminate at other streets, except minor streets may temporarily "dead end" when such streets act as connections to future phases or other sites outside the PCD TND and may permanently terminate in a cul-de-sac only where there will be a through connection via a pedestrian way or bicycle path at the terminus.
 d. Parking Requirements. All PCD TNDs shall meet the parking requirements of Section 19.51.130; the city may allow adjacent on street parking to apply toward the minimum parking requirements. Off street parking lots for shared or community use are encouraged. For multi-family buildings and in the required mixed use area, off street parking lots may not be adjacent to or opposite from a street intersection and shall be located to the rear or sides of buildings. If located to the side of a building, screening from the public street shall be provided as specified in Section 19.57.150. All businesses, civic uses, and multi family residences shall provide adequate bicycle parking areas and facilities to serve their expected customer or resident base.
 e. Service Access. All PCD TNDs shall meet the loading requirements of Section 19.51.020. In addition, site and neighborhood development plans shall provide a direct route to service or loading dock areas, while minimizing the movement of loading vehicles through parking areas.

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~~f. Paving. All PCD TNDs shall meet the parking lot surfacing requirements of Section 10.51.110. In addition, reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas such as remote parking lots and parking areas for periodic uses.~~

~~g. Parking area landscaping and screening. All parking and loading areas fronting and within fifteen feet of public street rights of way, residential districts, or residential uses shall meet the screening requirements of Section 10.57.140. The corners of parking lots, "islands," and all other areas not used for parking or vehicular circulation shall be landscaped and curbed. Such spaces may also include architectural features such as benches, kiosks or bicycle parking. Parking lots containing more than 30 spaces shall be broken up into smaller pods including not more than 30 spaces each, with the pods separated from another by landscaped areas or buildings.~~

~~E. Architectural Standards. A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character, while maintaining a compatible design theme throughout the PCD TND. More specific design standards that shall be met are as follows:~~

~~1. Existing Structures. Existing structures, if determined to be historic, architecturally, or culturally significant, shall be protected from demolition or encroachment by incompatible structures or land development, to the extent reasonably practical. The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall be used as the criteria for renovating historic or architecturally significant structures.~~

~~2. New Structures.~~

~~a. Height. New structures within a PCD TND shall be no more than three stories for single family detached dwellings and attached dwellings, and six stories for commercial, multi-family dwellings, or mixed use buildings. Buildings within the mixed use area shall additionally meet the standards depicted in Figure 3.~~

~~GRAPHIC LINK: [Click here](#)~~

~~b. Entries and Facades. Similar architectural features, materials, and the articulation of a building facade shall be continued on all sides visible from a public street. The front facade of the principal building shall face onto the street yard of a public street, not directly toward a parking lot. As buildings are moved closer to the street and to each other, special attention should be paid to design details, house details, and landscaping. Compatible building designs or guidelines shall be followed for new structures on opposite sides of the same street. Porches, pent roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences. For nonresidential buildings, a minimum of fifty percent of the public street facade(s) on the ground floor shall be transparent, consisting of window or door openings.~~

~~3. Garages. Residential garages shall either be set back a minimum of four feet to the rear of the main front facade of the dwelling structure (not including porches or other projections) or utilize side entry layout to ensure that the garage does not dominate the view from the street, per the standards illustrated in Figure 4. Varied garage setbacks along alleys are encouraged to create a more interesting streetscape and avoid cramped, monotonous, and claustrophobic alleys.~~

~~GRAPHIC LINK: [Click here](#)~~

~~4. Signage. Business signs, entrance monuments, and other major signs within a PCD TND shall share a common or compatible style, which may be demonstrated by similarities in sizes, shapes, and/or materials. In addition, all signage for mixed residential areas shall meet the technical requirements of Chapter 10.54 applicable to the R-3 District and all signage for other areas in the PCD TND shall meet the technical requirements applicable to the B-2 District, except that the maximum height of a freestanding sign shall be six feet and the maximum area of a freestanding sign shall be thirty-two feet.~~

~~5. Exterior Lighting and Utilities. The styles of proposed street and private lot lighting shall be compatible with one another. All exterior lighting within the PCD TND shall meet the technical lighting requirements of Section 10.57.150. Street lighting shall be provided on both sides of all streets at intervals of no greater than seventy-five feet. More, smaller street lights as opposed to fewer, high-intensity lights, should be used. All new public and private utility installations shall be underground.~~

~~F. Landscaping and Screening Standards. Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas. More specific landscape standards that shall be met are as follows:~~

~~1. Street Trees. An average minimum of one deciduous tree per thirty-five feet of public street frontage shall be required. Street tree placements may be clustered or adjusted to achieve a particular design objective or account for curb openings, street lighting, and other obstructions. Trees should preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the right-of-way will interfere with pre-existing utility lines, trees may be planted within the private street yard adjacent to the sidewalk.~~

~~2. Landscape Materials. All plant materials shall meet the minimum standards set forth by the American National Standards Institute in ANSI Z60.1 American Standard for Nursery Stock. Landscape species shall be indigenous or proven adaptable to the climate, but shall not be invasive.~~

~~3. Minimum Planting Size. Minimum size at time of planting shall be as specified in Table 3.~~

~~Table 3: Minimum Size Standards for Landscaping~~

~~TABLE INSET:~~

Plant Type	Minimum Size at Time of Planting
Evergreen tree	4 feet in height
Deciduous canopy tree	2 inch caliper 1 (street trees may be 1.5 inch)
Small deciduous/ ornamental tree	1.5 inch caliper 1 or 4 feet in height
Evergreen or deciduous shrubs	2 feet unless mature height is less than 4 feet

3916 ~~Note: 1 For the purpose of caliper size, the diameter of the tree shall be measured 6 inches above ground level.~~
3917 ~~4. Landscape Screening. Where screening is required by this ordinance, it shall meet the requirements of Section 19.57.140,~~
3918 ~~(Ord. 1511 § 2(part), 2002).~~

3919
3920 **19.39.060 Modifications and changes.**

3921 Any subsequent change of use of any parcel of land or addition or modification of any approved
3922 development plans ~~shall~~should be submitted to the plan commission for approval. Minor changes can be
3923 granted by the plan commission. Major changes that involve changes to the general intent of the project
3924 as expressed in the approved GDP shall be made by the city council as specified in Chapter 19.69. A
3925 conditional use permit will be required if the total building coverage of a new or remodeled single-family
3926 detached dwelling, including the garage, exceeds sixty percent of the lot area within a ~~PCD-TND~~PD District.
3927 (Ord. 1511 § 2(part), 2002).

3928
3929 **19.39.070 Park fees.**

3930 All residential development shall be subject to a park acquisition fee of ~~two hundred fourteen~~
3931 ~~dollars~~\$214.00 per dwelling unit ~~in 2001~~ and a park improvement fee of ~~five hundred five dollars~~\$505.00 per
3932 dwelling unit ~~in 2001~~, payable before a building permit is issued. The amount of these fees may be
3933 reduced by any fee amount previously paid or credited at the time of subdivision, or by fifty percent
3934 (50%) if the new housing units are created as a result of the conversion or remodeling of a preexisting
3935 building. The park acquisition fee may also be reduced if sufficient land area was provided for park
3936 purposes at the time of subdivision, based on the calculations in ~~section~~Section 18.04.030(a)(1) of the
3937 Whitewater Municipal Code. The fee amounts shall be ~~adjusted during the first quarter of each year by a percentage equal~~
3938 ~~to the rate of consumer inflation based on the percent of yearly change for the previous year for the Milwaukee metropolitan area, as~~
3939 ~~reported~~set by the ~~U.S. Department of Labor, Bureau of Labor Statistics.~~
3940 ~~(Ord. 1511 § 2(part), 2002).~~

3941 City Council.

3942
3943 **Chapter 19.42 AT AGRICULTURAL TRANSITION DISTRICT**

3944 Sections:

3945 19.42.010 Purpose.

3946 19.42.020 Permitted uses.

3947 19.42.030 Conditional uses.

3948 19.42.040 Lot area.

3949 19.42.050 Yard requirements.

3950 19.42.060 Building height.

3951 19.42.070 Existing residences.

3952
3953 **19.42.010 Purpose.**

3954 The purposes of the AT agricultural transition district are to provide for the orderly transition of
3955 agricultural land to other uses in areas planned for eventual city expansion. This district is generally
3956 intended to apply to lands located in the city where such lands are predominantly in agricultural or open
3957 space use but where conversion to nonagricultural use is expected to occur in the ~~forseeable~~foreseeable
3958 future.
3959 (Ord. 994 § 3.15(part), 1982).

3960
3961 **19.42.020 Permitted uses.**

3962 Permitted uses in the AT district include:

- 3963 A. Dairying, floriculture, orchards, plant nurseries, truck farming, sod farming, horticulture, grazing,
3964 greenhouses, forest and game management, livestock and poultry raising (except for commercial
3965 operations), road-side stands not exceeding one per farm, and similar agricultural uses;
3966 B. Two single-family dwelling units for resident owner/operators and their children, siblings, and
3967 parents or laborers principally engaged in conducting a permitted or approved conditional use;
3968 C. The second or greater wireless telecommunications facility located on an alternative support
3969 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
3970 telecommunications facility, per the requirements of Chapter 19.55.
3971 (Ord. 1499 § 20, 2001; 994 § 3.15(A), 1982).

3972

3973 **19.42.030 Conditional uses.**

3974 Conditional uses in the AT district include:

- 3975 A. Fish and fur farms, beekeeping, commercial livestock and poultry operations, livestock sales
3976 facilities, veterinary services for farm animals, and similar agricultural uses;
3977 B. Housing for seasonal farm laborers;
3978 C. Airports;
3979 D. Mineral extraction;
3980 E. More than two single-family dwelling units for residential owner/operators and their children,
3981 siblings, and parents or laborers principally engaged in conducting a permitted approved conditional
3982 use;
3983 F. The first wireless telecommunications facility located on an alternative support structure only, per
3984 the requirements of Chapter 19.55.
3985 (Ord. 1499 § 21, 2001; 994 § 3.15(B), 1982).

3986

3987 **19.42.040 Lot area.**

3988 Minimum lot area in the AT district is as follows:

- 3989 A. Farm units, minimum thirty-five acres;
3990 B. Additional farm-related housing, minimum twenty thousand square feet.
3991 (Ord. 994 § 3.15(C), 1982).

3992

3993 **19.42.050 Yard requirements.**

3994 Minimum yard requirements for the AT district are as follows:

- 3995 A. Additional farm-related housing shall comply with the provisions of the R-1 residential district;
3996 B. Farm buildings:
3997 1. Side yard, minimum fifty feet;
3998 2. Rear yard, minimum fifty feet.
3999 (Ord. 994 § 3.15(D), 1982).

4000

4001 **19.42.060 Building height.**

4002 Maximum building height for the AT district is two times their distance from adjacent lot lines.
4003 (Ord. 994 § 3.15(E), 1982).

4004

4005 **19.42.070 Existing residences.**

4006 Pre-existing residences in the agricultural transition district that do not conform to district
4007 standards may be continued in residential use and are not subject to the limitations of Chapter 19.60,
4008 Nonconforming Uses.
4009 (Ord. 994 § 3.15(F), 1982).

4010

4011 **Chapter 19.45 C-1 SHORELAND WETLAND DISTRICT**

4012 Sections:

4013 19.45.010 Purpose.

4014 19.45.020 Permitted uses.

4015 19.45.030 Conditional uses.

4016 19.45.040 Prohibited uses.

4017

4018 **19.45.010 Purpose.**

4019 The C-1 shoreland wetland district is intended to preserve, protect, and enhance the ponds,
4020 streams, and wetland areas within the shoreland jurisdiction of the city. The preservation, protection,
4021 and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and
4022 improve water quality, both ground and surface; prevent flood damage; control storm water runoff;
4023 protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife
4024 habitat; protect native plant communities; avoid the location of structures on soils which are generally
4025 not suitable for use; and protect the water-based recreation resources of the city.

4026 The C-1 shoreland wetland district, as shown on the zoning map, includes all wetlands within the
4027 shorelands, as defined in this title, in the city. The boundaries were determined from the Wisconsin
4028 Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and stamped "FINAL."
4029 (Ord. 1196 § 1(part), 1990).

4030

4031 **19.45.020 Permitted uses.**

4032 Permitted uses in the C-1 district are limited to the following:

4033 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;

4034 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
4035 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
4036 filling, flooding, draining, dredging, ditching, tiling, or excavating;

4037 C. Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling,
4038 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
4039 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
4040 impact on silvicultural activities if not corrected;

4041 D. Construction and maintenance of fences;

4042 E. Agricultural crops and grazing provided that they do not involve extension of cultivated areas,
4043 extension of or creation of new drainage systems, and further provided that they do not substantially
4044 disturb or impair the natural fauna, flora, topography, or water regimen;

4045 F. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
4046 only to the extent necessary to maintain the level of drainage required to continue the existing use;

4047 G. The construction and maintenance of piers, docks, and walkways, including those built on pilings;

4048 H. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.

4049 (Ord. 1196 § 1(part), 1990).

4050

4051 **19.45.030 Conditional uses.**

4052 The following uses are conditional uses in the C-1 shoreland wetland district and may be
4053 permitted as specified. The city plan commission shall transmit a copy of each application for a
4054 conditional use in the C-1 shoreland wetland district to the Wisconsin Department of Natural Resources
4055 (DNR) at least ten days prior to the public hearing. Final action on the application shall not be taken for
4056 thirty days or until the ~~DNR~~DNR has made its recommendation, whichever comes first. A copy of all C-1
4057 shoreland wetland district conditional use permits shall be transmitted to the ~~DNR~~DNR within ten days
4058 following the decision:

- 4059 A. The construction of streets which are necessary for the continuity of the city street system,
4060 necessary for the provision of essential utility and public safety services, or necessary to provide access
4061 to permitted open space uses in the C-1 district; provided that:
- 4062 1. The street cannot as a practical matter be located outside the conservancy district;
 - 4063 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
4064 wetland as listed in Section 11.1308(B) of the Wisconsin Statutes;
 - 4065 3. The street is designed and constructed with the minimum cross-section practical to serve the
4066 intended use;
 - 4067 4. The street construction activities are carried out in the immediate area of the roadbed only; and
 - 4068 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
4069 for the construction or maintenance of the street.
- 4070 B. The construction and maintenance of nonresidential buildings used solely in conjunction with raising
4071 of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose
4072 which is compatible with wetland preservation, provided that:
- 4073 1. The building cannot as a practical matter be located outside the conservancy district;
 - 4074 2. The building is not designed for human habitation and does not exceed five hundred square feet in
4075 area; and
 - 4076 3. Only limited filling or excavating necessary to provide structural support is conducted.
- 4077 C. The establishment and development of public and private parks and recreation areas, recreation
4078 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
4079 refuges, game preserves, and private habitat areas; provided, that:
- 4080 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
 - 4081 2. No filling is to be done; and
 - 4082 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
4083 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
4084 otherwise enhance the value of a wetland or other natural resource.
- 4085 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
4086 distribution lines, and related facilities; provided, that:
- 4087 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
4088 outside the conservancy district; and
 - 4089 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4090 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
4091 and other adverse impacts upon the natural functions of the conservancy area.
- 4092 E. The construction and maintenance of railroad lines; provided, that:
- 4093 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
 - 4094 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4095 construction or maintenance of the railroad, and must be done in a manner designed to minimize
4096 flooding and other adverse impacts upon the natural functions of the conservancy area.
- 4097 (Ord. 1196 § 1(part), 1990).

4098
4099 **19.45.040 Prohibited uses.**

4100 Any use not listed as a permitted use or a conditional use is prohibited unless the C-1 district
4101 lands concerned are first rezoned into another district. Furthermore, the use of a boathouse for human
4102 habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary
4103 highwater mark of any navigable water are prohibited.
4104 (Ord. 1196 § 1(part), 1990).

4105
4106 **Chapter 19.451 C-2 NONSHORELAND WETLAND DISTRICT**

- 4107 Sections:
- 4108 19.451.010 Purpose.
- 4109 19.451.020 Permitted uses.
- 4110 19.451.030 Conditional uses.
- 4111 19.451.040 Prohibited uses.

4112

4113 **19.451.010 Purpose.**

4114 The C-2 nonshoreland wetland district is intended to preserve, protect, and enhance the ponds,
4115 streams, and wetland areas of the city located beyond the statutorily defined limits of shorelands. The
4116 preservation, protection, and enhancement of these areas will serve to maintain safe and healthful
4117 conditions; maintain and improve water quality, both ground and surface; prevent flood damage;
4118 control storm water runoff; protect stream banks from erosion; protect groundwater recharge and
4119 discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of
4120 structures on soils which are generally not suitable for use; and protect the water-based recreation
4121 resources of the city.

4122 The C-2 nonshoreland wetland district, as shown on the zoning map, includes those wetlands
4123 not located within the shoreland jurisdiction in the city. The boundaries were initially determined from
4124 the Wisconsin Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and stamped
4125 "FINAL."
4126 (Ord. 1196 § 1(part), 1990).

4127

4128 **19.451.020 Permitted uses.**

4129 Permitted uses in the C-2 district are limited to the following:

- 4130 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;
 - 4131 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
4132 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
4133 filling, flooding, draining, dredging, ditching, tiling, or excavating;
 - 4134 C. Silviculture, including the planting, thinning, and harvesting of timber; provided, that no filling,
4135 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
4136 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
4137 impact on silvicultural activities if not corrected;
 - 4138 D. Construction and maintenance of fences;
 - 4139 E. Agricultural crops and grazing; provided, that they do not involve extension of cultivated areas,
4140 extension of or creation of new drainage systems; and further provided, that they do not substantially
4141 disturb or impair the natural fauna, flora, topography, or water regimen;
 - 4142 F. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
4143 only to the extent necessary to maintain the level of drainage required to continue the existing use;
 - 4144 G. The construction and maintenance of piers, docks, and walkways, including those built on pilings;
 - 4145 H. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
- 4146 (Ord. 1196 § 1(part), 1990).

4147

4148 **19.451.030 Conditional uses.**

4149 The following uses are conditional uses in the C-2 nonshoreland wetland district and may be
4150 permitted as specified:

- 4151 A. The construction of streets which are necessary for the continuity of the city street system,
4152 necessary for the provision of essential utility and public safety services, or necessary to provide access
4153 to permitted open space uses in the C-2 district; provided, that:
 - 4154 1. The street cannot as a practical matter be located outside the conservancy district;

- 4155 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
4156 wetland as listed in Section 11.1308(B) of the Wisconsin Statutes;
4157 3. The street is designed and constructed with the minimum cross-section practical to serve the
4158 intended use;
4159 4. The street construction activities are carried out in the immediate area of the roadbed only; and
4160 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
4161 for the construction or maintenance of the street.
- 4162 B. The construction and maintenance of nonresidential buildings used solely in conjunction with raising
4163 of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose
4164 which is compatible with wetland preservation; provided, that:
- 4165 1. The building cannot as a practical matter be located outside the conservancy district;
4166 2. The building is not designed for human habitation and does not exceed five hundred square feet in
4167 area; and
4168 3. Only limited filling or excavating necessary to provide structural support is conducted.
- 4169 C. The establishment and development of public and private parks and recreation areas, recreation
4170 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
4171 ~~refuges~~refuges, game preserves, and private habitat areas; provided, that:
- 4172 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
4173 2. No filling is to be done; and
4174 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
4175 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
4176 otherwise enhance the value of a wetland or other natural resource.
- 4177 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
4178 distribution lines, and related facilities; provided, that:
- 4179 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
4180 outside the conservancy district; and
4181 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4182 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
4183 and other adverse impacts upon the natural functions of the conservancy area.
- 4184 E. The construction and maintenance of railroad lines; provided, that:
- 4185 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
4186 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4187 construction or maintenance of the railroad, and must be done in a manner designed to minimize
4188 flooding and other adverse impacts upon the natural functions of the conservancy area.
4189 (Ord. 1196 § 1(part), 1990).

4190
4191 **19.451.040 Prohibited uses.**

4192 Any use not listed as a permitted use or a conditional use is prohibited unless the C-2 district
4193 lands concerned are first rezoned into another district. Furthermore, the use of a boathouse for human
4194 habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary
4195 high water mark of any navigable water are prohibited.
4196 (Ord. 1196 § 1(part), 1990).

4197
4198 **Chapter 19.46 FLOODPLAIN REGULATIONS***

4199
4200 _____

4201 *Editor's note: Ord. No. 1724A, § 1, adopted April 8, 2009, repealed the former Ch. 19.46, and
4202 enacted a new Ch. 19.46. Prior to inclusion of said ordinance, Ch. 19.46, pertained to similar subject
4203 matter. See also the Code Comparative Table and Disposition List.
4204

4205 _____

4206 Sections:

4207 19.46.010 Statutory authorization, finding of fact, statement of purpose, title and general provisions.

4208 19.46.020 General standards applicable to all floodplain districts.

4209 19.46.030 Floodway district (FW).

4210 19.46.040 Floodfringe district (FF).

4211 19.46.050 Other floodplain districts.

4212 19.46.060 Nonconforming uses.

4213 19.46.070 Administration.

4214 19.46.080 Amendments.

4215 19.46.090 Enforcement and penalties.

4216 19.46.100 Definitions.

4217

4218 **19.46.010 Statutory authorization, finding of fact, statement of purpose, title and general provisions.**

4219 A. Statutory authorization. This chapter is adopted pursuant to the authorization in ss. 61.35 and 62.23,
4220 for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.

4221 B. Finding of fact. Uncontrolled development and use of the floodplains and rivers of this municipality
4222 would impair the public health, safety, convenience, general welfare and tax base.

4223 C. Statement of purpose. This chapter is intended to regulate floodplain development to:

4224 1. Protect life, health and property;

4225 2. Minimize expenditures of public funds for flood control projects;

4226 3. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;

4227 4. Minimize business interruptions and other economic disruptions;

4228 5. Minimize damage to public facilities in the floodplain;

4229 6. Minimize the occurrence of future flood blight areas in the floodplain;

4230 7. Discourage the victimization of unwary land and homebuyers;

4231 8. Prevent increases in flood heights that could increase flood damage and result in conflicts between
4232 property owners; and

4233 9. Discourage development in a floodplain if there is any practicable alternative to locate the activity,
4234 use or structure outside of the floodplain.

4235 D. Title. This chapter shall be known as the Floodplain Zoning Ordinance for the City of Whitewater,
4236 Wisconsin.

4237 E. General provisions.

4238 1. Areas to be regulated. This chapter regulates all areas that would be covered by the regional flood or
4239 base flood.

4240 Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study.
4241 Regional flood elevations may be derived from other studies. Areas covered by the base flood are
4242 identified as A-Zones on the Flood Insurance Rate Map.

4243 2. Official maps and revisions. The boundaries of all floodplain districts are designated as floodplains or
4244 A-Zones on the maps listed below and the revisions in the City of Whitewater Floodplain Appendix. Any

4245 change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance
4246 Rate Map (FIRM) must be reviewed and approved by the DNR and ~~FEMA~~ the Federal Emergency

4247 Management Agency (FEMA) before it is effective. No changes to regional flood elevations (RFE's) on
4248 non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the

4249 office of the Public Works Department, City of Whitewater. If more than one map or revision is
4250 referenced, the most restrictive information shall apply.

4251 Official maps: Based on the FIS.

4252 a. For Jefferson County Flood Insurance Rate Maps (FIRM), panel numbers 55055C0432E, 55055C0451E
4253 and 55055C0455E, dated June 2, 2009, with corresponding profiles based on the Flood Insurance Study
4254 (FIS) dated June 2, 2009 volume number 55055CV000A; updated maps with revised panel numbers may
4255 be available.

4256 b. For Walworth County Flood Insurance Rate Maps (FIRM), panel numbers 55127C0009D,
4257 55127C0017D, 55127C0028D, and 55127C0029D, dated October 2, 2009, with corresponding profiles
4258 based on the Flood Insurance Study (FIS) dated October 2, 2009, volume number 55127CV000A; ;
4259 updated maps with revised panel numbers may be available.

4260 3. Establishment of districts. The regional floodplain areas are divided into three districts as follows:

4261 a. The floodway district (FW) is the channel of a river or stream and those portions of the floodplain
4262 adjoining the channel required to carry the regional floodwaters.

4263 b. The floodfringe district (FF) is that portion of the floodplain between the regional flood limits and the
4264 floodway.

4265 c. The general floodplain district (GFP) is those areas that have been or may be covered by floodwater
4266 during the regional flood.

4267 d. The flood storage district (FSD) is that area of the floodplain where storage of floodwaters is
4268 calculated to reduce the regional flood discharge.

4269 4. Locating floodplain boundaries. Discrepancies between boundaries on the official floodplain zoning
4270 map and actual field conditions shall be resolved using the criteria in subsections a. or b. below. If a
4271 significant difference exists, the map shall be amended according to section 19.46.080. The zoning
4272 administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit,
4273 whether or not a map amendment is required. The zoning administrator shall be responsible for
4274 documenting actual pre-development field conditions and the basis upon which the district boundary
4275 was determined and for initiating any map amendments required under this section. Disputes between
4276 the zoning administrator and an applicant over the district boundary line shall be settled according to
4277 subsection 19.46.070C.3. and the criteria in a. and b. below.

4278 a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary.
4279 The regional or base flood elevations shall govern if there are any discrepancies.

4280 b. Where flood profiles do not exist, the location of the boundary shall be determined by the map
4281 scale, visual on-site inspection and any information provided by the department.

4282 Note: Where the flood profiles are based on established base flood elevations from a FIRM,
4283 FEMA must also approve any map amendment pursuant to subsection 19.46.080A.6.

4284 5. Removal of lands from floodplain. Compliance with the provisions of this chapter shall not be
4285 grounds for removing land from the floodplain unless it is filled at least two feet above the regional or
4286 base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended
4287 pursuant to section 19.46.080.

4288 Note: This procedure does not remove the requirements for the mandatory purchase of flood
4289 insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

4290 6. Compliance. Any development or use within the areas regulated by this chapter shall be in
4291 compliance with the terms of this chapter, and other applicable local, state, and federal regulations.

4292 7. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages,
4293 towns, and counties are required to comply with this chapter and obtain all necessary permits. State
4294 agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction,
4295 maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation
4296 is exempt when s. 30.2022, Stats., applies.

4297 8. Abrogation and greater restrictions.
4298 a. This chapter supersedes all the provisions of any municipal zoning ordinance enacted under ss.
4299 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
4300 relate to floodplains. If another ordinance is more restrictive than this chapter, that ordinance shall
4301 continue in full force and effect to the extent of the greater restrictions, but not otherwise.
4302 b. This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants
4303 or easements. If this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
4304 9. Interpretation. In their interpretation and application, the provisions of this chapter are the
4305 minimum requirements liberally construed in favor of the governing body and are not a limitation on or
4306 repeal of any other powers granted by the Wisconsin Statutes. If a provision of this chapter, required by
4307 ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in
4308 effect on the date of the adoption of this chapter or in effect on the date of the most recent text
4309 amendment to this chapter.
4310 10. Warning and disclaimer of liability. The flood protection standards in this chapter are based on
4311 engineering experience and scientific research. Larger floods may occur or the flood height may be
4312 increased by man-made or natural causes. This chapter does not imply or guarantee that nonfloodplain
4313 areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this chapter
4314 create liability on the part of, or a cause of action against, the municipality or any officer or employee
4315 thereof for any flood damage that may result from reliance on this chapter.
4316 11. Severability. Should any portion of this chapter be declared unconstitutional or invalid by a court of
4317 competent jurisdiction, the remainder of this chapter shall not be affected.
4318 12. Annexed areas for cities and villages. The Walworth and Jefferson County floodplain zoning
4319 provisions in effect on the date of annexation shall remain in effect and shall be enforced by the
4320 municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets
4321 the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP).
4322 These annexed lands are described on the municipality's official zoning map. County floodplain zoning
4323 provisions are incorporated by reference for the purpose of administering this section and are on file in
4324 the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional
4325 flood elevation and the location of the floodway.
4326 13. General development standards. The community shall review all permit applications to determine
4327 whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a
4328 floodprone area, all new construction and substantial improvements shall be designed or modified and
4329 adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from
4330 hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be
4331 constructed by methods and practices that minimize flood damages; and be constructed with electrical,
4332 heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed
4333 and/or located so as to prevent water from entering or accumulating within the components during
4334 conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All
4335 subdivision proposals (including manufactured home parks) shall include regional flood elevation and
4336 floodway data for any development that meets the subdivision definition of this chapter.
4337 Ord. No. 1724A, § 1(1.0), 4-8-2009; Ord. No. 1741A, § 1, 8-4-2009)
4338
4339 **19.46.020 General standards applicable to all floodplain districts.**
4340 A. Hydraulic and hydrologic analyses.
4341 1. Except as allowed in subsection 3. below, no floodplain development shall:
4342 a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with
4343 other development, increasing regional flood height; or
4344 b. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

4345 2. The zoning administrator shall deny permits if it is determined the proposed development will
4346 obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM
4347 or other adopted map, unless the provisions of subsection 3. are met.

4348 3. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments
4349 are made to this chapter, the official floodplain zoning maps, floodway lines and water surface profiles,
4350 in accordance with section 19.46.080.

4351 Note: This section refers to obstructions or increases in base flood elevations as shown on the
4352 officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by
4353 FEMA and the DNR.

4354 B. Watercourse alterations. No land use permit to alter or relocate a watercourse in a mapped
4355 floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the
4356 department and FEMA regional offices and required the applicant to secure all necessary state and
4357 federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

4358 As soon as is practicable, but not later than six months after the date of the watercourse
4359 alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting
4360 appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise
4361 the FIRM, risk premium rates and floodplain management regulations as required.

4362 C. Chapter 30. 31, Wis. Stats., development. Development which requires a permit from the
4363 department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and
4364 navigational aids, may be allowed if the necessary permits are obtained and amendments to the
4365 floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially
4366 adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according
4367 to section 19.24.080.

4368 D. Public or private campgrounds. Public or private campgrounds shall have a low flood damage
4369 potential and shall meet the following provisions:

4370 1. The campground is approved by the Department of Health and Family Services.

4371 2. A land use permit for the campground is issued by the zoning administrator.

4372 3. The character of the river system and the elevation of the campground is such that a seventy-two-
4373 hour warning of an impending flood can be given to all campground occupants.

4374 4. There is an adequate flood warning procedure for the campground that offers the minimum notice
4375 required under this section to all persons in the campground. This procedure shall include a written
4376 agreement between the campground owner, the municipal emergency government coordinator and the
4377 chief law enforcement official which specifies the flood elevation at which evacuation shall occur,
4378 personnel responsible for monitoring flood elevations, types of warning systems to be used and the
4379 procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the
4380 evacuation.

4381 5. This agreement shall be for no more than one calendar year, at which time the agreement shall be
4382 reviewed and updated - by the officials identified in subsection 4. - to remain in compliance with all
4383 applicable regulations, including those of the state department of health and family services and all
4384 other applicable regulations.

4385 6. Only camping units are allowed.

4386 7. The camping units may not occupy any site in the campground for more than one hundred eighty
4387 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum
4388 of twenty-four hours.

4389 8. All camping units that remain on site for more than thirty days shall be issued a limited authorization
4390 by the campground operator, a written copy of which is kept on file at the campground. Such
4391 authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty
4392 days and shall ensure compliance with all the provisions of this section.

4393 9. The municipality shall monitor the limited authorizations issued by the campground operator to
4394 assure compliance with the terms of this section.

4395 10. All camping units that remain in place for more than one hundred eighty consecutive days must
4396 meet the applicable requirements in either section 19.46.030 or section 19.46.040 for the floodplain
4397 district in which the structure is located.

4398 11. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the
4399 procedures for evacuation when a flood warning is issued.

4400 12. All service facilities, including but not limited to refuse collection, electrical service, natural gas
4401 lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or
4402 floodproofed to the flood protection elevation.

4403 (Ord. No. 1724A, § 1(2.0), 4-8-2009)

4404

4405 **19.46.030 Floodway district (FW).**

4406 A. Applicability. This section applies to all floodway areas on the floodplain zoning maps and those
4407 identified pursuant to subsection 19.46.050A.4.

4408 B. Permitted uses. The following open space uses are allowed in the floodway district and the floodway
4409 areas of the general floodplain district, if

4410 - They are not prohibited by any other ordinance;

4411 - They meet the standards in subsection 19.46.030C. and 19.46.030D.; and

4412 - All permits or certificates have been issued according to subsection 19.46.070A.:

4413 1. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop
4414 harvesting.

4415 2. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport
4416 landing strips.

4417 3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds,
4418 boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries,
4419 shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails,
4420 subject to the fill limitations of subsection 19.46.030C.4.

4421 4. Uses or structures accessory to open space uses, or classified as historic structures that comply with
4422 subsections 19.46.030C. and 19.46.030C.4.

4423 5. Extraction of sand, gravel or other materials that comply with subsection 19.46.030C.4.

4424 6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts,
4425 navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31,
4426 Stats.

4427 7. Public utilities, streets and bridges that comply with subsection 19.46.030C.3.

4428 C. Standards for developments in floodway areas.

4429 1. General.

4430 a. Any development in floodway areas shall comply with section 19.46.020 and have a low flood
4431 damage potential.

4432 b. Applicants shall provide the following data to determine the effects of the proposal according to
4433 subsection 19.46.020A.:

4434 i. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the
4435 proposed development will obstruct flow; or

4436 ii. An analysis calculating the effects of this proposal on regional flood height.

4437 c. The zoning administrator shall deny the permit application if the project will increase flood
4438 elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection b.
4439 above.

- 4440 2. Structures. Structures accessory to permanent open space uses or functionally dependent on a
4441 waterfront location may be allowed by permit if the structures comply with the following criteria:
4442 a. The structure is not designed for human habitation and does not have a high flood damage potential;
4443 b. it must be anchored to resist flotation, collapse and lateral movement;
4444 c. mechanical and utility equipment must be elevated or floodproofed to or above the flood protection
4445 elevation; and
4446 d. it must not obstruct the flow of flood waters or cause any increase in flood levels during the
4447 occurrence of the regional flood.
- 4448 3. Public utilities, streets and bridges. Public utilities, streets and bridges may be allowed by permit, if:
4449 a. Adequate floodproofing measures are provided to the flood protection elevation; and
4450 b. Construction meets the development standards of subsection 19.46.020A.
- 4451 4. Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:
4452 a. The requirements of subsection 19.46.020A. are met;
4453 b. No material is deposited in the navigable channel unless a permit is issued by the Department
4454 pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act,
4455 Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this
4456 section are met;
4457 c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or
4458 bulkheading; and
4459 d. The fill is not classified as a solid or hazardous material.
- 4460 D. Prohibited uses. All uses not listed as permitted uses in subsection 19.46.020B. are prohibited,
4461 including the following uses:
4462 1. Habitable structures, structures with high flood damage potential, or those not associated with
4463 permanent open-space uses;
4464 2. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or
4465 human, animal, plant, fish or other aquatic life;
4466 3. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
4467 4. Any private or public sewage systems, except portable latrines that are removed prior to flooding
4468 and systems associated with recreational areas and Department-approved campgrounds that meet the
4469 applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;
4470 5. Any public or private wells which are used to obtain potable water, except those for recreational
4471 areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
4472 6. Any solid or hazardous waste disposal sites;
4473 7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis.
4474 Adm. Code;
4475 8. Any sanitary sewer or water supply lines, except those to service existing or proposed development
4476 located outside the floodway which complies with the regulations for the floodplain area occupied.
4477 (Ord. No. 1724A, § 1(3.0), 4-8-2009)

4478
4479 **19.46.040 Floodfringe district (FF).**

- 4480 A. Applicability. This section applies to all floodfringe areas shown on the floodplain zoning maps and
4481 those identified pursuant to subsection 19.46.050A.4.
4482 B. Permitted uses. Any structure, land use, or development is allowed in the floodfringe district if the
4483 standards in subsection 19.46.040C. are met, the use is not prohibited by this or any other ordinance or
4484 regulation and all permits or certificates specified in subsection 19.46.070A. have been issued.
4485 C. Standards for development in floodfringe areas. Subsection 19.46.020A. shall apply in addition to the
4486 following requirements according to the use requested.

4487 1. Residential uses. Any habitable structure, including a manufactured home, which is to be erected,
4488 constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the
4489 following standards;
4490 a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood
4491 protection elevation on fill. The fill shall be one foot or more above the regional flood elevation
4492 extending at least fifteen feet beyond the limits of the structure. The department may authorize other
4493 floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical;
4494 b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to
4495 the flood protection elevation. No basement or crawlway floor is allowed below the regional flood
4496 elevation;
4497 c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain,
4498 except as provided in subsection d.
4499 d. In developments where existing street or sewer line elevations make compliance with subsection c.
4500 impractical, the municipality may permit new development and substantial improvements where access
4501 roads are at or below the regional flood elevation, if:
4502 i. The municipality has written assurance from police, fire and emergency services that rescue and
4503 relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
4504 ii. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the
4505 Department.
4506 2. Accessory structures or uses.
4507 a. Except as provided in subsection b., an accessory structure which is not connected to a principal
4508 structure may be constructed with its lowest floor at or above the regional flood elevation.
4509 b. An accessory structure which is not connected to the principal structure and which is less than six
4510 hundred square feet in size and valued at less than \$10,000.00 may be constructed with its lowest floor
4511 no more than two feet below the regional flood elevation if it is subject to flood velocities of no more
4512 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
4513 (5) below.
4514 3. Commercial uses. Any commercial structure which is erected, altered or moved into the floodfringe
4515 area shall meet the requirements of subsection 19.46.040C.1. Subject to the requirements of section
4516 19.46.040C.5., storage yards, surface parking lots and other such uses may be placed at lower elevations
4517 if an adequate warning system exists to protect life and property.
4518 4. Manufacturing and industrial uses. Any manufacturing or industrial structure which is erected,
4519 altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill,
4520 levees, floodwalls, or other floodproofing measures in subsection 19.46.070E. Subject to the
4521 requirements of subsection 19.46.040C.E., storage yards, surface parking lots and other such uses may
4522 be placed at lower elevations if an adequate warning system exists to protect life and property.
4523 5. Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property,
4524 water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection
4525 elevation or floodproofed in compliance with subsection 19.46.070E. Adequate measures shall be taken
4526 to ensure that such materials will not enter the water body during flooding.
4527 6. Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be
4528 compatible with comprehensive floodplain development plans; and
4529 a. When failure of public utilities, streets and bridges would endanger public health or safety, or where
4530 such facilities are deemed essential, construction of and substantial improvements to such facilities may
4531 only be permitted if they are floodproofed in compliance with subsection 19.46.070E. to the flood
4532 protection elevation;
4533 b. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to
4534 withstand flood forces to the regional flood elevation.

- 4535 7. Sewage systems. All on-site sewage disposal systems shall be floodproofed, pursuant to subsection
4536 19.46.070E., to the flood protection elevation and shall meet the provisions of all local ordinances and
4537 ch. COMM 83, Wis. Adm. Code.
- 4538 8. Wells. All wells shall be floodproofed, pursuant to subsection 19.46.070E., to the flood protection
4539 elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- 4540 9. Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- 4541 10. Deposition of materials. Any deposited material must meet all the provisions of this chapter.
- 4542 11. Manufactured homes.
- 4543 a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate
4544 surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan,
4545 indicating vehicular access and escape routes, with local emergency management authorities.
- 4546 b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and
4547 substantially improved homes shall:
- 4548 i. Have the lowest floor elevated to the flood protection elevation; and
- 4549 ii. Be anchored so they do not float, collapse or move laterally during a flood.
- 4550 c. Outside of existing manufactured home parks, including new manufactured home parks and all single
4551 units outside of existing parks, all new, replacement and substantially improved manufactured homes
4552 shall meet the residential development standards for the floodfringe in subsection 19.46.040C.1.
- 4553 12. Mobile recreational vehicles. All mobile recreational vehicles that are on site for one hundred
4554 eighty consecutive days or more or are not fully licensed and ready for highway use shall meet the
4555 elevation and anchoring requirements in subsections 19.46.040C.11.b. and c. A mobile recreational
4556 vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by
4557 quick-disconnect utilities and security devices and has no permanently attached additions.
4558 (Ord. No. 1724A, § 1(4.0), 4-8-2009)

4559

4560 **19.46.050 Other floodplain districts.**

4561 Other floodplain districts may be established under the ordinance and reflected on the
4562 floodplain zoning map. These districts may include general floodplain districts and flood storage
4563 districts.

4564 A. General floodplain district (GFP).

4565 1. Applicability. The provisions for this district shall apply to all floodplains for which flood profiles are
4566 not available or where flood profiles are available but floodways have not been delineated. Floodway
4567 and floodfringe districts shall be delineated when adequate data is available.

4568 2. Permitted uses. Pursuant to subsection 19.46.050A.4., it shall be determined whether the proposed
4569 use is located within a floodway or floodfringe area. Those uses permitted in floodway (subsection
4570 19.46.030B.) and floodfringe areas (subsection 19.46.040B) are allowed within the general floodplain
4571 district, according to the standards of subsection 19.46.050C., provided that all permits or certificates
4572 required under subsection 19.46.070A. have been issued.

4573 3. Standards for development in the general floodplain district. Section 19.46.030 applies to floodway
4574 areas, section 19.46.040 applies to floodfringe areas. The rest of this chapter applies to either district.

4575 4. Determining floodway and floodfringe limits. Upon receiving an application for development within
4576 the general floodplain district, the zoning administrator shall:

4577 a. Require the applicant to submit two copies of an aerial photograph or a plan which shows the
4578 proposed development with respect to the general floodplain district limits, stream channel, and
4579 existing floodplain developments, along with a legal description of the property, fill limits and
4580 elevations, building floor elevations and floodproofing measures;

4581 b. Require the applicant to furnish any of the following information deemed necessary by the
4582 department to evaluate the effects of the proposal upon flood height and flood flows, regional flood
4583 elevation and to determine floodway boundaries:
4584 i. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the
4585 channel, the cross-sectional area to be occupied by the proposed development, and all historic high
4586 water information;
4587 ii. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage
4588 elevations; size, location and layout of all proposed and existing structures on the site; location and
4589 elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
4590 iii. Profile showing the slope of the bottom of the channel or flow line of the stream;
4591 iv. Specifications for building construction and materials, floodproofing, filling, dredging, channel
4592 improvement, storage, water supply and sanitary facilities.
4593 c. Transmit one copy of the information described in subsections 1. and 2. to the department regional
4594 office along with a written request for technical assistance to establish regional flood elevations and,
4595 where applicable, floodway data. Where the provisions of subsection 19.46.070A.2.c. apply, the
4596 applicant shall provide all required information and computations to delineate floodway boundaries and
4597 the effects of the project on flood elevations.
4598 B. Flood storage district. The flood storage district delineates that portion of the floodplain where
4599 storage of floodwaters has been taken into account and is relied upon to reduce the regional flood
4600 discharge. The district protects the flood storage areas and assures that any development in the storage
4601 areas will not decrease the effective flood storage capacity which would cause higher flood elevations.
4602 1. Applicability. The provisions of this section apply to all areas within the flood storage district (FSD),
4603 as shown on the official floodplain zoning maps.
4604 2. Permitted uses. Any use or development which occurs in a flood storage district must meet the
4605 applicable requirements in subsection 19.46.040C.
4606 3. Standards for development in flood storage districts.
4607 a. Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a
4608 foot in the height of the regional flood.
4609 b. No development shall be allowed which removes flood storage volume unless an equal volume of
4610 storage as defined by the pre-development ground surface and the regional flood elevation shall be
4611 provided in the immediate area of the proposed development to compensate for the volume of storage
4612 which is lost, (compensatory storage). Excavation below the groundwater table is not considered to
4613 provide an equal volume of storage.
4614 c. If compensatory storage cannot be provided, the area may not be developed unless the entire area
4615 zoned as flood storage district - on this waterway - is rezoned to the floodfringe district. This must
4616 include a revision to the floodplain study and map done for the waterway to revert to the higher
4617 regional flood discharge calculated without flood plain storage, as per section 19.46.080A. of this
4618 chapter.
4619 d. No area may be removed from the flood storage district unless it can be shown that the area has
4620 been filled to the flood protection elevation and is contiguous to other lands lying outside of the
4621 floodplain.
4622 (Ord. No. 1724A, § 1(5.0), 4-8-2009)

4623
4624 **19.46.060 Nonconforming uses.**

4625 A. General.

4626 1. Applicability. If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h),
4627 Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use

4628 or structure and to the use of any structure or premises which was lawful before the passage of this
4629 chapter or any amendment thereto.

4630 2. The existing lawful use of a structure or its accessory use which is not in conformity with the
4631 provisions of this chapter may continue subject to the following conditions:

4632 a. No modifications or additions to a nonconforming use or structure shall be permitted unless they
4633 comply with this chapter. The words "modification" and "addition" include, but are not limited to, any
4634 alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use,
4635 structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension,
4636 modification or addition; these include painting, decorating, paneling and the replacement of doors,
4637 windows and other nonstructural components and the maintenance, repair or replacement of existing
4638 private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs
4639 do not include any costs associated with the repair of a damaged structure.

4640 The construction of a deck that does not exceed two hundred square feet and that is adjacent to
4641 the exterior wall of a principal structure is not an extension, modification or addition. The roof of the
4642 structure may extend over a portion of the deck in order to provide safe ingress and egress to the
4643 principal structure.

4644 b. If a nonconforming use or the use of a nonconforming structure is discontinued for twelve
4645 consecutive months, it is no longer permitted and any future use of the property, and any structure or
4646 building thereon, shall conform to the applicable requirements of this chapter;

4647 c. The municipality shall keep a record which lists all nonconforming uses and nonconforming
4648 structures, their present equalized assessed value, the cost of all modifications or additions which have
4649 been permitted, and the percentage of the structure's total current value those modifications represent;

4650 d. No modification or addition to any nonconforming structure or any structure with a nonconforming
4651 use, which over the life of the structure would equal or exceed fifty percent of its present equalized
4652 assessed value, shall be allowed unless the entire structure is permanently changed to a conforming
4653 structure with a conforming use in compliance with the applicable requirements of this chapter.
4654 Contiguous dry land access must be provided for residential and commercial uses in compliance with
4655 subsection 19.46.040C.1. The costs of elevating a nonconforming building or a building with a
4656 nonconforming use to the flood protection elevation are excluded from the fifty percent provisions of
4657 this subsection;

4658 e. i. Except as provided in subsection ii., if any nonconforming structure or any structure with a
4659 nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or
4660 rebuilt unless the use and the structure meet the current ordinance requirements. A structure is
4661 considered substantially damaged if the total cost to restore the structure to its pre-damaged condition
4662 equals or exceeds fifty percent of the structure's present equalized assessed value.

4663 ii. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or
4664 reconstruction of any such nonconforming building may be permitted in order to restore it after the
4665 nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements
4666 under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

4667 f. A nonconforming historic structure may be altered if the alteration will not preclude the structures
4668 continued designation as a historic structure, the alteration will comply with subsection 19.46.030C.1.,
4669 flood resistant materials are used, and construction practices and floodproofing methods that comply
4670 with subsection 19.46.070E. are used.

4671 B. Floodway areas.

4672 1. No modification or addition shall be allowed to any nonconforming structure or any structure with a
4673 nonconforming use in a floodway area, unless such modification or addition:

4674 a. Has been granted a permit or variance which meets all ordinance requirements;

4675 b. Meets the requirements of 19.46.060A.;

4676 c. Will not increase the obstruction to flood flows or regional flood height;
4677 d. Any addition to the existing structure shall be floodproofed, pursuant to subsection 19.46.070E., by
4678 means other than the use of fill, to the flood protection elevation;
4679 e. If any part of the foundation below the flood protection elevation is enclosed, the following
4680 standards shall apply:
4681 i. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient
4682 entry and exit of flood waters without human intervention. A minimum of two openings must be
4683 provided with a minimum net area of at least one square inch for every one square foot of the enclosed
4684 area. The lowest part of the opening can be no more than twelve inches above the adjacent grade;
4685 ii. The parts of the foundation located below the flood protection elevation must be constructed of
4686 flood-resistant materials;
4687 iii. Mechanical and utility equipment must be elevated or floodproofed to or above the flood
4688 protection elevation; and
4689 iv. The use must be limited to parking or limited storage.
4690 2. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system,
4691 except where an addition has been ordered by a government agency to correct a hazard to public
4692 health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-
4693 site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal
4694 ordinances and ch. COMM 83, Wis. Adm. Code.
4695 3. No new well or modification to an existing well used to obtain potable water shall be allowed in a
4696 floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet
4697 the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
4698 C. Floodfringe areas.
4699 1. No modification or addition shall be allowed to any nonconforming structure or any structure with a
4700 nonconforming use unless such modification or addition has been granted a permit or variance by the
4701 municipality, and the modification or addition shall be placed on fill or floodproofed to the flood
4702 protection elevation in compliance with the standards for that particular use in subsections 19.46.040C
4703 and 19.46.070E., except where subsection 19.46.060C.2. is applicable.
4704 2. Where compliance with the provisions of subsection 1. would result in unnecessary hardship and
4705 only where the structure will not be used for human habitation or be associated with a high flood
4706 damage potential, the board of adjustment/appeals, using the procedures established in subsection
4707 19.46.070C., may grant a variance from those provisions of subsection 1. for modifications or additions,
4708 using the criteria listed below. Modifications or additions which are protected to elevations lower than
4709 the flood protection elevation may be permitted if:
4710 a. No floor is allowed below the regional flood elevation for residential or commercial structures;
4711 b. Human lives are not endangered;
4712 c. Public facilities, such as water or sewer, will not be installed;
4713 d. Flood depths will not exceed two feet;
4714 e. Flood velocities will not exceed two feet per second; and
4715 f. The structure will not be used for storage of materials as described in subsection 19.46.040.6.
4716 3. If neither the provisions of subsection 1. or 2. above can be met, one addition to an existing room in
4717 a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if
4718 the addition:
4719 a. Meets all other regulations and will be granted by permit or variance;
4720 b. Does not exceed sixty square feet in area; and
4721 c. In combination with other previous modifications or additions to the building, does not equal or
4722 exceed fifty percent of the present equalized assessed value of the building.

- 4723 4. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a
4724 private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch.
4725 COMM 83, Wis. Adm. Code.
- 4726 5. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable
4727 provisions of this chapter and ch. NR 811 and NR 812, Wis. Adm. Code.
- 4728 D. Flood storage areas. No modifications or additions shall be allowed to any nonconforming structure
4729 in a flood storage area unless the standards outlined in 5.2(3) are met.
4730 (Ord. No. 1724A, § 1(6.0), 4-8-2009)

4731

4732 **19.46.070 Administration.**

4733 Where a zoning administrator, planning agency or a board of adjustment/appeals has already
4734 been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats.,
4735 these officials shall also administer this chapter.

4736 A. Zoning administrator.

4737 1. The zoning administrator is authorized to administer this chapter and shall have the following duties
4738 and powers:

4739 a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals,
4740 and assure that the regional flood elevation for the proposed development is shown on all permit
4741 applications.

4742 b. Issue permits and inspect properties for compliance with provisions of this chapter, and issue
4743 certificates of compliance where appropriate.

4744 c. Inspect all damaged floodplain structures and perform a substantial damage assessment to
4745 determine if substantial damage to the structures has occurred.

4746 d. Keep records of all official actions such as:

4747 i. All permits issued, inspections made, and work approved;

4748 ii. Documentation of certified lowest floor and regional flood elevations for floodplain development;

4749 iii. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and
4750 structures including changes, appeals, variances and amendments.

4751 iv. All substantial damage assessment reports for floodplain structures.

4752 e. Submit copies of the following items to the department regional office:

4753 i. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text
4754 interpretations, and map or text amendments;

4755 ii. Copies of any case-by-case analyses, and any other information required by the department
4756 including an annual summary of the number and types of floodplain zoning actions taken.

4757 iii. Copies of substantial damage assessments performed and all related correspondence concerning
4758 the assessments.

4759 iv. Investigate, prepare reports, and report violations of this chapter to the municipal zoning agency
4760 and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.

4761 g. Submit copies of text and map amendments and biennial reports to the FEMA regional office.

4762 2. Land use permit. A land use permit shall be obtained before any new development or any repair or
4763 change in the use of a building or structure, including sewer and water facilities, may be initiated.
4764 Application to the zoning administrator shall include:

4765 a. General information.

4766 i. Name and address of the applicant, property owner and contractor;

4767 ii. Legal description, proposed use, and whether it is new construction or a modification;

4768 b. Site development plan. A site plan drawn to scale shall be submitted with the permit application
4769 form and shall contain:

4770 i. Location, dimensions, area and elevation of the lot;

- 4771 ii. Location of the ordinary highwater mark of any abutting navigable waterways;
4772 iii. Location of any structures with distances measured from the lot lines and street center lines;
4773 iv. Location of any existing or proposed on-site sewage systems or private water supply systems;
4774 v. Location and elevation of existing or future access roads;
4775 vi. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
4776 vii. The elevation of the lowest floor of proposed buildings and any fill using vertical datum from the
4777 adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum
4778 (NAVD);
4779 viii. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the
4780 development and to determine whether or not the requirements of sections 19.46.030 or 19.46.040 are
4781 met; and
4782 ix. Data to determine if the proposed development will cause an obstruction to flow or an increase in
4783 regional flood height or discharge according to subsection 19.46.020A. This may include any of the
4784 information noted in subsection 19.46.030C.1.
- 4785 c. Data requirements to analyze developments.
- 4786 i. The applicant shall provide all survey data and computations required to show the effects of the
4787 project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision"
4788 is defined in s. 236, Stats., and other proposed developments exceeding five acres in area or where the
4789 estimated cost exceeds \$125,000.00. The applicant shall provide:
- 4790 (A) An analysis of the effect of the development on the regional flood profile, velocity of flow and
4791 floodplain storage capacity;
4792 (B) A map showing location and details of vehicular access to lands outside the floodplain; and
4793 (C) A surface drainage plan showing how flood damage will be minimized.
- 4794 The estimated cost of the proposal shall include all structural development, landscaping, access
4795 and road development, utilities, and other pertinent items, but need not include land costs.
- 4796 d. Expiration. All permits issued under the authority of this chapter shall expire three hundred sixty-five
4797 days after issuance.
- 4798 3. Certificate of compliance. No land shall be occupied or used, and no building which is hereafter
4799 constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a
4800 certificate of compliance is issued by the zoning administrator, except where no permit is required,
4801 subject to the following provisions:
- 4802 a. The certificate of compliance shall show that the building or premises or part thereof, and the
4803 proposed use, conform to the provisions of this chapter;
4804 b. Application for such certificate shall be concurrent with the application for a permit;
4805 c. If all ordinance provisions are met, the certificate of compliance shall be issued within ten days after
4806 written notification that the permitted work is completed;
4807 d. The applicant shall submit a certification signed by a registered professional engineer or registered
4808 land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit
4809 issued. Floodproofing measures also require certification by a registered professional engineer or
4810 registered architect that floodproofing measures meet the requirements of subsection 19.46.070E.
- 4811 4. Other permits. The applicant must secure all necessary permits from federal, state, and local
4812 agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal
4813 Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.
- 4814 B. Zoning agency.
- 4815 1. The City of Whitewater Plan and Architectural review commission shall:
- 4816 a. Oversee the functions of the office of the zoning administrator; and
4817 b. Review and advise the governing body on all proposed amendments to this chapter, maps and text.
- 4818 2. This zoning agency shall not:

4819 a. Grant variances to the terms of the ordinance in place of action by the board of adjustment/appeals;
4820 or
4821 b. Amend the text or zoning maps in place of official action by the governing body.
4822 C. Board of adjustment/appeals. The board of adjustment/appeals, created under s. 59.694, Stats., for
4823 counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act
4824 for the purposes of this chapter. The board shall exercise the powers conferred by Wisconsin Statutes
4825 and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the
4826 board.

4827 1. Powers and duties. The board of adjustment/appeals shall:

4828 a. Appeals -- Hear and decide appeals where it is alleged there is an error in any order, requirement,
4829 decision or determination made by an administrative official in the enforcement or administration of
4830 this chapter.

4831 b. Boundary disputes -- Hear and decide disputes concerning the district boundaries shown on the
4832 official floodplain zoning map.

4833 c. Variances -- Hear and decide, upon appeal, variances from the ordinance standards.

4834 2. Appeals to the board.

4835 a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the
4836 municipality affected by any decision of the zoning administrator or other administrative officer. Such
4837 appeal shall be taken within thirty days unless otherwise provided by the rules of the board, by filing
4838 with the official whose decision is in question, and with the board, a notice of appeal specifying the
4839 reasons for the appeal. The official whose decision is in question shall transmit to the board all records
4840 regarding the matter appealed.

4841 b. Notice and hearing for appeals including variances.

4842 i. Notice -- The board shall:

4843 (A) Fix a reasonable time for the hearing;

4844 (B) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and
4845 subject of the hearing;

4846 (C) Assure that notice shall be mailed to the parties in interest and the department regional office at
4847 least ten days in advance of the hearing.

4848 ii. Hearing -- Any party may appear in person or by agent. The board shall:

4849 (A) Resolve boundary disputes according to subsection 19.46.070C.3.

4850 (B) Decide variance applications according to subsection 19.46.070C.4.

4851 (C) Decide appeals of permit denials according to subsection 19.46.070D.

4852 c. Decision: The final decision regarding the appeal or variance application shall:

4853 i. Be made within a reasonable time;

4854 ii. Be sent to the department regional office within ten days of the decision;

4855 ii. Be a written determination signed by the chairman or secretary of the board;

4856 iv. State the specific facts which are the basis for the board's decision;

4857 v. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in
4858 whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

4859 vi. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in
4860 the case of a variance, clearly stated in the recorded minutes of the board proceedings.

4861 3. Boundary disputes. The following procedure shall be used by the board in hearing disputes
4862 concerning floodplain district boundaries:

4863 a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the
4864 flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be
4865 examined.

4866 b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to
4867 present arguments and technical evidence to the board.

4868 c. If the boundary is incorrectly mapped, the board should inform the zoning committee or the person
4869 contesting the boundary location to petition the governing body for a map amendment according to
4870 section 19.46.080.

4871 4. Variance.

4872 a. The board may, upon appeal, grant a variance from the standards of this chapter if an applicant
4873 convincingly demonstrates that:

4874 i. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
4875 ii. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not
4876 common to adjacent lots or premises. In such case the ordinance or map must be amended;
4877 ii. The variance is not contrary to the public interest; and
4878 iv. The variance is consistent with the purpose of this chapter in subsection 19.46.010C.

4879 b. In addition to the criteria in subsection a., to qualify for a variance under FEMA regulations, the
4880 following criteria must be met:

4881 i. The variance may not cause any increase in the regional flood elevation;
4882 ii. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing
4883 structures constructed below the RFE;
4884 iii. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum
4885 relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for
4886 rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

4887 c. A variance shall not:

4888 i. Grant, extend or increase any use prohibited in the zoning district.
4889 ii. Be granted for a hardship based solely on an economic gain or loss.
4890 iii. Be granted for a hardship which is self-created.
4891 iv. Damage the rights or property values of other persons in the area.
4892 v. Allow actions without the amendments to this chapter or map(s) required in subsection 19.46.090A.
4893 vi. Allow any alteration of an historic structure, including its use, which would preclude its continued
4894 designation as an historic structure.

4895 d. When a floodplain variance is granted the board shall notify the applicant in writing that it may
4896 increase flood insurance premiums and risks to life and property. A copy shall be maintained with the
4897 variance record.

4898 (D) To review appeals of permit denials.

4899 1. The zoning agency (s. 7.2) or board shall review all data related to the appeal. This may include:

4900 a. Permit application data listed in subsection 19.46.070A.2.
4901 b. Floodway/floodfringe determination data in subsection 19.46.050A.4.
4902 c. Data listed in subsection 19.46.030C.1.b. where the applicant has not submitted this information to
4903 the zoning administrator.
4904 d. Other data submitted with the application, or submitted to the board with the appeal.

4905 2. For appeals of all denied permits the board shall:

4906 a. Follow the procedures of subsection 19.46.010C.;;
4907 b. Consider zoning agency recommendations; and
4908 c. Either uphold the denial or grant the appeal.

4909 3. For appeals concerning increases in regional flood elevation the board shall:

4910 a. Uphold the denial where the board agrees with the data showing an increase in flood elevation.
4911 Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and
4912 map and all appropriate legal arrangements are made with all adversely affected property owners.

- 4913 b. Grant the appeal where the board agrees that the data properly demonstrates that the project does
4914 not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
4915 E. Floodproofing.
4916 1. No permit or variance shall be issued until the applicant submits a plan certified by a registered
4917 professional engineer or architect that the floodproofing measures will protect the structure or
4918 development to the flood protection elevation.
4919 2. Floodproofing measures shall be designed to:
4920 a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood
4921 factors;
4922 b. Protect structures to the flood protection elevation;
4923 c. Anchor structures to foundations to resist flotation and lateral movement; and
4924 d. Insure that structural walls and floors are watertight to the flood protection elevation, and the
4925 interior remains completely dry during flooding without human intervention.
4926 3. Floodproofing measures could include:
4927 a. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
4928 b. Adding mass or weight to prevent flotation.
4929 c. Placing essential utilities above the flood protection elevation.
4930 d. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor
4931 pressures.
4932 e. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
4933 f. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.
4934 F. Public information.
4935 1. Place marks on structures to show the depth of inundation during the regional flood.
4936 2. All maps, engineering data and regulations shall be available and widely distributed.
4937 3. All real estate transfers should show what floodplain zoning district any real property is in.
4938 (Ord. No. 1724A, § 1(7.0), 4-8-2009)

4939

4940 **19.46.080 Amendments.**

- 4941 A. General. The governing body may change or supplement the floodplain zoning district boundaries
4942 and this chapter in the manner provided by law. Actions which require an amendment include, but are
4943 not limited to, the following:
4944 1. Any change to the official floodplain zoning map, including the floodway line or boundary of any
4945 floodplain area.
4946 2. Correction of discrepancies between the water surface profiles and floodplain zoning maps.
4947 3. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood
4948 protection elevation and is contiguous to land lying outside the floodplain.
4949 4. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or
4950 more.
4951 5. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or
4952 otherwise required by law, or for changes by the municipality.
4953 6. All channel relocations and changes to the maps to alter floodway lines or to remove an area from
4954 the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior
4955 approval by FEMA.

4956 Note: Consult the FEMA web site -- www.fema.gov -- for the map change fee schedule.

- 4957 B. Procedures. Ordinance amendments may be made upon petition of any interested party according
4958 to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions
4959 shall include all necessary data required by subsections 19.46.050A.4. and 19.46.070A.2.

- 4960 1. The proposed amendment shall be referred to the zoning agency for a public hearing and
4961 recommendation to the governing body. The amendment and notice of public hearing shall be
4962 submitted to the department regional office for review prior to the hearing. The amendment procedure
4963 shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
4964 2. No amendments shall become effective until reviewed and approved by the department.
4965 3. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height
4966 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all
4967 adversely affected property owners and notify local units of government before the amendment can be
4968 approved by the governing body.
4969 4. For amendments in areas with no water surface profiles, the zoning agency or board shall consider
4970 data submitted by the department, the zoning administrator's visual on-site inspections and other
4971 available information. (See subsection 19.46.010E.4.)
4972 (Ord. No. 1724A, § 1(8.0), 4-8-2009)
4973

4974 **19.46.090 Enforcement and penalties.**

4975 Any violation of the provisions of this chapter by any person shall be unlawful and shall be
4976 referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall,
4977 upon conviction, forfeit to the municipality a penalty of not less than \$200.00 and not more than
4978 \$300.00, together with a taxable cost of such action. Each day of continued violation shall constitute a
4979 separate offense. Every violation of this chapter is a public nuisance and the creation may be enjoined
4980 and the maintenance may be abated by action at suit of the municipality, the state, or any citizen
4981 thereof pursuant to s. 87.30, Stats. (I BELIEVE WE DECIDED TO LEAVE THIS AS IS)
4982 (Ord. No. 1724A, § 1(9.0), 4-8-2009)
4983

4984 **19.46.100 Definitions.**

4985 Unless specifically defined, words and phrases in this chapter shall have their common law
4986 meaning and shall be applied in accordance with their common usage. Words used in the present tense
4987 include the future, the singular number includes the plural and the plural number includes the singular.
4988 The word "may" is permissive, "shall" is mandatory and is not discretionary.

- 4989 1) "A Zones" means those areas shown on the official floodplain zoning map which would be inundated
4990 by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may
4991 not be reflective of flood profiles, depending on the availability of data for a given area.
4992 2) "Accessory structure or use" means a facility, structure, building or use which is accessory or
4993 incidental to the principal use of a property, structure or building.
4994 3) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any
4995 given year, as published by FEMA as part of a FIS and depicted on a FIRM.
4996 4) "Basement" means any enclosed area of a building having its floor sub-grade, i.e., below ground
4997 level, on all sides.
4998 5) "Building." See Structure.
4999 6) "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by
5000 a municipal ordinance and approved by the department pursuant to s. 30.11, Stats., and which allows
5001 limited filling between this bulkhead line and the original ordinary highwater mark, except where such
5002 filling is prohibited by the floodway provisions of this chapter.
5003 7) "Campground" means any parcel of land which is designed, maintained, intended or used for the
5004 purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is
5005 advertised or represented as a camping area.

5006 8) "Camping unit" means any portable device, no more than four hundred square feet in area, used as
5007 a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck,
5008 tent or other mobile recreational vehicle.

5009 9) "Certificate of compliance" means a certification that the construction and the use of land or a
5010 building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions
5011 of this chapter.

5012 10) "Channel" means a natural or artificial watercourse with definite bed and banks to confine and
5013 conduct normal flow of water.

5014 11) "Crawlways" or "crawl space" means an enclosed area below the first usable floor of a building,
5015 generally less than five feet in height, used for access to plumbing and electrical utilities.

5016 12) "Deck" means an unenclosed exterior structure that has no roof or sides, but has a permeable floor
5017 which allows the infiltration of precipitation.

5018 13) "Department" means the Wisconsin Department of Natural Resources.

5019 14) "Development" means any artificial change to improved or unimproved real estate, including, but
5020 not limited to, the construction of buildings, structures or accessory structures; the construction of
5021 additions or alterations to buildings, structures or accessory structures; the repair of any damaged
5022 structure or the improvement or renovation of any structure, regardless of percentage of damage or
5023 improvement; the placement of buildings or structures; subdivision layout and site preparation; mining,
5024 dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction
5025 of materials or equipment; and the installation, repair or removal of public or private sewage disposal
5026 systems or water supply facilities.

5027 15) "Dryland access" means a vehicular access route which is above the regional flood elevation and
5028 which connects land located in the floodplain to land outside the floodplain, such as a road with its
5029 surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

5030 16) "Encroachment" means any fill, structure, equipment, building, use or development in the
5031 floodway.

5032 17) "Existing manufactured home park or subdivision" means a parcel of land, divided into two or more
5033 manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is
5034 completed before the effective date of this chapter. At a minimum, this would include the installation of
5035 utilities, the construction of streets and either final site grading or the pouring of concrete pads.

5036 18) "Expansion to existing mobile/manufactured home park" means the preparation of additional sites
5037 by the construction of facilities for servicing the lots on which the manufactured homes are to be
5038 affixed. This includes installation of utilities, construction of streets and either final site grading, or the
5039 pouring of concrete pads.

5040 19) "Federal Emergency Management Agency (FEMA)" means the federal agency that administers the
5041 National Flood Insurance Program.

5042 20) "Flood insurance rate map" (FIRM) means a map of a community on which the Federal Insurance
5043 Administration has delineated both special flood hazard areas (the floodplain) and the risk premium
5044 zones applicable to the community. This map can only be amended by the Federal Emergency
5045 Management Agency.

5046 21) "Flood" or "flooding" means A general and temporary condition of partial or complete inundation
5047 of normally dry land areas caused by one of the following conditions:
5048 The overflow or rise of inland waters,
5049 The rapid accumulation or runoff of surface waters from any source,
5050 The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the
5051 shore of Lake Michigan or Lake Superior, or

5052 The sudden increase caused by an unusually high water level in a natural body of water, accompanied by
5053 a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual
5054 event.

5055 22) "Flood frequency" means the probability of a flood occurrence which is determined from statistical
5056 analyses. The frequency of a particular flood event is usually expressed as occurring, on the average,
5057 once in a specified number of years or as a percent (%) chance of occurring in any given year.

5058 23) "Floodfringe" means that portion of the floodplain outside of the floodway which is covered by
5059 flood waters during the regional flood and associated with standing water rather than flowing water.

5060 24) "Flood hazard boundary map" means a map designating approximate flood hazard areas. Flood
5061 hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional
5062 flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National
5063 Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate
5064 Map.

5065 25) "Flood insurance study" means a technical engineering examination, evaluation, and determination
5066 of the local flood hazard areas. It provides maps designating those areas affected by the regional flood
5067 and provides both flood insurance rate zones and base flood elevations and may provide floodway lines.
5068 The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate
5069 Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the
5070 insurance aspects of the National Flood Insurance Program.

5071 26) "Floodplain" means land which has been or may be covered by flood water during the regional
5072 flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas
5073 for regulatory purposes.

5074 27) "Floodplain island" means a natural geologic land formation within the floodplain that is
5075 surrounded, but not covered, by floodwater during the regional flood.

5076 28) "Floodplain management" means policy and procedures to insure wise use of floodplains, including
5077 mapping and engineering, mitigation, education, and administration and enforcement of floodplain
5078 regulations.

5079 29) "Flood profile" means a graph or a longitudinal profile line showing the relationship of the water
5080 surface elevation of a flood event to locations of land surface elevations along a stream or river.

5081 30) "Floodproofing" means any combination of structural provisions, changes or adjustments to
5082 properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for
5083 the purpose of reducing or eliminating flood damage.

5084 31) "Flood protection elevation" means an elevation of two feet of freeboard above the water surface
5085 profile elevation designated for the regional flood. (Also see: Freeboard.)

5086 32) "Flood storage" means those floodplain areas where storage of floodwaters has been taken into
5087 account during analysis in reducing the regional flood discharge.

5088 33) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining
5089 the channel required to carry the regional flood discharge.

5090 34) "Freeboard" means a safety factor expressed in terms of a specified number of feet above a
5091 calculated flood level. Freeboard compensates for any factors that cause flood heights greater than
5092 those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings
5093 and floodways, the effects of watershed urbanization, loss of flood storage areas due to development
5094 and aggregation of the river or stream bed.

5095 35) "Habitable structure" means any structure or portion thereof used or designed for human
5096 habitation.

5097 36) "Hearing notice" means publication or posting meeting the requirements of Ch. 985, Stats. For
5098 appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required.
5099 For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week

5100 consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may
5101 require additional notice, exceeding these minimums.

5102 37) "High flood damage potential" means damage that could result from flooding that includes any
5103 danger to life or health or any significant economic loss to a structure or building and its contents.

5104 38) "Historic structure" means any structure that is either:

5105 Listed individually in the National Register of Historic Places or preliminarily determined by the
5106 Secretary of the Interior as meeting the requirements for individual listing on the National Register,
5107 Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical
5108 significance of a registered historic district or a district preliminarily determined by the Secretary to
5109 qualify as a registered historic district,

5110 Individually listed on a state inventory of historic places in states with historic preservation programs
5111 which have been approved by the Secretary of the Interior, or

5112 Individually listed on a local inventory of historic places in communities with historic preservation
5113 programs that have been certified either by an approved state program, as determined by the Secretary
5114 of the Interior; or by the Secretary of the Interior in states without approved programs.

5115 39) "Increase in regional flood height" means a calculated upward rise in the regional flood elevation,
5116 equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed
5117 conditions which is directly attributable to development in the floodplain but not attributable to
5118 manipulation of mathematical variables such as roughness factors, expansion and contraction
5119 coefficients and discharge.

5120 40) "Land use" means any nonstructural use made of unimproved or improved real estate. (Also see
5121 development.)

5122 41) "Manufactured home" means a structure transportable in one or more sections, which is built on a
5123 permanent chassis and is designed to be used with or without a permanent foundation when connected
5124 to required utilities. The term "manufactured home" includes a mobile home but does not include a
5125 "mobile recreational vehicle."

5126 42) "Mobile recreational vehicle" means a vehicle which is built on a single chassis, four hundred
5127 square feet or less when measured at the largest horizontal projection, designed to be self-propelled,
5128 carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if
5129 registration is required and is designed primarily not for use as a permanent dwelling, but as temporary
5130 living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or
5131 carried onto a parcel of land, but do not remain capable of being towed or carried, including park model
5132 homes, do not fall within the definition of "mobile recreational vehicles."

5133 43) "Municipality" or "municipal" means the county, city or village governmental units enacting,
5134 administering and enforcing this zoning ordinance.

5135 44) "NAVD" or "North American Vertical Datum" means Elevations referenced to mean sea level
5136 datum, 1988 adjustment.

5137 45) "NGVD" or "National Geodetic Vertical Datum" means Elevations referenced to mean sea level
5138 datum, 1929 adjustment.

5139 46) "New construction" means for floodplain management purposes, "new construction" means
5140 structures for which the start of construction commenced on or after the effective date of floodplain
5141 zoning regulations adopted by this community and includes any subsequent improvements to such
5142 structures. For the purpose of determining flood insurance rates, it includes any structures for which the
5143 "start of construction" commenced on or after the effective date of an initial FIRM or after December
5144 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

5145 47) "Nonconforming structure" means an existing lawful structure or building which is not in
5146 conformity with the dimensional or structural requirements of this chapter for the area of the floodplain
5147 which it occupies. (For example, an existing residential structure in the floodfringe district is a

5148 conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure
5149 is nonconforming.)

5150 48) "Nonconforming use" means an existing lawful use or accessory use of a structure or building which
5151 is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies.
5152 (Such as a residence in the floodway.)

5153 49) "Obstruction to flow" means any development which blocks the conveyance of floodwaters such
5154 that this development alone or together with any future development will cause an increase in regional
5155 flood height.

5156 50) "Official floodplain zoning map" means that map, adopted and made part of this chapter, as
5157 described in subsection 19.46.010E.2., which has been approved by the department and FEMA.

5158 51) "Open space use" means those uses having a relatively low flood damage potential and not
5159 involving structures.

5160 52) "Ordinary highwater mark" means the point on the bank or shore up to which the presence and
5161 action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or
5162 prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized
5163 characteristic.

5164 53) "Person" means an individual, or group of individuals, corporation, partnership, association,
5165 municipality or state agency.

5166 54) "Private sewage system" means a sewage treatment and disposal system serving one structure
5167 with a septic tank and soil absorption field located on the same parcel as the structure. It also means an
5168 alternative sewage system approved by the Department of Commerce, including a substitute for the
5169 septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system
5170 located on a different parcel than the structure.

5171 55) "Public utilities" means those utilities using underground or overhead transmission lines such as
5172 electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer
5173 and storm sewer.

5174 56) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage
5175 structures to be removed from the special flood hazard area and that any subsurface waters related to
5176 the base flood will not damage existing or proposed buildings.

5177 57) "Regional flood" means a flood determined to be representative of large floods known to have
5178 occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or
5179 exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

5180 58) "Start of construction" means the date the building permit was issued, provided the actual start of
5181 construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was
5182 within one hundred eighty days of the permit date. The actual start means either the first placement of
5183 permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the
5184 construction of columns, or any work beyond initial excavation, or the placement of a manufactured
5185 home on a foundation. Permanent construction does not include land preparation, such as clearing,
5186 grading and filling, nor does it include the installation of streets and/or walkways, nor does it include
5187 excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does
5188 it include the installation on the property of accessory buildings, such as garages or sheds not occupied
5189 as dwelling units or not part of the main structure. For an alteration, the actual start of construction
5190 means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not
5191 that alteration affects the external dimensions of the building.

5192 59) "Structure" means any manmade object with form, shape and utility, either permanently or
5193 temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not
5194 limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

5195 60) "Subdivision" means has the meaning given in s. 236.02(12), Wis. Stats.

- 5196 61) "Substantial damage" means damage of any origin sustained by a structure, whereby the cost of
 5197 restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the
 5198 equalized assessed value of the structure before the damage occurred.
 5199 62) "Unnecessary hardship" means where special conditions affecting a particular property, which
 5200 were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage,
 5201 height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
 5202 63) "Variance" means an authorization by the board of adjustment or appeals for the construction or
 5203 maintenance of a building or structure in a manner which is inconsistent with dimensional standards
 5204 (not uses) contained in the floodplain zoning ordinance.
 5205 64) "Violation" means the failure of a structure or other development to be fully compliant with the
 5206 floodplain zoning ordinance. A structure or other development without required permits, lowest floor
 5207 elevation documentation, floodproofing certificates or required floodway encroachment calculations is
 5208 presumed to be in violation until such time as that documentation is provided.
 5209 65) "Watershed" means the entire region contributing runoff or surface water to a watercourse or
 5210 body of water.
 5211 66) "Water surface profile" means a graphical representation showing the elevation of the water
 5212 surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A
 5213 water surface profile of the regional flood is used in regulating floodplain areas.
 5214 67) "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or
 5215 other methods, to obtain groundwater regardless.
 5216 (Ord. No. 1724A, § 1(10.0), 4-8-2009)
 5217

5218 **Chapter 19.461 FWW FLOODWAY/WETLAND DISTRICT**

5219 Sections:

5220 19.461.010 Purpose.

5221 19.461.020 Permitted uses.

5222 19.461.030 Conditional uses.

5223 19.461.040 Maintenance of drainageways.

5224 19.461.050 Dumping and filling prohibited.

5225 19.461.060 Dangerous materials storage prohibited.

5226 19.461.070 Incompatible use prohibited.

5227 19.461.080 Mobile homes prohibited.
 5228

5229 **19.461.010 Purpose.**

5230 The FWW floodway/wetland district is intended to preserve, protect, and enhance the ponds,
 5231 streams, and wetland areas within the floodplains of the city. The preservation, protection, and
 5232 enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve
 5233 water quality, both ground and surface; prevent flood damage; control stormwater runoff; protect
 5234 stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat;
 5235 protect native plant communities; avoid the location of structures on soils which are generally not
 5236 suitable for use; and protect the water-based recreation resources of the city. In delineating the FWW
 5237 district, the effects of development within the associated floodfringe shall be computed, as regulated
 5238 under Chapter 19.46 of this title. No floodway/wetland district changes shall be permitted that are not
 5239 consistent with the wetland preservation shoreland protection objectives of Section 144.26 of the
 5240 Wisconsin Statutes as set forth in Section 19.69.066(B) of this code.

5241 The FWW floodway/wetland district, as shown on the zoning map, includes those wetlands that
 5242 are shown on the Wisconsin Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and

5243 stamped "FINAL;" which are also shown within the one hundred-year recurrence interval floodplain as
5244 shown on the official Floodplain Zoning Map.
5245 (Ord. 1600 § 4, 2006: Ord. 1196 § 1(part), 1990).

5246
5247 **19.461.020 Permitted uses.**

5248 Permitted uses in the FWW district are limited to the following:

- 5249 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;
5250 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
5251 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
5252 filling, flooding, draining, dredging, ditching, tiling, or excavating;
5253 C. Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling,
5254 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
5255 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
5256 impact on silvicultural activities if not corrected;
5257 D. Agricultural crops and grazing provided that they do not involve extension of cultivated areas,
5258 extension of or creation of new drainage systems, and further provided that they do not substantially
5259 disturb or impair the natural fauna, flora, topography, or water regimen;
5260 E. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
5261 only to the extent necessary to maintain the level of drainage required to continue the existing use;
5262 F. The construction and maintenance of piers, docks, and walkways, including those built on pilings;
5263 G. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
5264 (Ord. 1196 § 1(part), 1990).

5265
5266 **19.461.030 Conditional uses.**

5267 The following uses are conditional uses in the FWW floodway/wetland district and may be
5268 permitted as specified. The city plan commission shall transmit a copy of each application for a
5269 conditional use in the FWW floodway/wetland district to the Wisconsin Department of Natural
5270 Resources (DNR) at least ten days prior to the public hearing. Final action on the application shall not be
5271 taken for thirty days or until the ~~DNR~~DNR has made its recommendation, whichever comes first. A copy
5272 of all FWW Floodway/wetland district conditional use permits shall be transmitted to the ~~DNR~~DNR within
5273 ten days following the decision:

- 5274 A. The construction of streets which are necessary for the continuity of the city street system,
5275 necessary for the provision of essential utility and public safety services, or necessary to provide access
5276 to permitted open space uses in the FWW district; provided, that:
5277 1. The street cannot as a practical matter be located outside the conservancy district;
5278 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
5279 wetland as listed in Section 19.69.066(B) of this code;
5280 3. The street is designed and constructed with the minimum cross-section practical to serve the
5281 intended use;
5282 4. The street construction activities are carried out in the immediate area of the roadbed only; and
5283 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
5284 for the construction or maintenance of the street. Filling in the FWW district shall not be permitted if
5285 the effect will be to increase flood stage by 0.01 foot or more, except as otherwise provided in this
5286 chapter.
5287 B. The establishment and development of public and private parks and recreation areas, recreation
5288 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
5289 ~~refuges~~refuges, game preserves, and private habitat areas; provided, that:
5290 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;

- 5291 2. No structures shall be erected;
5292 3. No filling is to be done; and
5293 4. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
5294 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
5295 otherwise enhance the value of a wetland or other natural resource.
5296 C. The construction and maintenance of fences; provided, that:
5297 1. All fences shall have at least fifty percent of their surface area open for free passage of light, air, and
5298 floodwaters; and
5299 2. All fences shall be firmly anchored to prevent them from floating away and restricting bridge
5300 openings.
5301 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
5302 distribution lines, and related facilities; provided, that:
5303 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
5304 outside the floodway/wetland district;
5305 2. All utilities shall be firmly anchored to prevent flotation;
5306 3. All utilities shall be floodproofed to an elevation at least two feet above the 100-year recurrence
5307 interval flood, and shall be designed to eliminate or minimize infiltration of floodwater into the utility;
5308 and
5309 4. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
5310 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
5311 and other adverse impacts upon the natural functions of the conservancy area. Filling in the FWW
5312 district shall not be permitted if the effect will be to increase flood stage by 0.01 foot or more, except as
5313 otherwise provided in this chapter.
5314 E. The construction and maintenance of railroad lines; provided, that:
5315 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
5316 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
5317 construction or maintenance of the railroad, and must be done in a manner designed to minimize
5318 flooding and other adverse impacts upon the natural functions of the conservancy area.
5319 (Ord. 1196 § 1(part), 1990).

5320
5321 **19.461.040 Maintenance of drainageways.**

5322 No development in the FWW floodway/wetland district shall adversely affect the channels,
5323 floodways, or shorelands of Whitewater Creek, Spring Brook, any tributaries thereto, drainage ditches,
5324 or other lands lying outside the floodlands.
5325 (Ord. 1196 § 1(part), 1990).

5326
5327 **19.461.050 Dumping and filling prohibited.**

5328 Lands lying within the FWW floodway/wetland district shall not be used for dumping or be filled.
5329 (Ord. 1196 § 1(part), 1990).

5330
5331 **19.461.060 Dangerous materials storage prohibited.**

5332 Lands lying within the FWW floodway/wetland district shall not be used for the storage of
5333 materials that are buoyant, flammable, explosive, or injurious to human, animal, or plant life.
5334 (Ord. 1196 § 1(part), 1990).

5335
5336 **19.461.070 Incompatible use prohibited.**

5337 A. Lands lying within the FWW floodway/wetland district shall not be used for any solid waste disposal
5338 site or onsite soil absorption sanitary sewerage system site, or the construction of any well which is used

5339 to obtain water for ultimate human consumption. Sewage treatment plants and treatment ponds shall
5340 not be constructed in the FWW floodway/wetland district.

5341 B. Any use not listed as a permitted use or a conditional use in the FWW floodway/wetland district is
5342 prohibited unless the FWW district lands concerned are first rezoned into another district. Furthermore,
5343 the use of a boathouse for human habitation and the construction or placement of a boathouse or fixed
5344 houseboat below the ordinary highwater mark of any navigable water are prohibited.

5345 (Ord. 1196 § 1(part), 1990).

5346

5347 **19.461.080 Mobile homes prohibited.**

5348 No mobile home, manufactured home, mobile home park, or trailer camp shall be placed or
5349 moved onto lands lying in the FWW floodway/wetland district.

5350 (Ord. 1196 § 1(part), 1990).

5351

5352 **Chapter 19.48 I INSTITUTIONAL DISTRICT**

5353 Sections:

5354 19.48.010 Purpose.

5355 19.48.020 Permitted uses.

5356 19.48.030 Conditional uses.

5357 19.48.040 Lot area.

5358 19.48.050 Lot width.

5359 19.48.060 Building height.

5360 19.48.070 Yard requirements.

5361 19.48.080 Number of structures on one lot.

5362

5363 **19.48.010 Purpose.**

5364 The I institutional district is established to provide a community review and approval process for
5365 certain institutional uses that have a potential impact on surrounding land uses and/or the city as a
5366 whole.

5367 (Ord. 1364 § 8, 1997; Ord. 994 § 3.17(part), 1982).

5368

5369 **19.48.020 Permitted uses.**

5370 Permitted uses in the I district include:

5371 A. Colleges;

5372 B. Universities and their associated residential, educational and service facilities—~~Except,~~ except that new
5373 structures and/or exterior remodeling of existing structures which are within one hundred fifty feet of
5374 any other zoning district boundary (includes surface parking areas for more than twenty vehicles) shall
5375 be a conditional use as indicated below. The uses stated in Section 19.48.030 shall be conditional uses;

5376 C. The second or greater wireless telecommunication facility located on an alternative support
5377 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
5378 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
5379 accessory uses, all per the requirements of Chapter 19.55.

5380 (Ord. 1499 § 22, 2001; 1364 § 9, 1997; Ord. 994 § 3.17(A), 1982).

5381

5382 **19.48.030 Conditional uses.**

5383 Conditional uses in the I district include:

5384 A. New structures and/or exterior remodeling or existing structures within one hundred fifty feet of
5385 any other zoning district boundary (includes surface parking areas for more than twenty vehicles);

5386 B. Gymnasiums, sport stadiums, auditoriums, and similar places of general public assembly;

- 5387 C. Parking structures and surface parking areas for more than one hundred vehicles;
5388 D. The first wireless telecommunications facility located on an alternative support structure only, per
5389 the requirements of Chapter 19.55;
5390 E. Fraternity or sorority houses.
5391 (Ord. 1668A § 3, 2007; Ord. 1499 § 23, 2001; Ord. 994 § 3.17(B), 1982).

5392

5393 **19.48.040 Lot area.**

5394 Minimum total lot area in the I district is one acre.
5395 (Ord. 994 § 3.17(C), 1982).

5396

5397 **19.48.050 Lot width.**

5398 Minimum lot width in the I district is one hundred twenty feet.
5399 (Ord. 994 § 3.17(D), 1982).

5400

5401 **19.48.060 Building height.**

5402 Maximum building height in the institutional district shall be sixty feet. Mechanical penthouses
5403 shall be excluded from the building height restrictions listed herein if they comply with the following
5404 limitations:

5405 A. Penthouses shall be no taller than the highest floor to floor height in the building.

5406 B. Penthouses shall be set back from the public street building facade of the building equal to the
5407 height of the penthouse.

5408 C. The penthouse floor area, including vertical circulation spaces leading to the penthouse, shall be no
5409 greater than ten percent of the ground floor building footprint.

5410 (Ord. 1673A § 1, 2008; Ord. 994 § 3.17(E), 1982).

5411

5412 **19.48.070 Yard requirements.**

5413 Minimum yard requirements in the I district are:

5414 A. Any street yard facing any zoning district other than the institutional district shall be no less than
5415 twenty-five feet, measured from the right-of-way, or one-half of the total height of the building,
5416 whichever is greater. Any street yard within an institutional district facing yards in an institutional
5417 district shall not be less than twenty-five feet, measured from the right-of-way. The building setback
5418 shall not in any event encroach on the intersection visibility requirements set forth in Whitewater
5419 Municipal Code, Section 19.51.010;

5420 B. Street yard for off-street parking--fifteen feet;

5421 C. Side yard shall be thirty feet or equal to the height of the structure, whichever is greater;

5422 D. Rear yard--thirty-five feet or equal to the height of the structure, whichever is greater.

5423 (Ord. 1673A § 2, 2008; Ord. 1364 § 10, 1997; Ord. 994 § 3.17(F), 1982).

5424

5425 **19.48.080 Number of structures on one lot.**

5426 Within the I district, more than one principal structure may be located on a lot (see Section
5427 19.06.150).

5428 (Ord. 994 § 3.17(G), 1982).

5429

5430 **Chapter 19.485 LARGE RETAIL AND COMMERCIAL SERVICE DEVELOPMENT STANDARDS**

5431 Sections:

5432 19.485.010 Title.

5433 19.485.020 Description.

5434 19.485.030 Conditional use permit or ~~PCD~~PD approval required.

5435 19.485.040 Regulations.

5436

5437 **19.485.010 Title.**

5438 This section shall be known, cited, and referred to as the large retail and commercial service
5439 development chapter.

5440 (Ord. No. 1796A, § 3, 8-3-2010)

5441

5442 **19.485.020 Description.**

5443 A large retail and commercial service development is a development comprised of one or more
5444 contiguous parcels or building sites for a single retail or commercial service enterprise or for multiple
5445 such enterprises within which the total combined floor and surface area of all indoor retail and/or
5446 commercial activities, associated enclosed or outdoor storage, and associated outdoor display exceeds
5447 ~~twenty~~ fifty thousand square feet. The requirements of Chapter 19.485 are applicable to any new, altered
5448 or expanded establishment or group of establishments that meet or exceed the above floor and surface
5449 area threshold, where a complete application for conditional use permit or ~~eco~~ PCD zoning is filed after the
5450 effective date of this chapter. The vacant building provisions set forth in Subsection 19.485.040F.18.
5451 shall also apply to large retail and commercial service developments that were constructed prior to the
5452 effective date of this chapter.

5453 (Ord. No. 1796A, § 3, 8-3-2010)

5454

5455 **19.485.030 Conditional use permit or ~~PCD~~ PCD approval required.**

5456 A. Aside from where allowed under an approved ~~eco~~ PCD district, large retail and commercial service
5457 developments shall require a conditional use permit within any district in which they are allowed per
5458 other chapters in this title. All additions to structures, parking, or storage areas that are part of an
5459 approved large retail and commercial service development shall require an amendment to the
5460 conditional use permit or the previously approved ~~eco~~ PCD plans, per the associated requirements for such
5461 amendments in this title.

5462 B. Subsequent changes to individual land uses listed as permitted uses within the applicable zoning
5463 district (for example, a new tenant in a pre-existing retail space) are permitted without amendment to
5464 the associated large retail and commercial development conditional use permit or ~~eco~~ PCD specific
5465 implementation plan, unless said conditional use permit or ~~eco~~ PCD plan placed restrictions on such
5466 change of use.

5467 C. Subsequent individual land uses following initial approval of the development allowed only by
5468 conditional use permit in the zoning district or approved ~~eco~~ PCD specific implementation plan may be
5469 allowed only under a subsequent conditional use permit for the specific use, regardless of whether said
5470 use entails modifications to the building and/or site layout.

5471 (Ord. No. 1796A, § 3, 8-3-2010)

5472

5473 **19.485.040 Regulations.**

5474 In addition to applicable zoning district standards and other applicable standards of this title, each large
5475 retail and commercial service development shall meet the following additional standards, as may be
5476 applicable given the size of each such development:

5477 ~~A. Large Retail and Commercial Service Development Questionnaire. A large retail and commercial service development questionnaire shall be~~
5478 ~~fully completed when a development reaches or exceeds the defined threshold for such a questionnaire established in Figure 19.485(2). The~~
5479 ~~completed large retail and commercial service development questionnaire shall specifically address compatibility with the city's comprehensive~~
5480 ~~plan and detailed neighborhood, recreation, and other applicable plans, and follow the format included as Figure 19.485(3), subject to~~
5481 ~~amendments by the zoning administrator as appropriate, and with attachments included as the administrator determines necessary.~~

5482 B. Traffic Impact Analysis. A traffic impact analysis is required when a development reaches or exceeds
5483 the defined threshold for such an analysis outlined in Figure 19.485(2), and may be required by the city

5484 director of public works for projects below that threshold if there is initial evidence to suggest that
5485 existing roads in the area may not be adequate to accommodate additional traffic demands. The traffic
5486 impact analysis shall be completed in accordance with standards approved by the city director of public
5487 works, or where he/she does not approve a particular standard, with the most current revision of the
5488 Traffic Impact Analysis Guidelines published by the State of Wisconsin Department of Transportation.
5489 Where the traffic impact analysis indicates that the proposed development may cause off-site public
5490 roads, intersections, or interchanges to function below level of service (LOS) D, then the city may deny
5491 the application, may require a size reduction in the proposed development, and/or may require the
5492 developer to construct and/or pay for required off-site improvements to achieve LOS D for a planning
5493 horizon of a minimum of ten years following full build-out of the development. All such developments
5494 shall have direct access to an arterial or collector street. Vehicle access shall be designed to
5495 accommodate peak on-site traffic volumes without disrupting traffic on public streets or impairing
5496 pedestrian safety. This shall be accomplished through adequate parking lot design and capacity; access
5497 drive entry throat length, width, design, location, and number; traffic control devices; and/or sidewalks.
5498 The site design shall provide direct transportation connections to adjacent land uses and sites if required
5499 by the city.

5500 C. Economic and Fiscal Impact Analysis. An economic and fiscal impact analysis is required ~~when a~~
5501 ~~development reaches or exceeds~~ in accordance with the ~~defined threshold for such an analysis outlined in Figure 19.485(2). The~~
5502 ~~economic and fiscal impact analysis shall include all of the items identified in Figure 19.485(4) and meet the following~~ data requirements
5503 established by the City. In addition:

- 5504 1. The analysis shall identify and assess the economic and fiscal impacts on the city.
- 5505 2. The analysis shall propose measures to mitigate adverse impacts and/or maximize positive impacts,
5506 including provision of infrastructure or public service improvements sufficient to support the
5507 development. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to
5508 be implemented by the applicant shall be identified.
- 5509 3. If required by the zoning administrator, the applicant shall provide the necessary funding to the city
5510 to hire a consultant of the city's choice, with appropriate experience to complete and present an
5511 objective economic and fiscal impact analysis to the city.

5512 D. Detailed Neighborhood Plan. A detailed neighborhood plan is required ~~when a development reaches or exceeds~~
5513 ~~the defined threshold for such a plan outlined in Figure 19.485(2).~~ in accordance with requirements established by the City.

5514 Such neighborhood plan shall cover any undeveloped areas within a one-thousand-five-hundred-foot
5515 radius distance from the boundaries of the development site (except where a lesser radius distance is
5516 approved by the zoning administrator) ~~and be prepared to a recognized scale.~~ The detailed neighborhood plan
5517 must be completed by the city or applicant prior to the application for conditional use permit or
5518 rezoning, and submitted or referenced with such application. The detailed neighborhood plan shall
5519 include a map of sufficient detail to establish the potential future mix and development of land uses
5520 based on the city's comprehensive plan and the relationship of surrounding lands to the large retail and
5521 commercial service development with regard to provision of streets, driveways, bicycle/pedestrian
5522 routes, utilities, stormwater management, landscape transitions, setbacks, and community design and
5523 character, and general layout, all in a manner that is consistent with the city's comprehensive plan.

5524 E. Facilities and Associated Features. The following requirements are applicable when a large retail and
5525 commercial service development reaches or exceeds the defined threshold for such facilities and
5526 associated features outlined in Figure 19.485(2):

- 5527 1. Building Location. Wherever practical, as determined by the plan and architectural review
5528 commission based on the particular setting, the primary building within the development shall be
5529 located close to the public street, including parking to the side or rear of that building. Where such
5530 primary building is proposed to be distant from the public street, the commission may require that the
5531 overall development design include smaller buildings on pads or outlots closer to the street. All buildings

5532 on outlots shall have an orientation and architectural quality that relates to the primary building.
5533 Placement and orientation of all buildings must facilitate appropriate land use transitions and
5534 appropriate traffic flow to adjoining roads and to neighboring commercial areas, commercial sites, and
5535 neighborhoods, and must forward community character objectives described in the city's
5536 comprehensive plan. Also see Subsection 19.485.040E.7. below for requirements associated with the
5537 location of parking lots.

5538 2. Building Materials. Exterior building materials shall be of comparable aesthetic quality on all sides.
5539 Building materials such as glass, brick, stone, tinted and decorative concrete block are preferred, with
5540 wood, stucco, and exterior insulation and finish systems (EIFS) also permitted, as determined
5541 appropriate by the plan and architectural review commission. Decorative architectural metal with
5542 concealed fasteners or decorative tilt-up concrete panels may be approved only if integral to the overall
5543 design of the building. Windows shall be prominently incorporated into the building design for both
5544 aesthetic and daylighting effect.

5545 3. Building Design. The building exterior shall complement other buildings in the vicinity (except those
5546 buildings identified for redevelopment), and shall meet the following:

5547 a. The building shall employ varying facade setbacks, heights, roof treatments, doorways, window
5548 openings, and other structural or decorative elements appropriate to reduce apparent the size and scale of
5549 the building and to add architectural interest.

5550 ~~b. A minimum of twenty percent of the building's facades that are visible from a public street shall employ actual facade protrusions or~~
5551 ~~recesses with a depth of at least six feet. No uninterrupted facade without protrusions or recesses shall extend more than one hundred feet in~~
5552 ~~length.~~

5553 ~~c. A minimum of twenty percent of all of the combined linear roof eave or parapet lines of the structure shall employ differences in height,~~
5554 ~~with such differences being six feet or more as measured eave to eave or parapet to parapet.~~

5555 ~~d. Roofs with particular slopes may be required to complement existing buildings in the vicinity or otherwise establish a particular aesthetic~~
5556 ~~objective.~~

5557 b

5558 e. Ground floor facades that face public streets shall have some combination of ~~arcades (a series of outdoor~~
5559 ~~spaces located under a roof or overhang and supported by columns or arches);~~ features (such as display windows, entry areas,
5560 awnings, or other such features ~~along no less than fifty percent of the horizontal length of such facades.~~

5561) that are oriented to pedestrians and create a smaller scale, street-friendly character. f. The
5562 integration of windows into building design is required. Windows shall be transparent glass wherever
5563 the plan and architectural review commission determines it practical. The use of blinds, ~~spandrel (reflecting)~~
5564 ~~glass,~~ Or display windows shall be acceptable where there is a determination that opacity is required.
5565 Backlighting of such windows may be required in such instances.

5566 ~~g. Building facades that are visible to the public shall include a repeating pattern that includes no less than three of the following elements: (i)~~
5567 ~~color change, (ii) texture change, (iii) material modular change, (iv) expression of architectural or structural bay through a change in plane no~~
5568 ~~less than twenty four inches in width, such as an offset, reveal or projecting rib. At least one of these elements shall repeat horizontally.~~

5569 4. Building Entrances. Public building entrances shall be clearly defined and highly visible on the
5570 building's exterior design, and shall be emphasized by, and be the focal point for, on-site traffic flow
5571 patterns. Two or more of the following design features shall be incorporated into all public building
5572 entrances: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, or outdoor
5573 patios.

5574 ~~5. Building Colors. Building facade colors shall be non-reflective, subtle, neutral, or earth tone. The use of high intensity colors, metallic colors,~~
5575 ~~fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature bright colors or black,~~
5576 ~~but such colors shall be muted, not metallic, not fluorescent, and not specific to particular uses or tenants. Standard corporate and trademark~~
5577 ~~colors shall be permitted only on signage, unless such corporate colors meet the preceding building facade color standards.~~

5578 c

5579 6. Screening.

5580 a. All ground-mounted and wall-mounted mechanical equipment, refuse containers and any permitted
5581 outdoor storage shall be fully concealed from on-site and off-site ground-level views, with materials
5582 identical to those used on the building exterior facades.

5583 b. All rooftop mechanical equipment shall be screened by parapets, upper stories, and/or strategic
5584 placement relative to exterior walls or roofs, so as to not be visible from public streets adjacent or
5585 within one thousand feet of the subject property.

5586 c. Loading docks shall be completely screened from surrounding public streets and properties. Said
5587 screening may be accomplished through loading areas internal to buildings, screen walls which match
5588 the building exterior in materials and design, fully opaque landscaping at time of planting, or
5589 combinations.

5590 d. Gates and fencing may be used for security and access, but not for screening, and they shall be of
5591 high aesthetic quality. Decorative metal picket fencing and screening is acceptable. Chain link, wire
5592 mesh, or wood fencing is unacceptable, except that decorative, heavy-duty wood gates may be used.

5593 7. Parking.

5594 a. All parking lots shall be designed in accordance with Chapter 19.51 of this title.

5595 b. Parking lots in which the number of spaces significantly exceeds the minimum number of parking
5596 spaces required for the specific use or uses in Section 19.51.130 shall be allowed only with specific and
5597 reasonable justification provided by the applicant within the application.

5598 c. Parking lots shall be designed to create distinct parking ~~areas of not more than one hundred twenty parking stalls~~
5599 ~~each subareas~~ through use of landscaped and curbed medians and islands, a minimum of ten feet in width
5600 from back-of-curb to back-of-curb. Each landscaped island shall be a minimum of three hundred sixty
5601 square feet in landscaped area, and landscaped islands shall be spaced at intervals no greater than one island per every twenty
5602 spaces in that aisle. Each landscaped island shall be planted with a minimum of one deciduous tree.

5603 d. Wherever site conditions allow, the plan and architectural review commission may require some or
5604 all parking to be oriented to the side and/or rear of the primary building within the development,
5605 allowing the building to be located closer to the public street. Applicants proposing to locate the
5606 majority of parking between the primary building and the public street shall submit information along
5607 with their application identifying the reasons why more or all parking may not be located to the side or
5608 rear of the principal building, either through a change in parking location, change in building location, or
5609 both.

5610 e. Wherever site conditions allow, the plan and architectural review commission may require some or
5611 all parking to be shared with surrounding uses and/or the provision of cross-easements for customers to
5612 access adjacent parking areas without circulation through surrounding streets.8. Bicycle and Pedestrian
5613 Facilities.

5614 a. The entire development shall provide for safe pedestrian and bicycle access to all uses within the
5615 development, connections to existing and planned public sidewalks and other pedestrian and bicycle
5616 facilities, and connections to adjacent properties.

5617 b. Pedestrian walkways shall be provided from all building entrances to existing or planned public
5618 sidewalks or other pedestrian and bicycle facilities. The minimum width for sidewalks adjacent to
5619 buildings shall be eight feet; and the minimum width for sidewalks elsewhere in the development shall
5620 be five feet.

5621 c. Sidewalks internal to the development shall have adjoining landscaping along at least fifty percent of
5622 their length, and may be required to be provided with pedestrian-scale lighting.

5623 d. Crosswalks within parking and driveway areas shall be distinguished from driving surfaces to
5624 enhance pedestrian safety by using different pavement materials, color, and/or texture in combination
5625 with signage.

5626 e. The development shall provide secure, attractive, integrated bicycle parking. ~~For developments with fewer~~
5627 ~~than one hundred motor vehicle parking stalls, the minimum number of bicycle parking spaces shall not be less than ten percent of the number~~
5628 ~~vehicle parking stalls. For developments with one hundred or more motor vehicle parking stalls, the minimum number of bicycle parking spaces~~
5629 ~~shall not be less than five percent of the number of motor vehicle parking stalls. The inverted U-type bike rack is the preferred design, except~~
5630 ~~where the city or applicant is attempting to advance a particular design theme for the area. Each inverted U may count as two bicycle parking~~
5631 ~~spaces.~~

5632 ~~f. All bicycle parking racks shall be located within fifty feet of the main building entrance (except where secondary bicycle parking areas are~~
5633 ~~located close to a separate employee entrance) and placed in a visible, well lit, hard surfaced, and accessible location at least thirty inches from~~
5634 ~~the nearest building wall. At least one half of all bicycle parking spaces shall be covered by a building canopy, arcade, or other shelter.~~
5635 ~~g. The development shall provide exterior pedestrian furniture in appropriate locations at a minimum rate of one seat for every twenty~~
5636 ~~thousand square feet of floor area (per the measurement method in Section 19.485.020). In addition, a minimum of four seats shall be located~~
5637 ~~within the store, with a clear view through exit doors to a passenger pick up or drop off area.~~

5638
5639 9. Central Areas and Features. Each development exceeding eighty thousand square feet in floor area
5640 (per the measurement method in Section 19.485.020) shall provide central area(s) or feature(s) such as
5641 a patio/seating area, pedestrian plaza with benches, outdoor playground area, water feature, and/or
5642 another such deliberately designated outdoor area or focal point that adequately enhance the
5643 development or community. Such area shall be openly accessible to the public, connected to the public
5644 and private sidewalk system, designed with materials compatible with the primary building and
5645 remainder of the site, and maintained over the life of the development.

5646 10. Cart Returns. A minimum of one two-hundred-square-foot cart return area (corral) shall be
5647 provided for every one hundred parking spaces. Cart corrals shall be of durable, non-rusting, all-season
5648 construction, and shall be designed and colored to be compatible with the building and parking lot light
5649 standards. There shall be no exterior cart return or cart storage areas located within twenty-five feet of
5650 any building.

5651 11. Outdoor Display Areas. Exterior sales and display areas--whether permanent or seasonal--shall be
5652 permitted only where clearly depicted on the approved site plan associated with the development. All
5653 exterior display areas shall be separated from motor vehicle routes by a physical barrier visible to drivers
5654 and pedestrians, and by a minimum of ten feet. Display areas on sidewalks directly in front of buildings
5655 building must maintain a minimum walkway width of eight feet between the display items and any
5656 vehicle drives.

5657 12. Outdoor Storage Uses and Areas. Exterior storage structures or uses, including the parking or
5658 storage of service vehicles, trailers, equipment, containers, crates, pallets, merchandise, materials, ~~forks~~
5659 ~~forklifts~~, trash, recyclables, and all other items shall be permitted only where clearly depicted and
5660 labeled on the approved site plan. Such outdoor storage uses and areas shall be appropriately screened
5661 as required by Title 19.

5662 13. Landscaping. On-site landscaping shall be provided at time of building occupancy (except as
5663 allowed under Section 19.66.060), shall meet all applicable landscaping guidelines approved by the city
5664 council or plan and architectural review commission, and shall be maintained per the requirements of
5665 such guidelines and Title 19 over the life of the development.

5666 14. Lighting. On-site exterior lighting shall meet all the standards of Title 19. In addition, the color and
5667 design of pole lighting standards shall be compatible with the primary building in the development and
5668 the public lighting in the area, and shall be uniform throughout the entire development site.

5669 15. Signage. In addition to meeting the applicable requirements of Title 19, a signage plan for all
5670 exterior signage shall provide for coordinated and complementary exterior sign locations,
5671 configurations, and colors throughout the development. Combined signs for multiple users may be
5672 required instead of multiple individual signs. The city may require the use of muted corporate colors on
5673 signage if proposed colors are not compatible with the city's design objectives for the area.

5674 16. Environmental Sustainability, Natural Resources Protection, and Stormwater Management. Natural
5675 resources shall be protected in accordance with Title 19. In general, existing natural features shall be
5676 integrated into the site design as a site and community amenity. Each project shall meet the erosion
5677 control and stormwater management standards found in Title 16 of the Municipal Code and other
5678 applicable city ordinances.

5679 Each development shall intentionally incorporate into site and building design elements that
5680 contribute to the long-term environmental sustainability of the development and the city, as such terms

5681 are described in the city's comprehensive plan. Each development shall provide at least one-half of the
5682 following sustainability features:

5683 a. Reuse an existing, previously developed building and/or site.

5684 b. Utilize one or more rain gardens or bioswales, as described in the City of Whitewater Landscaping
5685 Guidelines, to capture and manage stormwater.

5686 c. Install a green roof or roof-top garden.

5687 d. Incorporate stormwater management facilities that are designed to both serve their primary
5688 function and appear as natural features that can serve as attractive focal points for the development.

5689 e. Install native/naturalized landscaping that minimizes requirements for irrigation/watering and
5690 provides natural habitat.

5691 f. Install systems that allow for the capture and later use of rainwater to water landscaping and for
5692 other permitted functions.

5693 g. Deliberately design/retrofit the primary building with energy efficient systems, such as lighting,
5694 refrigeration, and HVAC systems.

5695 h. Integrate solar, geothermal, wind, or other on-site energy generation into the site and/or building
5696 design.

5697 i. Utilize paving and/or roof materials with a solar reflectance index of at least twenty-nine for a
5698 minimum of fifty percent of the combined pavement and roof area on the site.

5699 j. Purchase a minimum of fifty percent of the development's energy from renewable sources, such as
5700 wind or solar.

5701 k. Recycle of a minimum of seventy-five percent of the waste generated during building/site
5702 construction.

5703 l. Utilize a minimum of twenty-five percent recycled materials for building construction.

5704 m. Utilize a minimum of fifty percent regional materials for building construction (extracted, harvested,
5705 or recovered, and manufacturing from within five hundred miles of the development site).

5706 n. No more than two additional sustainability features not listed above but approved by the plan and
5707 architectural review commission to meet the city's sustainability objectives, not including any feature
5708 already required by another section of this chapter.

5709 17. Vacation of Existing Buildings in Large Retail and Commercial Service Developments.

5710 a. Where any large retail or commercial service development that has fifty thousand or more square
5711 feet of floor area is vacated because the commercial use (sale of goods or merchandise at the building)
5712 conducted thereon is being relocated to a different building or discontinued, the party shall be subject
5713 to the following provisions:

5714 i. The party that vacated the site shall not impose limits on the type of reuse of the vacated site
5715 through conditions of sale or lease.

5716 ii. The development agreement for the new development at the new site shall include provisions
5717 therein whereby the developer of the new site commits to the requirements contained herein.

5718 b. In addition to the above, any building within large retail or commercial service development that has
5719 twenty thousand or more square feet of floor area and is vacated for any reason shall be subject to the
5720 following provisions:

5721 i. The owner must file with the city a written statement as to the names, phone numbers, and
5722 addresses for all persons who are in control of the property and building and other data as required by
5723 the City.

5724 ~~ii. The owner shall be required to meet the requirements defined in Figure 19.485(1), based on the amount of time the building remains~~
5725 ~~vacant.~~

5726 ~~Figure 19.485(1): Steps for Addressing Building Vacancy~~

5727 ~~TABLE INSET:~~

5728

Period of Time Building is Vacant	Requirement
Within 1 Year of Vacancy	Install a fire department Knox Box for annual fire inspection.
Within 3 Years of Vacancy	City may require owner to paint the building a neutral color.
Within 5 Years of Vacancy	City may require the removal of all hard surfaces, with the exception of the main driveway and fire lane around the building, restore the former hard surfaced areas with black dirt and grass, or any combination of the above.

5729 ~~iii. Within the first quarter of each year of vacancy, the owner shall provide the zoning administrator with a statement as to the condition of~~
5730 ~~the building and prospects for removal or re-occupancy of the building(s).~~

5731 ~~iv. At any time following vacancy, the city may utilize other enforcement options available to it to ensure property maintenance and upkeep of~~
5732 ~~the building and site.~~

5733 ~~v. Temporary occupancy of the building(s) and/or the exterior grounds for period of three hundred sixty five consecutive days or less shall not~~
5734 ~~be considered to remove the vacancy status of the building under this section.~~

5735 18. Development Agreement. The developer shall enter into a development agreement with the city
5736 which shall include the payment of all utilities, including, but not limited to, stormwater, sanitary sewer,
5737 and street infrastructure. Off-site improvements may also be required as part of the development
5738 agreement.

5739 19. Exceptions. In the event the applicant desires a deviation or exception from the requirements of
5740 this section, the applicant shall present justification for such deviation or exception, including, but not
5741 limited to, preexisting conditions on a redevelopment site, which may be approved or denied by the
5742 plan and architectural review commission.

5743 ~~Figure 19.485(2): Thresholds for Large Retail and Commercial Service Development Requirements~~

5744 ~~TABLE INSET:~~

5745

Requirement	Large Scale Retail and Commercial Development Threshold (per measurement method in Section 19.485.020)
Complete compatibility report (fits city's comprehensive plan and/or other adopted plans?)	≥20,000 sq. ft.
Complete questionnaire	≥20,000 sq. ft.
Provide required facilities and associated features (materials, landscape, etc.)	≥20,000 sq. ft.
3rd party traffic impact analysis required	≥50,000 sq. ft.
3rd party economic and fiscal impact analysis required	≥80,000 sq. ft.
Detailed neighborhood plan required	≥80,000 sq. ft.

5746 ~~Figure 19.485(3): Large Retail and Commercial Service Development Questionnaire~~

5747 ~~TABLE INSET:~~

5748

Person filling out this form	=
Address	=
Phone number	=
Date	=
I. Project Contacts	
Property owner	=
Property owner representative	=
Developer	=
Developer representative	=
Prime contractor representative	=
Civil engineering representative	=
Architectural representative	=
Land planner representative	=
Landscape architect representative	=
Exterior lighting representative	=

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~~TABLE INSET:~~

II. Existing Site Conditions		
A. Total Site Area (inclusive of all areas within parcel boundary):	===== acres =	===== s.f. =
B. Environmental Corridor Components:	===== acres =	===== s.f. =
Surface Water	===== acres =	===== s.f. =
Wetlands	===== acres =	===== s.f. =
100-Year Floodplain	===== acres =	===== s.f. =
Steep Slopes (equal to or greater than 12%)	===== acres =	===== s.f. =

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~~TABLE INSET:~~

III. Relationship to Adopted Plans and Policies. Describe how the proposed development is compatible with the following:
A. City of Whitewater Comprehensive Plan:

Future Land Use Map	=
Future Transportation Plan Map	=
Future Community Facilities Plan Map	=
Applicable Goals, Policies and Objectives	=
Agricultural, Natural, and Cultural Resources Chapter	=
Economic Development Chapter	=
Sustainability Provisions	=
Other Applicable Provisions of Comprehensive Plan	=
B. City Park and Open Space Plan	=
C. Detailed Neighborhood Plan Covering Area	=
D. Intergovernmental Agreements	=
E. Wisconsin DOT Plans and Policies	=
F. Wisconsin DNR Plans and Policies	=
G. Other Pertinent Plans and Policies as Indicated by City	=

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~~TABLE INSET:~~

IV. Proposed Development Characteristics			
A. General Description of Proposed Development and Land Use Mix:			
=			
B. Proposed Modifications to Existing Site Conditions:			
Total Site	Acres to be Converted	Acres Not to be Converted	Total
Surface Water Areas	=	=	=
Wetland Areas	=	=	=
Floodplain Areas	=	=	=
Steep Slopes (12%+)	=	=	=
Woodland Areas	=	=	=
Total Environmental Corridor	=	=	=
Crop and Livestock Operation Areas	=	=	=
Other Open Areas	=	=	=
Total Existing Development Area	=	=	=
Existing Building Coverage Area	=	=	=

Existing Paved Area	=	=	=
Existing Lawn and Landscaped Area	=	=	=

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TABLE INSET:

C. Proposed Development Areas:		
Total Site Area	==== sq. ft. =	==== acres =
Area of Building Footprint	==== sq. ft. =	==== acres =
Area of Total Paving	==== sq. ft. =	==== acres =
Area of Pervious Paving	==== sq. ft. =	==== acres =
Area of Lawn & Landscaping (not storm)	==== sq. ft. =	==== acres =
Area of Stormwater Management	==== sq. ft. =	==== acres =
Area of Impervious Surface	==== sq. ft. =	==== acres =
Area of Semi-Pervious Surface	==== sq. ft. =	==== acres =
Area of Pervious Surface	==== sq. ft. =	==== acres =
Total Building Floor Area	==== sq. ft. =	=
First Floor Building Area	==== sq. ft. =	=
Upper Floor Building Area	==== sq. ft. =	=
Useable Basement Area	==== sq. ft. =	=

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Figure 19.485(4): Economic and Fiscal Impact Analysis Requirements

TABLE INSET:

1. For the project, estimate the following:
a. Types of jobs created.
b. Number of full time (40 hrs/wk) and part time (less than 40 hrs/wk) jobs created.
c. The impact of the project on the overall local job market at year one and year five.
2. Estimate the amount of City and Walworth/Jefferson County labor to be used in the construction of the project and in permanent employment.
3. Include an analysis indicating the market proposed for the project and the area from which patrons will be attracted.
4. Evaluate the impact of the proposed project on commercial and/or retail vacancy rates in the proposed market area.
5. Estimate to what extent, if any, the proposed project would increase or reduce the proposed market area's economic base by eliminating existing businesses, creating new ones, or allowing existing ones to expand.

~~6. Compare and evaluate the projected costs and benefits to the community resulting from the project including:—~~

~~a. Projected costs arising from increased demand for and required improvements to public services and infrastructure.—~~

~~b. Value of improvements to public services and infrastructure to be provided by the project.—~~

~~c. Projected property tax revenues to be generated by the project in the first year, after five years, and at build-out.—~~

~~d. Projected impact of the project in the first five years on land values (both residential and commercial) and potential direct and indirect increase or loss in property tax revenues.—~~

~~7. Projected lifespan of building(s) and reuse opportunities should the proposed use(s) vacate the building(s) in the future.—~~

5760 (~~Ord. No. 1796A, § 3, 8-3-2010~~)

5761

5762 **Chapter 19.49 WELLHEAD PROTECTION**

5763 Sections:

5764 19.49.010 Title.

5765 19.49.020 Purpose and authority.

5766 19.49.030 Applicability.

5767 19.49.040 Definitions.

5768 19.49.050 Wellhead protection area.

5769 19.49.060 Enforcement.

5770

5771 **19.49.010 Title.**

5772 This section shall be known, cited and referred to as the "wellhead protection ordinance" (hereinafter
5773 "WHP ordinance").

5774 (Ord. 1383 § 1(part), 1997).

5775

5776 **19.49.020 Purpose and authority.**

5777 A. The residents of the City of Whitewater (hereinafter "the city") depend exclusively on groundwater
5778 for a safe drinking water supply. Certain land use practices and activities can seriously threaten or
5779 degrade groundwater quality. The purpose of the WHP ordinance codified in this chapter is to protect
5780 the city's municipal water supply and areas from which city wells draw water, and to promote the public
5781 health, safety and general welfare of the residents of the city.

5782 B. These regulations are established pursuant to the authority granted by the Wisconsin Legislature in
5783 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection to
5784 the statutory authorization for municipal planning and zoning in order to protect the public health,
5785 safety and welfare. Areas appropriate for protection in the WHP are established in the wellhead
5786 protection plan ("the plan") for City of Whitewater, Wisconsin, dated September 1996 and prepared by
5787 Strand Associates, Inc. The Plan document is incorporated herein by this reference, and a copy is on file
5788 in the office of the city clerk.

5789 (Ord. 1383 § 1(part), 1997).

5790

5791 **19.49.030 Applicability.**

5792 The regulations specified in the WHP ordinance codified in this chapter shall apply only to lands
5793 within those portions of the five-year time of travel zones (hereinafter sometimes "TOT") of Well No. 9

5794 shown on the wellhead protection map (see Exhibit A in Appendix D of WHP) (hereinafter "the map"),
5795 which areas also lie within the city corporate limits.
5796 (Ord. 1383 § 1(part), 1997).

5797
5798 **19.49.040 Definitions.**

5799 As used in this chapter:

5800 "Aquifer" means a saturated, permeable geologic formation that contains and will yield
5801 significant quantities of water.

5802 "Cone of depression" means the area around a well, in which the water level has been lowered
5803 at least one-tenth of a foot by pumping of the well.

5804 "Existing facilities which may cause or threaten to cause environmental pollution" means
5805 existing facilities which may cause or threaten to cause environmental pollution within the corporate
5806 limits of the city's well No. 9 recharge area which include but are not limited to the Wisconsin
5807 Department of Natural Resources' draft list of "Inventory of Sites or Facilities Which may Cause or
5808 Threaten to Cause Environmental Pollution," and Department of Industry, Labor and Human Relations
5809 list of "Leaking Underground Storage Tanks" (hereinafter "LUST's") and the Registry of Waste Disposal
5810 Sites in Wisconsin, all of which are incorporated herein by reference, together with future amendments
5811 thereto, as if fully set forth.

5812 "Five Year Time of Travel (TOT)." The five year TOT is a portion of the recharge area, the outer
5813 boundary of which it is determined or estimated that groundwater and potential contaminants will take
5814 five years to reach a pumping well. The five year TOT for Whitewater's municipal well No. 9 is
5815 established based on the uniform flow equation. The TOT area is shown on the map. The TOT area
5816 shown on the map is hereinafter referred to as "the TOT."

5817 "Groundwater divide" means ridge in the water table, or potentiometric surface, from which
5818 groundwater moves away at right angles in both directions. Line of highest hydraulic head in the water
5819 table or potentiometric surface.

5820 "Groundwater protection overlay district" shall be defined as that area within the TOT shown on
5821 the map attached as Exhibit A and incorporated herein by reference as if fully set forth.

5822 "Recharge area" means area in which water reaches the zone of saturation by surface
5823 infiltration and encompasses all areas or features that supply groundwater recharge to a well.

5824 "Wellhead protection area" means those proportions of the TOT which lie within the City of
5825 Whitewater corporate limits.
5826 (Ord. 1383 § 1(part), 1997).

5827
5828 **19.49.050 Wellhead protection area.**

5829 A. Intent. The area to be protected is the Whitewater wellhead protection area (hereinafter "WPA") (as
5830 determined by the plan) contained within the city boundary limits. These areas are designated on the
5831 map. These lands are subject to land use and development restrictions because of their close proximity
5832 to the TOT and the corresponding high threat of contamination.

5833 B. Permitted Uses. The following are the only permitted uses within the WPA:

5834 1. Any existing use, even though listed on prohibited uses, below, located within such areas to the
5835 extent that use currently exists, subject to the requirements for existing prohibited uses, subsection E of
5836 this section below;

5837 2. Those uses permitted under Whitewater zoning code consistent with the zoning map, as amended
5838 by action of the Whitewater city council and which are not prohibited under subsection C of this section
5839 below.

5840 C. Prohibited Uses. The following uses, if created after the adoption of the WHP ordinance codified in
5841 this chapter, are prohibited uses within the wellhead protection area designated on the map. These uses

5842 are prohibited based on the high probability that activities routinely associated with these uses (storage,
5843 use and handling of potential pollutants) will cause groundwater contamination. Uses not listed are not
5844 considered permitted uses.

- 5845 1. Underground storage tanks of any size;
- 5846 2. Septage and/or sludge spreading;
- 5847 3. Animal waste land spreading;
- 5848 4. Animal waste facilities;
- 5849 5. Animal confinement facilities;
- 5850 6. Gas stations;
- 5851 7. Vehicle repair establishments, including auto body repair;
- 5852 8. Printing and duplicating businesses;
- 5853 9. Bus or truck terminals;
- 5854 10. Repair shops;
- 5855 11. Landfills or waste disposal facilities;
- 5856 12. Wastewater treatment facilities;
- 5857 13. Spray wastewater facilities;
- 5858 14. Junk yards or auto salvage yards;
- 5859 15. Bulk fertilizer and/or pesticide facilities;
- 5860 16. Asphalt products manufacturing;
- 5861 17. Dry-cleaning businesses;
- 5862 18. Salt storage;
- 5863 19. Electroplating facilities;
- 5864 20. Exterminating businesses;
- 5865 21. Paint and coating manufacturing;
- 5866 22. Hazardous and/or toxic materials storage;
- 5867 23. Hazardous and/or toxic waste facilities;
- 5868 24. Radioactive waste facilities;
- 5869 25. Recycling facilities;
- 5870 26. Cemeteries.

5871 D. Where any of the uses listed in subsection C of this section above exist within the WPA on the
5872 effective date of the ordinance codified in this chapter, owners of these facilities will be allowed to
5873 upgrade such uses to facilitate or enhance groundwater protection. Plans for the proposed upgrade
5874 must be approved by the plan commission, and the appropriate permit issued by the city building
5875 inspector/zoning administrator's office prior to any work being initiated. Expansion of the prohibited use
5876 may be allowed with approval of the planning commission.

5877 E. Requirements for Existing Prohibited Uses, Section 19.49.050C Above.

- 5878 1. Such uses shall provide copies of all federal, state and local facility operation approvals or certificate
5879 to the city zoning administrator and ongoing environmental monitoring results to the city director of
5880 public works.
- 5881 2. Such uses shall provide additional environmental or safety structures/monitoring as deemed
5882 necessary by the city, which may include but are not limited to stormwater runoff management and
5883 monitoring.
- 5884 3. Such uses shall replace equipment or expand in a manner that improves the existing environmental
5885 and safety technologies already in existence.
- 5886 4. Such uses shall have the responsibility of devising and filing with the city a contingency plan
5887 satisfactory to the city zoning administrator for the immediate notification of city officials in the event of
5888 an emergency.

5889 (Ord. 1383 § 1(part), 1997).

5890
5891 **19.49.060 Enforcement.**
5892 A. In the event the individual and/or facility engaging in permitted use(s) under this chapter causes the
5893 release of any contaminants which endangers the WPA, the activity causing said release shall
5894 immediately cease and a cleanup satisfactory to the city shall occur.
5895 B. The individual/facility causing the release of contaminants shall be responsible for all costs of
5896 cleanup. The costs of cleanup shall include, but not be limited to, city consultant fees, at the invoice
5897 amount plus administrative costs for oversight, review and documentation.
5898 1. The cost of city employees' time associated in any way with the cleanup based on the hourly rate
5899 paid to the employee multiplied by a factor determined by the city representing the city's cost for
5900 expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits;
5901 2. The cost of city equipment employed;
5902 3. The cost of mileage reimbursed to city employees attributed to the cleanup.
5903 C. Following any such discharge the city may require additional test monitoring and/or bonds/sureties
5904 as it deems necessary and reasonable.
5905 D. Penalties for noncompliance shall be provided pursuant to Section 19.75.080 of this code.
5906 (Ord. 1383 § 1(part), 1997).

5907
5908 **Chapter 19.51 TRAFFIC, PARKING AND ACCESS**

5909 Sections:

5910 19.51.010 Intersection visibility requirements.
5911 19.51.020 Loading requirements.
5912 19.51.030 Parking requirements--Generally.
5913 19.51.040 Adequate access--Driveways.
5914 19.51.050 Size and location, and surface material of parking spaces.
5915 19.51.060 Lighting of parking areas.
5916 19.51.070 Buffer screening of on-grade parking areas.
5917 19.51.080 Front and side yard parking limitation.
5918 19.51.090 Designated parking areas.
5919 19.51.100 Landscaped islands for parking bays.
5920 19.51.110 Surfacing of parking areas.
5921 19.51.120 Curbs and barriers.
5922 19.51.130 Number of parking stalls--General requirements.
5923 19.51.140 Number of parking stalls--Combination uses.
5924 19.51.150 Number of parking stalls--Uses not listed.
5925 19.51.160 Parking exemption in B-2 central business district.
5926 19.51.170 Computation of required parking area.
5927 19.51.180 Truck, trailer, ~~mobilehome~~ mobile home and equipment parking restrictions.

5928 NOTE; BOAT STORAGE EXEMPTION NEEDS TO BE ADDED

5929 19.51.190 Highway access limitations.

5930 **19.51.010 Intersection visibility requirements.**

5931 A. At all intersections of streets or alleys, no fence, hedge, wall, sign or other structure shall be erected,
5932 placed, planted or allowed to grow in such a manner as to collectively impede more than fifteen percent
5933 of the vision area between a height of two and one-half feet and ten feet above the established curb
5934 level of the intersection of streets or alleys in the area bounded by the right-of-way lines and a line

5935 joining points along the right-of-way fifteen feet from the point of intersection. (Refer to diagram
5936 below.)

5937 B. In the case of major streets and highways intersecting with other arterial streets or railways, the
5938 corner cutoff distances establishing the triangular vision clearance space shall be increased to forty feet.

5939 **GRAPHIC LINK:**[Click here](#)

5940 (Ord. 994 § 4.1, 1982).

5941

5942 **19.51.020 Loading requirements.**

5943 In all districts except the B-2 central business district, adequate loading areas shall be provided
5944 so that all vehicles loading, maneuvering to do so, or unloading, are completely off the public ways,
5945 except alleys.

5946 (Ord. 994 § 4.2, 1982).

5947

5948 **19.51.030 Parking requirements--Generally.**

5949 In all districts, and in connection with every use, there shall be provided at the time any building
5950 is erected, enlarged, extended, increased, or use is changed, off-street parking stalls for all vehicles in
5951 accordance with Sections 19.51.040 through 19.51.180.

5952 (Ord. 994 § 4.3(part), 1982).

5953

5954 **19.51.040 Adequate access--Driveways.**

5955 Adequate access to a public street shall be provided for each parking space, and driveways shall
5956 be at least ten feet wide for parking areas for less than ten vehicles, and at least two ten-foot lanes for
5957 parking lots for ten or more vehicles, except as otherwise provided in Section 19.51.050(A)(2).
5958 Driveways shall not exceed twenty-four feet in width at the street right-of-way line, except as otherwise
5959 determined by the plan and architectural review commission during site plan review. No driveway may
5960 be closer than three feet to an abutting property line, except where two adjacent lots have a common
5961 driveway then the three-foot minimum distance shall not apply. Common, shared, and cross-access
5962 driveways between adjacent lots are permitted, provided that such driveways are established by
5963 recorded easement that may not be removed except by approval of the city. All areas intended to be
5964 utilized as a driveway shall be surfaced with materials to control dust and drainage, except in the case of
5965 farm dwellings and operations. In all cases, permeable or pervious materials are preferred. Plans for
5966 surfacing and drainage of driveways shall be submitted to the City for review and approval.

5967 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(A), 1982).

5968

5969 **19.51.050 ~~Size and~~ location, and surface material of parking spaces.**

5970 A. The size of each parking space shall be at least nine feet wide and not less than one hundred eighty
5971 square feet exclusive of the space required for ingress and egress, except as follows:

5972 1. End parking spaces may be seven and one-half feet wide and not less than one hundred fifty square
5973 feet.

5974 2. Interior parking spaces may be eight and one-half feet wide and not less than one hundred fifty
5975 square feet, provided that internal driveways providing two-way access to parking spaces are not less
5976 than twenty-four feet in width.

5977 3. All areas intended to be utilized for parking shall be surfaced with bituminous, concrete, or pavers to
5978 control dust and drainage, except in the case of farm dwellings and operations. In all cases, permeable
5979 or pervious materials are preferred. Plans for surfacing and drainage of parking stalls for five or more
5980 vehicles shall be submitted to the City Engineer for his/her review. Curb cut openings shall be a
5981 minimum of five feet from the side yard property line in all districts.

5982 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(B), 1982).

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19.51.060 Lighting of parking areas.

Lights provided in any parking area shall be regulated by the standards in Section 19.57.150. (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(C), 1982).

19.51.070 Buffer screening of on-grade parking areas.

When a required off-street parking area for five or more vehicles is located within fifteen feet of any lot line or public right-of-way line in any district, a buffer yard or screen shall be required in accordance with Section 19.57.140 of this title, except where the adjoining property also contains a parking lot within fifteen feet of the shared lot line. (Ord. 1452 § 6(part), 2000: Ord. 1364 § 11, 1997: Ord. 994 § 4.3(D), 1982).

19.51.080 Front, ~~side,~~ and ~~side~~ ~~side~~ ~~rear~~ yard parking limitation.

A. In all residential districts, except as provided in subsections B, C and D below, or as otherwise allowed by a previously granted zoning permit, not more than three vehicles shall be parked in any combination of the front or side yard area. In no case shall vehicles be parked closer than three feet to any abutting property line (except for shared parking areas for which a zoning permit has been granted) or any lawn or landscaped area. All parking must take place in legally established and maintained parking areas or driveways outside of any required vehicular circulation areas.

B. A legally established two-family dwelling may have up to six vehicles parked in any combination of the front and side yard area.

C. In the R-3 Multifamily Residence District, except for legally established two-family dwellings or otherwise allowed by a zoning permit, not more than five vehicles may be parked in any combination of the front or side yard area. Newly constructed or reconstructed properties as of the date of this chapter may have no more than three vehicles in front and side yards.

D. The number of vehicles allowed within front and side yard areas of lots occupied by single family residences may be increased to one per licensed driver legally occupying the property, not to exceed five vehicles.

(Ord. 1082 § 8, 1986).
(Ord. No. 1688A, 6-17-2008; Ord. No. 1715A, 2-3-2009)

19.51.090 Designated parking areas.

Vehicle parking shall only be permitted in designated parking areas approved in the issuance of a zoning permit. Expansion of existing parking areas requires issuance of an approved zoning permit. (Ord. 994 § 4.3(F), 1982).

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 off-street parking areas shall be graded and surfaced ~~as~~ with bituminous or concrete to ~~be~~ control dust-free and ~~properly drained~~ 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. 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).

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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(l), 1982).

19.51.130 Number of parking stalls--General requirements.

The minimum 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	
Single-family dwellings	2 stalls
Mobile homes	2 stalls for each dwelling unit
Duplex and multifamily dwellings	
Efficiency/one bedroom	2 1 stalls for each dwelling unit
Two <u>to three</u> bedrooms	3 2 stalls for each dwelling unit
Three <u>Four</u> or more bedrooms	4 3 stalls for each dwelling unit
Hotels, motels	1 stall for each guest room plus 1 stall for each 2 employees working per shift
Sororities, <u>fraternities</u> , dormitories, boardinghouses and similar group-dwelling quarters	1 stall for each 2 persons plus 1 stall for each 3 employees working per shift
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

6041 The number of required parking spaces shall never exceed the number of occupants allowed
6042 under Section 19.09.520. A party may apply to the plan and architectural review commission for a
6043 permit allowing less than the number of stalls required herein, but not less than one stall per residential
6044 unit or one stall per five hundred square feet of primary floor area for retail and commercial service
6045 uses. The commission may grant such a permit if it is not against the best interest of the public. Even if a
6046 permit is granted, the applicant shall be required to have sufficient land and a plan to install the
6047 maximum required stalls under this section should it become necessary, except within the ~~eco~~PD-TND
6048 zoning district. The permit may be revoked at any time by the commission upon notice and hearing if
6049 good cause is shown for the revocation of the permit. Within a ~~eco~~PD-TND District only, adjacent on-
6050 street parking may apply toward the minimum parking requirements, if approved by the plan
6051 commission.

6052 (Ord. 1611A § 2, 2006; Ord. 1511 § 3, 2002; Ord. 1187 § 1, 1990; Ord. 1082 § 9, 1986; Ord. 944 § 4.3(J),
6053 1982).

6054
6055 **19.51.140 Number of parking stalls--Combination uses.**

6056 Combinations of any of the uses listed in Section 19.51.130 shall provide the total of the number
6057 of stalls required for each individual use.
6058 (Ord. 994 § 4.3(K), 1982).

6059
6060 **19.51.150 Number of parking stalls--Uses not listed.**

6061 In the case of structures or uses not mentioned in Section 19.51.130, the provision for a use
6062 which is similar shall apply.
6063 (Ord. 994 § 4.3(L), 1982).

6064
6065 **19.51.160 Parking exemption in B-2 central business district: and the B-1A University mixed-use**
6066 **overlay district.**

6067 In order to encourage and stimulate the revitalization in the downtown area of Whitewater,
6068 uses within the B-2 central business district are exempted from the minimum number of parking stalls
6069 required in this chapter, except if specifically required for a particular conditional use in that district
6070 under Section 19.30.030. Where parking is voluntarily provided or required for a particular use listed in
6071 Section 19.30.030, it shall meet the development standards of this section.
6072 (Ord. 1611A § 3, 2006; Ord. 994 § 4.3(M), 1982).

6073
6074 **19.51.170 Computation of required parking area.**

6075 In determining required parking area ratios, the floor measurement shall be taken to include
6076 only service, sales and office space, and shall not include warehouse, utility and other accessory space
6077 which do not generate parking demand.
6078 (Ord. 994 § 4.3 (N), 1982).

6079
6080 **19.51.180 Truck, trailer, ~~mobile home~~ mobile home and equipment parking restrictions.**

6081 No truck, commercial trailer, house or camper trailer, motor home, boat trailer, snowmobile
6082 trailer, or other vehicular equipment or implements of a commercial, agricultural or industrial nature,

6083 shall be parked regularly in any zoning district other than B-1, B-3, M-1 and AT districts, except as
6084 hereinafter specifically provided for as follows:

6085 A. One panel or pickup truck, exceeding three-quarter ton but not exceeding one and one-half tons,
6086 shall be permitted;

6087 B. The unenclosed parking of either one unoccupied house trailer, motor home, or one unoccupied
6088 camp trailer in the side and rear yard, provided that the motor home, house trailer or camp trailer is
6089 parked at least five feet from the lot lines; motor homes shall also abide by all restrictions relating to
6090 motor vehicle parking;

6091 C. Camper trailers and boats shall be permitted to park in front yards for the purposes of loading,
6092 unloading and servicing for a period of three days;

6093 D. Boat trailers, snowmobile trailers and all other private residential type trailers shall be permitted to
6094 park in the side and rear yard only.

6095 E. The Zoning Administrator may issue a permit to a person with a disability allowing a boat (25 feet or
6096 less in length) and a boat trailer to be parked in the front yard driveway of their residence from April
6097 through November. A person shall be considered a person with a disability if they have been issued a
6098 current disabled parking identification permit by the Wisconsin Department of Transportation. In
6099 addition, an individual shall be considered a person with a disability if they provide the Zoning
6100 Administrator with a statement by a health care specialist verifying that the party needs a front yard
6101 boat parking permit, for a stated period of time, to allow that person reasonable access to their boat
6102 and trailer.

6103 (Ord. 1381 § 1, 1997; Ord. 994 § 4.3(O), 1982).

6104

6105 **19.51.190 Highway access limitations.**

6106 A. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways,
6107 nor to any controlled-access arterial street without permission of the highway agency that has access-
6108 control jurisdiction.

6109 B. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the
6110 following:

6111 1. Freeways, interstate highways and their interchanges or turning lanes, nor to intersecting or
6112 interchanging streets within one thousand five hundred feet of the most remote end of the taper of the
6113 turning lanes;

6114 2. Arterial streets intersecting another arterial street within one hundred feet of the intersection of the
6115 right-of-way lines;

6116 3. Within fifty feet of street right of way lines intersecting other street right of way lines. Access
6117 barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to
6118 prevent unauthorized vehicular ingress or egress to the above specified streets or highways (see Section
6119 19.51.010, traffic visibility);

6120 4. Temporary access to the above rights-of-way may be granted by the city plan commission after
6121 review.

6122 (Ord. 1446 § 2, 2000; Ord. 994 § 4.4, 1982).

6123

6124 **Chapter 19.54 SIGNAGE REGULATIONS**

6125 Sections:

6126 19.54.010 Sign permits.

6127 19.54.020 Definitions and regulations specific to certain signs.

6128 19.54.030 General signage regulations.

6129 19.54.040 Sign regulations applicable to residential districts.

6130 19.54.050 Sign regulations applicable to nonresidential districts.

- 6131 19.54.052 Maximum sign sizes and types.
- 6132 19.54.060 Temporary signs.
- 6133 19.54.070 Construction and maintenance of signage.
- 6134 19.54.080 Nonconforming signs.

6135

6136 **19.54.010 Sign permits.**

6137 A. The following sign uses and purposes are permitted in all zoning districts without the need for a sign
6138 permit. Such signs shall not count as part of the maximum permitted sign area as regulated by Section
6139 19.54.052:

- 6140 1. Address numerals and identification signs not exceeding one square foot in area;
- 6141 2. Legal notices;
- 6142 3. Signs established by, or by order of, any governmental agency;
- 6143 4. Memorial signs and tablets displayed in cemeteries.

6144 B. Community information signs shall be permitted only as a conditional use within all zoning districts
6145 and upon any property within the jurisdiction of the city. As such, the review of a request for the
6146 erection of a community information sign shall comply with the requirements of Section 19.54.020C.4.
6147 The proposed size, configuration, and design of the sign shall be described as part of the conditional use
6148 requirements. As a conditional use, the city may revoke the designation of an approved community
6149 information sign if such sign fails to comply with the requirements of this chapter. Such action shall
6150 proceed per the requirements of Chapter 19.75. Upon revocation, the owner of the sign shall have thirty
6151 days to remove the sign at the owner's expense.

6152 C. No person shall erect, alter, or relocate within the city any sign without first obtaining a sign permit,
6153 except for the exceptions in subsections A. and B. of this section, and as may be provided for elsewhere
6154 in this chapter.

6155 (Ord. 1263 § 1(part), 1993).

6156 (Ord. No. 1746A, § 3, 9-15-2009)

6157

6158 **19.54.020 Definitions and regulations specific to certain signs.**

6159 A. The following definitions shall be used by this chapter to assist in the establishment of clear cut
6160 signage regulations. In general, "sign purposes" refers to where or how a sign is used; "sign
6161 configurations" refers to the style of the sign; and "sign measurement" explains how the dimensions of a
6162 sign are determined.

6163 B. "Sign" means any object, device, display, structure, or part thereof, situated outdoors, which is used
6164 to advertise, identify, display, direct or attract attention to an object, person, institution, organization,
6165 business, product, service, event, or location by any means, including figures, letters, figures, designs,
6166 symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of
6167 any nation, organization of nations, state, city, religious, fraternal or civic organization; also merchandise
6168 and pictures or models of products or services incorporated in a window display, works of art which in
6169 no way identify a product, or scoreboards located on athletic fields. Definitions of particular functional,
6170 locational and structural types of signs are listed in this section. (Traffic control and other public agency
6171 signs located within a right-of-way are not included within this definition and are not regulated by the
6172 provisions of this chapter.)

6173 C. Sign Purposes.

6174 1. "Advertising sign" means a sign which directs attention to a business, commodity, service, or
6175 entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is
6176 displayed. Advertising signs include billboards. (Refer to Section 19.54.030.)

6177 2. "Auxiliary sign" means a sign which provides special information such as price, hours of operation, or
6178 warning and which does not include brand names, or information regarding product lines or services. It

6179 may contain a business logo if the logo is under one square foot in area. Examples of such signs include
6180 directories of tenants in buildings, "no trespassing" signs, menu boards, and signs which list prices of
6181 gasoline. (Refer to Section 19.54.050(E).)

6182 3. "Business sign" means a sign which directs attention to a business, commodity, service, or
6183 entertainment conducted, sold, offered, or manufactured upon the premises where the sign is located.
6184 (Refer to Sections 19.54.050 and 19.54.052.)

6185 4. "Community information sign" means an officially-designated sign which is limited to either the
6186 display of information of interest to the general community regarding scheduled public events and
6187 information of general interest to the residents of Whitewater, or signage located on scoreboards,
6188 fences or similar structures within the confines of publicly-owned (city, school district, university)
6189 athletic fields, courts, rinks or other active recreation facilities as approved by the park and recreation
6190 board. (Refer to Section 19.54.010B.)

6191 a. Such sign shall only display information regarding events and information of general interest to the
6192 residents of Whitewater. Copy which may be considered as advertising a product, private or restricted
6193 participation event, or activity for private profit shall be prohibited. This provision may be waived by
6194 conditional use for community information signs on lands owned by the public for recreational
6195 purposes, provided that the installation of the sign provides a benefit to a public or community
6196 organization.

6197 b. Such sign may be located on private or public property.

6198 c. Such sign shall conform to the visibility requirements of Chapter 19.51 and Illustration 2.

6199 d. Maximum sign area shall be thirty-two square feet, unless a larger sign is approved by the plan
6200 commission based on conditions unique to the placement of the sign or the required length of the
6201 message. Such sign shall not be counted as adding to the area of signage on the subject property for the
6202 purposes of regulating sign area per Section 19.54.050(F).

6203 5. Directional Sign, Off-Premises. "Off-premises directional sign" means a sign which indicates only the
6204 name, direction, and/or distance of a business or activity. It may contain a business logo if the logo is
6205 under one square foot in area and approval only by conditional use. (Refer to Section 19.54.030.)

6206 6. Directional Sign, On-Premises. "On-premises directional sign" means an information sign which has a
6207 purpose secondary to the use of the lot upon which it is located, including signs that indicate parking
6208 availability, entrances, particular buildings within a multi-building development, hours of operation,
6209 available merchandise in a drive-through lane, and wall-mounted posters indicating particular movies in
6210 a theater. No sign with a commercial message legible from a public right-of-way or another property
6211 shall be considered an on-premises directional sign. No on-premises directional sign shall be greater
6212 than nine square feet in area.

6213 7. "Sandwich board/pedestal sign" means a movable sign placed by hand outside the building while the
6214 business is open; removed at the time the business closes each day; self-supporting and stable even on
6215 windy days because of its design; used for the purpose of promoting special business offers and not as
6216 primary business signage; and meeting all applicable size, placement, and other requirements of this
6217 chapter (see Section 19.54.050K. in particular).

6218 8. "Group sign" means a sign displaying the collective name of a group of uses such as the title of a
6219 shopping center, office park, industrial park and/or their tenants or occupants. No sales or price
6220 information shall be permitted. Portions of the sign containing names of individual tenants shall be
6221 considered as part of the area of a group sign. Group signs shall only be permitted within developments
6222 serving two or more nonresidential tenants in spaces with separate outside customer doors, and shall
6223 limit information to the name of the development and/or its occupants. Group signs serving two or
6224 more occupants not located on the same lot, but within the same multi-building development, shall be
6225 located on one of the lots being served by the sign. Such signs shall not be considered an advertising
6226 sign as defined in this section. (Refer to Section 19.54.052 for size and locational information.)

6227 9. "Identification sign" means a sign indicating the name and/or address of the tenant of the residential
6228 unit or manager of the property located upon the residential premises where the sign is displayed. Such
6229 sign shall not exceed the allowed area:
6230 a. For one to four units, three square feet;
6231 b. For up to eleven units, six square feet;
6232 c. Twelve units or more, thirty-two square feet. (Refer to Section 19.54.052.)
6233 10. "Temporary sign" means a sign or advertising display intended to be displayed for a period not
6234 exceeding a total of thirty cumulative days within any twelve-month period (except as permitted by
6235 Section 19.54.060). Included in the definition of temporary signs are retailers' signs temporarily
6236 displayed for the purpose of informing the public of a sale or special offer (six square feet maximum) or
6237 for the designation of a new building, promotion of a new development or announcement of a special
6238 event (thirty-two square feet maximum). If a sign display area is permanent but the message displayed
6239 is subject to periodic changes, that sign shall not be considered as temporary. A business shall be limited
6240 to no more than a total of thirty cumulative days for displaying all temporary signs during any twelve-
6241 month period.
6242 11. "Residential business sign" means a sign that is located in a residential district for a joint
6243 commercial/residential use which requires approval by the zoning administrator and to meet the
6244 requirements of Chapter 19.66. All signs must be monument style signs or arm/post type. (Refer to
6245 Illustrations 2 and 3, and Section 19.54.052.)
6246 12. "Commercial message" means any sign wording, logo or other representation that names,
6247 advertises or calls attention to a business, product, or service.
6248 D. Sign Configurations.
6249 1. "Freestanding sign" means a self-supporting sign resting on or supported by means of poles,
6250 standards, or any other type of base on the ground. This type of sign includes monument signs, pylon
6251 signs, arm/post(s) signs, and signs mounted on canopies over gasoline dispensing pumps. The base or
6252 support(s) of any and all freestanding signs shall be securely anchored to a concrete base or footing. The
6253 footing and related supporting structure of a freestanding sign, including bolts, flanges, brackets, etc.,
6254 shall be concealed by the sign exterior, masonry covering, earth and permanent groundcover, or
6255 evergreen shrubs. (Refer to subsection E. of this section and Sections 19.54.050 and 19.54.052.)
6256 2. "Mobile/portable sign or banner" means a sign or banner mounted on a frame or chassis designed to
6257 be easily relocated, including vehicles and/or trailers which have a principal commercial use for signage,
6258 but not including any sandwich board/pedestal sign as defined in Section 19.54.020C.7. Mobile/portable
6259 signs or banners are prohibited unless approved by the zoning administrator for the purpose of
6260 recognizing a business opening, annual business anniversary, or community celebration. Where
6261 approved, such a sign shall not be in place for a period to exceed thirty days within any twelve-month
6262 period, shall not be erected more than thirty days before the event, shall be removed not more than five
6263 days after the completion of the event, and shall not exceed thirty-two square feet in area. A mobile or
6264 portable sign shall not be considered a temporary sign as defined in Section 19.54.020C.9. or used for
6265 such a purpose, except as may be allowed by the zoning administrator.
6266 3. "Monument sign" means a freestanding sign whose bottom edge is located within one foot of
6267 ground level or a ground-mounted pedestal. The base or support(s) of any and all monument signs shall
6268 be securely anchored to a concrete base or footing. The height of a monument sign shall not exceed that
6269 specified in Section 19.52.052, nor shall it be otherwise erected so that it impedes visibility for safe
6270 pedestrian and/or vehicular circulation. The footing and related supporting structure, including bolts,
6271 flanges, brackets, etc., shall be concealed by the sign exterior, masonry covering, earth and permanent
6272 groundcover, or evergreen shrubs. (Refer to Sections 19.54.040 and 19.54.052, and Illustrations 2 and
6273 3.)

- 6274 4. "Projecting sign" means a sign, other than a wall sign, which is directly attached to and projects more
6275 than one foot from a building face, and is generally mounted perpendicular from the building face. The
6276 bottom edge of such sign shall be located a minimum of eight and one-half feet from the ground level
6277 directly under the sign. In no instance shall such sign be located closer than three feet to the edge of a
6278 street curb, drive, or parking area. For maximum area and placement standards, see Section 19.54.052.
- 6279 5. "Electronic message center sign" means a sign in a nonresidential zoning district which displays
6280 words, lines, graphic images, video recordings, or symbols that can electronically change to provide
6281 different information and/or animation, including a computer sign, electronic reader board sign, video
6282 display sign, or time and/or temperature sign, but not including a flashing sign, which is prohibited
6283 under Section 19.54.030A.3. For electronic message center sign standards, see Section 19.54.050L.
- 6284 6. "Pylon sign" means a freestanding sign, other than arm post type, erected upon one or more pylon
6285 or post. The base or support(s) of any and all pylon signs shall be securely anchored to a concrete base
6286 or footing. The height of a pylon sign shall be measured from the centerline elevation of the nearest
6287 road to the top of the sign. The height of a pylon sign shall not exceed twenty feet. Pylon signs shall be
6288 erected so that the vertical distance between the bottom edge of the sign and the elevation of the
6289 centerline of the nearest road to said sign exceeds eight feet. The footing and related supporting
6290 structure of a freestanding sign including bolts, flanges, brackets, etc., shall be concealed by the sign
6291 exterior, masonry covering, earth and permanent groundcover, or through the use of evergreen shrubs.
6292 (Refer to Section 19.54.052 and Illustrations 2 and 3.)
- 6293 7. "Wall sign" means a sign mounted parallel to a building facade or other vertical building surface.
6294 Wall signs shall not extend beyond the edge of any wall or other surface to which they are mounted, nor
6295 shall they project more than twelve inches from its surface. The height of a wall sign shall be measured
6296 from the base of the building below the sign to the top of the sign face. The top of the sign shall be no
6297 higher than the nearest portion of the building to which it is mounted.
- 6298 8. "Awning/canopy sign" means a sign mounted to an awning or canopy, with said awning or canopy
6299 mounted to the side of the building. An awning/canopy sign shall be counted as a wall sign for purposes
6300 of this chapter. Script/logo height shall be limited to eight inches, except that a greater script/logo
6301 height may be approved by conditional use.
- 6302 9. "Arm/post(s) sign" means a freestanding sign mounted on a post with a bracket extending outward
6303 to support a sign by either hanging from the bracket or mounted on the bracket. The maximum size,
6304 height, and location of arm/post(s) signs shall be the same as for monument signs. (See Illustration 3
6305 and Section 19.54.052.)
- 6306 10. "Window sign" means a sign mounted on or within one foot inside of a first-floor exterior window,
6307 with a primary intent to advertise a business or product within the premises.
- 6308 E. Sign Measurement.
- 6309 1. "Ground level" means the average elevation of the ground upon which the sign supports are placed,
6310 except when the sign supports rest upon a berm or other area elevated above the surrounding ground.
6311 In such cases, the average elevation of the base of such berm or other area shall be considered as the
6312 ground level.
- 6313 2. Sign area shall be measured in the following manner:
- 6314 a. In the case of a sign placed within a frame, or other structure, sign area consists of the entire surface
6315 area of the sign on which copy could be placed. The supporting structure or bracing of a sign shall not be
6316 counted as a part of the sign face area unless such structure or bracing is made a part of the sign's
6317 message. Where a sign has two or more display faces, the combined total area of all faces shall be
6318 considered the sign face area.
- 6319 b. In the case of a sign whose message is fabricated together with the background which borders or
6320 frames that message, sign face area shall be the total area of the entire background.

- 6321 c. In the case of a sign whose message is applied to a background which provides no border or frame,
6322 sign face area shall be the area of the smallest rectangle which can encompass all words, letters, figures,
6323 emblems, and other elements of the sign message.
6324 d. Signs less than one square foot in area are not regulated by this chapter.
6325 e. The following illustrations demonstrate how sign face area shall be determined.

6326 Illustration 1

6327 **GRAPHIC LINK:**[Click here](#)

6328 (Ord. 1577A §§ 1--5, 2005; Ord. 1452 §§ 9, 10, 2000; Ord. 1263 § 1(part), 1993).

6329 (Ord. No. 1746A, §§ 4--9, 9-15-2009)

6330

6331 **19.54.030 General signage regulations.**

6332 The regulations contained in this section apply to signs in all districts.

6333 A. Sign Prohibitions and Limitations.

6334 1. No sign shall use any word, phrase, symbol, shape, form or character in such manner as to interfere
6335 with moving traffic, including signs which incorporate typical street-type and/or traffic control-type
6336 signage designs and colors.

6337 2. No fluttering, undulating, swinging, rotating or otherwise moving signs, pennants or other
6338 decoration shall be permitted except for electronic message center signs and time and/or temperature
6339 signs in nonresidential zoning districts.

6340 3. No illuminated flashing signs shall be permitted. Electronic message center signs meeting the
6341 definition and requirements of this chapter shall not be considered illuminated flashing signs.

6342 4. No illuminated sign shall be permitted unless the illumination is so designed that the lighting level
6343 does not affect adjacent property, pursuant to the standards in Section 19.57.150. All illuminated signs
6344 shall comply with the state electrical code and Section 19.54.070B., and illumination shall be limited to
6345 one hour before the daily opening of the associated business and one hour after the daily closing of the
6346 associated business.

6347 5. No mobile/portable signs or banners shall be permitted unless approved by the zoning
6348 administrator. Sign use and other regulations shall be as specified in Section 19.54.020D.2.

6349 6. No off-premises directional signs shall be permitted for nongovernmental or noninstitutional uses or
6350 for any use outside of a public right-of-way; however, such signs, as well as city entrance signs, may be
6351 permitted within a public right-of-way, per subsection B.5. of this section, for government facilities,
6352 nonprofit, nonreligious community gathering spots, major economic centers such as the downtown and
6353 business park, and schools.

6354 7. No advertising signs shall be permitted, except for certain community information signs as described
6355 in Sections 19.54.010B. and 19.54.020C.4.

6356 Rationale. The adoption of subsection A.7. of this section reflects a formal finding of fact on the
6357 part of the city plan commission and city council that the prohibition of advertising signage furthers two
6358 compelling government interests: 1) the general public interest of reducing visual clutter caused by
6359 advertising signage which the city has determined is a significant cause of unsafe traffic conditions; and
6360 2) the public interest served by furthering the implementation of the purposes of this chapter and the
6361 city comprehensive master plan in terms of limiting the further spread of strip commercial
6362 development, of which advertising signs are a primary contributor. Furthermore, the city advocates that
6363 this regulation leaves ample and adequate alternative channels of commercial speech communication
6364 for the messages portrayable on such advertising signs; namely, distributed print media, broadcast
6365 media, and point-of-purchase display, and is narrowly defined so as to limit the prohibition to
6366 commercial speech on exterior signage.

6367 B. Sign Location Requirements.

- 6368 1. No sign shall be erected or maintained at any location where by reason of its position, wording,
6369 illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be
6370 confused with, any authorized traffic control sign, signal or device.
- 6371 2. No sign shall be located within a required bufferyard or within a permanently protected green space
6372 area (see Chapter 19.57), unless approved by the city.
- 6373 3. No sign shall be mounted on a roof.
- 6374 4. No sign, temporary or otherwise, shall be affixed to a tree or utility pole.
- 6375 5. Private signs shall be allowed within road right-of-way lines only per the regulations of the city public
6376 works department, and per Section 19.54.030C. below.
- 6377 6. Pylon signs other than arm/post are not permitted in any residential district.
- 6378 C. Private signs extending into the public right-of-way.
- 6379 1. Any person desiring to place any sign such that it will extend over or onto the public right-of-way
6380 shall first obtain a sign permit. In the granting of such a permit, the city may require the applicant to
6381 provide and maintain public liability insurance on the installation in an amount not less than fifty
6382 thousand dollars protecting the city as its interests may appear as the result of any accident or injury for
6383 which it might become in any manner liable. In the event that such insurance should be terminated for
6384 any reason, or that the holder of any permit should fail to keep such insurance in force at any time, then
6385 the permit for the maintenance of such sign shall be forthwith removed, or if not removed by the holder
6386 of the permit, then such sign shall be removed or caused to be removed by the zoning administrator and
6387 the expense thereof shall be recovered from the holder of the permit.
- 6388 2. There is hereby established along each side of every public street, public alley, or public highway a
6389 fictional line five feet distant and outward from the lot line and parallel with such street, alley, or public
6390 highway. No sign which, exclusive of supports, exceeds two hundred fifty pounds in weight or has an
6391 area greater than forty square feet shall be permitted to extend into the highway or over the highway or
6392 sidewalk area beyond such fictional line, except only where such sign is to be placed over a substantial
6393 canopy or portico of such nature that the same will afford ample protection to the public from any
6394 possible injury from such sign.
- 6395 3. In no event shall any sign regardless of size or weight extend into the public street, highway, or
6396 sidewalk area further than to within three feet from the face of the curb or curb line as determined by
6397 the zoning administrator or be placed less than eight and one-half feet above the sidewalk or sidewalk
6398 grade.
- 6399 4. Except for sandwich board/pedestal signs, all private signs extending on or over public rights-of-way
6400 shall be adequately supported from buildings, posts, or other permanent supports located on private
6401 property. In no case shall sign posts or other permanent supports be permitted within the limits of a
6402 public street, alley or highway.
- 6403 5. The zoning administrator shall have the right, and it shall be his duty, to supervise the installation of
6404 any such sign and also to inspect the same from time to time to ascertain whether or not the same is
6405 securely fastened and free from danger to the public. The building inspector shall have the right to
6406 require from time to time any repairs, extra supports or any other precautions necessary to protect the
6407 public safety, and in the event the owner fails to comply with any such requirements the permit for such
6408 sign shall be revoked and the sign shall be removed.
- 6409 6. This subsection C. shall not apply to signs erected by or for churches, service clubs, public or quasi-
6410 public organizations when such installations have been approved by the common council.
6411 (Ord. 1577A § 6, 2005; Ord. 1452 § 11, 2000; Ord. 1263 § 1(part), 1993).
6412 (Ord. No. 1746A, §§ 10--12, 9-15-2009)

6413
6414 **19.54.040 Sign regulations applicable to residential districts.**

6415 In all residential zoning districts, signage shall be permitted per the requirements of Sections
6416 19.54.010 through 19.54.040 and 19.54.052 through 19.54.080 and per the following:

6417 A. Wall, monument, arm/post(s), and projecting signs (for certified historic properties) are permitted in
6418 residential zoning districts. Other forms of signage are prohibited.

6419 B. For each single-family lot, or two-family or multifamily lot containing four or fewer dwelling units,
6420 one identification sign, not to exceed three square feet in area, is permitted for each dwelling unit. Said
6421 identification sign may include one or more of the following: name, address, and/or home occupation
6422 title.

6423 C. For each multifamily or institutional residential lot containing five to eleven dwelling units, one
6424 identification sign, not to exceed six feet in area, shall be permitted. For each multifamily or institutional
6425 residential lot containing twelve units or more, one identification sign not to exceed thirty-two square
6426 feet is permitted. The sign shall indicate nothing more than the name and address of the premises and
6427 the name of the management company.

6428 D. Permanent subdivision identification signs are authorized if approved as part of a final plat submittal
6429 for a subdivision (per Title 18). Detailed plans of proposed signs must be submitted at the time of final
6430 plat review. Such sign shall comply with the visibility standards in Section 19.51.010 and as shown in
6431 Illustration 2, shall not exceed thirty-two square feet in area or eight feet in height, and shall not be a
6432 pylon sign.

6433 E. For all commercial uses permitted in residential districts, not including home occupations, one
6434 monument, wall, or arm/post(s) type sign per building, not to exceed thirty-two square feet in area, is
6435 permitted. The sign shall indicate nothing more than the name and address of the premises and the
6436 schedule of service or other information relevant to the operation of the premises.

6437 F. For all institutional uses permitted in residential districts, sign sizes and types shall be the same as
6438 those applicable in the I Institutional zoning district per Section 19.54.052, except that pylon signs shall
6439 not be permitted.

6440 G. Temporary signs, after approval of the zoning administrator, are permitted per the requirements of
6441 Section 19.54.060.

6442 H. For more information, see Sections 19.54.020D. and 19.54.052.
6443 (Ord. 1577A § 7, 2005; Ord. 1452 § 12, 2000; Ord. 1263 § 1(part), 1993).

6444
6445 **19.54.050 Sign regulations applicable to nonresidential districts.**

6446 In all nonresidential zoning districts, signage shall be permitted per the requirements of Sections
6447 19.54.010 through 19.54.030 and 19.54.050 through 19.54.080 and per the following:

6448 A. The owners of multitenant properties shall allocate sign size to each business, in writing to the
6449 zoning administrator, up to a specified maximum for the entire property. All multitenant signs must be
6450 compatible in dimensions, in location, in design, in color and the same material, and shall be compatible
6451 with the appearance of the building and the surrounding area in the opinion of the property owner and
6452 the city.

6453 B. The total surface area of all business and identification signs on a lot shall not exceed the maximum
6454 permitted by Section 19.54.052.

6455 C. The number of business and group signs for a business use shall not exceed the numbers listed in
6456 Section 19.54.052. Signs allowed under Section 19.54.052 may be placed on any facade facing a public
6457 street, except where otherwise specified in Section 19.54.052.

6458 D. Only one freestanding sign shall be permitted to be erected within the required street yard for each
6459 lot. Such sign may be either a business sign or a group sign. No lot shall be permitted more than one
6460 freestanding sign, except directional/auxiliary signs allowed by this chapter. All signs shall be located so
6461 that no part of the sign shall exceed the lot line set back from all lot lines as stated in Chapter 19.51 and
6462 Section 19.54.052, Illustration 2, or impede visibility (refer to Chapter 19.51).

6463 E. Auxiliary signs may only be permitted when specifically approved as part of the site plan review
6464 process. Said signage shall be calculated independently of the requirements of subsection A of this
6465 section, and shall not exceed fifty percent of the maximum permitted area.

6466 F. Maximum sign sizes for nonresidential districts shall be permitted per the requirements of the table
6467 of maximum sign sizes (see Section 19.54.052).

6468 G. Temporary signs are permitted per the requirements of Section 19.54.060.

6469 H. Signs carrying secondary advertising messages. Signs carrying secondary advertising media or
6470 messages, such as brand names or logos of products, are allowed as a conditional use, or as a permitted
6471 type of window sign subject to the percentage of window coverage and other applicable regulations of
6472 this chapter, but only where such signs are integral to the business being conducted on the property.

6473 I. Projecting signs are only permitted in the B-2 zoning district or if specifically authorized within a
6474 Specific Implementation Plan for a ~~PCD~~PD Planned Community Development district. (See Section
6475 19.52.052.)

6476 J. Signs may be mounted on canopies over gasoline dispensing pumps, provided that the sign message
6477 is limited only to the business name, logo, and price information. The maximum permitted sign area for
6478 any other freestanding sign on the lot shall be reduced by the total sign area on the canopy.

6479 K. Sandwich board/pedestal signs (see definition in Section 19.54.020C.7).

6480 1. There shall be a maximum of one sandwich board/pedestal sign per business.

6481 2. Height shall not exceed five feet (as measured when such sign is properly placed directly on the
6482 ground or sidewalk surface), width shall not exceed three feet, and sign area shall not exceed six square
6483 feet per side.

6484 4. All sandwich board/pedestal signs shall be designed to be self-supporting and in such a manner to
6485 withstand the elements, including the ability to remain upright on windy days.

6486 5. No sandwich board/pedestal sign shall be illuminated in any manner (except via cordless power for
6487 not more than thirty days in any calendar year), have more than two sides, be placed off-premises
6488 (except where allowed on a sidewalk immediately adjacent to the business lot to which it relates), or be
6489 designed to resemble a public regulatory sign (such as a stop sign).

6490 7. All sandwich board/pedestal signs shall be placed directly on a ground surface or walkway surface.

6491 8. No sandwich board/pedestal sign shall be placed on a public sidewalk or shall otherwise extend onto
6492 or into a public right-of-way, except that within the B-2 district or as may be specifically authorized in a
6493 specific implementation plan under ~~PCD~~PD zoning, a sandwich board/ pedestal sign may be placed within
6494 the public sidewalk or otherwise between the front of the building and the curb, provided that:

6495 a. There is not adequate space available on the premises to place the sign on private property in a
6496 manner that is visible to the public.

6497 b. The sign is placed directly in front of the business to which it is related.

6498 c. No part of the sign is any closer than three feet from the face of the curb.

6499 d. A minimum of four feet in width of unobstructed travelway remains available in all directions on the
6500 sidewalk at all times.

6501 9. Placement of all sandwich board/pedestal signs shall meet all intersection visibility requirements in
6502 Section 19.51.010, and shall otherwise not impede traffic visibility in the determination of the zoning
6503 administrator. This may require relocation and/or adjustments to height or design.

6504 10. All sandwich board/pedestal signs must be kept in good condition, as determined by the zoning
6505 administrator and per the maintenance requirements of Section 19.54.070.

6506 11. Sandwich board/pedestal signs shall not count against the maximum area or number of signs
6507 allowed on a lot or for a business as specified in Section 19.54.070.

6508 12. Except where placed within the public right-of-way, sandwich board/pedestal signs that meet the
6509 requirements of this chapter may be used without the need for a sign permit.

6510 L. Electronic message center signs (see definition in Section 19.54.020D.5.).

- 6511 1. The total length of the information cycle shall not be shorter than three seconds nor longer than ten
6512 seconds. Items of information may not be repeated at intervals that are short enough to cause an
6513 electronic message center sign to have the effect of a flashing sign. Traveling messages may travel no
6514 slower than 16 light columns per second and no faster than thirty-two light columns per second.
6515 2. Except for signs that are less than ten square feet in sign area, all electronic message center signs
6516 shall be equipped with photosensitive equipment that automatically adjusts the brightness and contrast
6517 of the sign in direct relation to the ambient outdoor illumination.
6518 3. The message display area shall be included when calculating permitted sign area for the type of sign
6519 (e.g., wall, monument) in the zoning district in which the sign is located.
6520 4. All electronic message center signs shall be maintained so as to be able to display messages in a
6521 complete and legible manner.
6522 5. No electronic message center sign shall be allowed within any agricultural, conservancy, residential,
6523 or industrial zoning district; for any residential use regardless of zoning district; or positioned to be
6524 visible and within three hundred feet from any residential zoning district except by conditional use
6525 permit. Within the B-2 zoning district, electronic message center signs shall be allowed only by
6526 conditional use permit.
6527 (Ord. 1619A § 4, 2006; Ord. 1577A § 8, 2005; Ord. 1452 §§ 13, 14, 2000; Ord. 1269 § 1, 1993; Ord. 1263
6528 § 1(part), 1993).
6529 (Ord. No. 1618B, § 4, 12-19-2006); Ord. No. 1746A, §§ 13--16, 9-15-2009)

6530
6531 **19.54.052 Maximum sign sizes and types.**

- 6532 A. ~~A~~ Signage regulations for most zoning districts. Table 19.54.052(1) summarizes the sign
6533 regulations for the following zoning districts: R-1, R-1x, R-2, R-3, R-4, B-1, B-3, M-1, M-2, WUTP,
6534 AT, and I. The more detailed requirements contained elsewhere in Chapter 19.54 shall also
6535 apply.
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6548 Table 19.54.052(1):
6549 General Sign Regulations (not B-2 district)

6550 TABLE INSET:

Zoning District	Type of Sign	Size	Location	Height	Exception	Total # of Signs
R-1, R-1x,	Identification	3 sq. ft.	Main entrance	6' max (for freestanding	If planned residential	1 per lot

R-2 _z			or street yard	sign)	development, different signage levels may be allowed by conditional use	
	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 _z	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 PRDPD	
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,	Wall or window	10% (A) (C) Max 50 sq. ft.	Above or next to main building	First floor area	Use may substitute one additional	1 per building, but see exception

<u>2222</u> <u>B-2</u> <u>B-</u> <u>2A222</u> I			entrance or on street wall		wall sign for freestanding sign	
	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 occupant in a separated space, up to max of 160 sq. ft./side	In street yard, setback equal to height from any side yard lot line and 5' from street right-of-way line	20' max for pylon sign	Pylon sign allowed by conditional use only	1 per lot
				10' max for monument or arm/post(s) sign		
	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	80 sq. ft. per side	10' from any lot	10' max	Except as required in	1 per lot

	arm/post only		line		business park covenants	
	On-premises Directional	9 sq. ft.		6' max (for freestanding)		

6552 NOTES:

6553 (A) Building wall area is determined by using the square footage of the exterior wall of the first floor
6554 area to be signed (including window and door openings).

6555 (B) Permitted wall signage shall be divided among each tenant space. Maximum total size equals ten
6556 percent of the first floor area of the building wall upon which the signs will be placed.

6557 (C) Window sign area cannot exceed one-third of each individual window glass area on or in which the
6558 window signs are located.

6559 (D) Signage for projects with a ~~PCD~~PD planned community development district shall be as specified by
6560 the approved specific implementation plan for each particular project. Sign requirements for ~~PCD~~PD
6561 districts shall generally be based on the signage requirements in the most comparable standard zoning
6562 district.

6563 B. B-2 central business district sign regulations.

6564 1. Each business in the B-2 district shall be permitted a maximum of two permanent business signs,
6565 which may be any combination of the following sign configuration types: wall sign (includes
6566 awning/canopy sign), window sign, projecting sign, and freestanding sign, subject to the following
6567 qualifications:

6568 a. For freestanding signs, see also the limitations in Section 19.54.050D.

6569 b. Any number of window signs used shall count as only one sign in total against this maximum. If the
6570 only window signs used are those allowed under Section 19.54.050H., then such signs shall not count
6571 against this maximum.

6572 c. Any sign for a business included within a group sign, as defined in Section 19.54.020C., shall count as
6573 one sign against the total number of permanent business signs permitted, except that for cases where a
6574 business has or shares more than one public building entrance, an additional group sign shall be
6575 permitted which indicates that and other businesses.

6576 d. Sandwich board/pedestal signs, directional signs, auxiliary signs, and "ghost" signs not related to the
6577 current business operation shall not count against the total number of permanent business signs
6578 permitted.

6579 2. For corner lots, permitted signage may be placed on either or both facades facing a public street.

6580 3. Pylon signs, internally illuminated signs, electronic message center signs, and restoration of "ghost"
6581 signs shall be allowed in the B-2 district by conditional use, except for sign face/component changes on
6582 pre-existing signs of these types, which instead may be accomplished through the site plan review
6583 process under Chapter 19.63. Upon receipt of a completed conditional use permit application for any
6584 such new sign in the B-2 district, the zoning administrator shall forward such application to the
6585 Downtown Whitewater Design Team. If the design team chooses to provide a recommendation, such
6586 recommendation must be provided in a timeframe that allows plan and architectural review commission
6587 action on the conditional use permit request under the requirements of Chapter 19.66.

6588 4. Electronic message center signs shall meet the technical requirements of Section 19.54.050L., and
6589 shall not exceed twelve square feet in area in the B-2 district.

6590 5. Internally illuminated signs in the B-2 district shall be designed and constructed with an opaque
6591 background and translucent letters or symbols, or with a colored background and lighter letters or
6592 symbols.

- 6593 6. Exposed neon tube signage, and other signage that uses another technology that is designed to
 6594 replicate neon tube signs, is permitted within the B-2 district.
 6595 7. In addition to meeting the requirements of Section 19.57.150, all exterior lighting of signage in the B-
 6596 2 zoning district, regardless of wattage, shall use shielded lighting fixtures as that term is defined in
 6597 Section 19.09.623. All wall-mounted exterior lights shall be mounted above the sign they are intending
 6598 to illuminate and the illumination shall be directed exclusively towards the sign.
 6599 8. No wall sign shall be painted directly on a masonry building surface.
 6600 9. Within the B-2 district, the regulations listed in Table 19.54.052(2) shall apply:
 6601 Table 19.54.052(2): B-2 Sign Regulations for Permanent Signs

6602 TABLE INSET:
 6603

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	
Projecting Sign	12 square feet per side	A minimum of 20 feet from any other projecting sign on another building	Within first floor area of 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

- 6604 NOTES:
 6605 (A) The combined total area of all wall signs for all tenants shall not exceed ten percent of the first floor
 6606 area of the façade upon which the signs are placed. First floor façade area is determined by calculating
 6607 the square footage of the entire exterior wall of the first floor area of the façade to be signed (including
 6608 window and door openings).
 6609 (Ord. 1577A § 9, 2005; Ord. 1452 § 15, 2000; Ord. 1364 § 13, 1997; Ord. 1269 § 2, 1993; Ord. 1263 §
 6610 1(part), 1993).
 6611 (Ord. No. 1746A, § 17, 9-15-2009)
 6612 [Illustration 2](#)
 6613 **GRAPHIC LINK:**[Click here](#)
 6614 [Illustration 3](#)
 6615 **GRAPHIC LINK:**[Click here](#)

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19.54.060 Temporary signs.

Except as provided for in this section, only one temporary sign may be displayed on a property at any one time. Except as provided by subsections A through E of this section, any one lot is permitted to display a temporary sign for a maximum of thirty days within any twelve-month period. Furthermore, any one lot is limited to a maximum of two temporary signs in any twelve-month period (temporary signs in subsections A, B, D and E are exempt from this restriction). Time limits are subject to review by the city. The following temporary signs are allowed:

A. For each lot or leasable space: one "For Sale" and "For Rent" sign, not more than twelve feet square in area, and no more than two signs in total at any one time (time limit subject to time of sale or lease and shall be removed within sixty days of sale or lease).

B. For construction on or development of a lot, one sign not more than thirty-two square feet in area, indicating the name of the contractors, engineers, architect, or products being used in the construction of a building, but only during the time that construction or development is actively underway (time limit subject to time of construction and shall be removed sixty days after completion).

C. For a temporary event of public interest such as a neighborhood garage sale or church fair, temporary signs, combined totaling not over thirty-two square feet in area, located upon the site of the event are allowed. Also permitted are directional signs, each not more than four square feet in area, showing only a directional arrow and the name of the event. Such signs shall not be erected more than thirty days before the event and shall be removed not more than five days after the completion of the event.

D. For each real estate subdivision that has been approved in accordance with the city subdivision regulations, one temporary development project identification sign is permitted to be located on some portion of the subject subdivision. Each such sign shall be not more than thirty-two square feet in area. One additional similar sign shall be permitted for each access point onto a collector or arterial street, or for each one hundred lots in the subdivision in excess of the original one hundred lots. These signs shall comply with the visibility standards of Chapter 19.51. These signs shall be permitted to remain within the subject subdivision until a time at which building permits have been issued for eighty percent or more of the lots in the subdivision.

E. Political signs.

1. Provisions in the Whitewater Municipal Code regulating the number of signs and the length of time a sign may be in place shall not apply to signs which carry solely a political message. There shall be no restriction regulating the number of signs carrying solely a political message or the length of time such signs are allowed.

2. Provisions in the Whitewater Municipal Code regulating the size and shape of signs shall not apply to signs thirty-two square feet and under in area, if the sign carries a solely political message and is located on a residential property during an election campaign period. The zoning administrator may require modification or removal of the sign, if necessary, for traffic or pedestrian safety. Also, size and shape regulations shall not apply during an election campaign period to political signs which are affixed to a permanent building and do not extend beyond the perimeter of the building, as long as said sign does not obstruct a window, door, fire escape, ventilation shaft, or other area which is required by an applicable building code to remain unobstructed.

Definitions. In this subsection, the following definitions shall apply:

a. "Election campaign period" means, in the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers were papers to be required, and ending on the day of the election.

6662 b. "Political message" means a message intended for a political purpose or a message which pertains to
6663 an issue of public policy of possible concern to the electorate, but does not include a message intended
6664 solely for a commercial purpose.

6665 c. "Residential property" means property occupied or zoned to be occupied for residential purposes
6666 and other property abutting that property for which the owner or renter is responsible for the
6667 maintenance or care. If property is utilized for both residential and nonresidential purposes, "residential
6668 property" means only the portion of the property occupied or suitable to be occupied for residential
6669 purposes.

6670 (Ord. 1577A § 10, 2005; Ord. 1452 §§ 16, 17, 2000; Ord. 1263 § 1(part), 1993).

6671

6672 **19.54.070 Construction and maintenance of signage.**

6673 A. All signage within the jurisdiction of this chapter shall remain in a state of proper maintenance. (See
6674 subsection B of this section).

6675 B. Proper maintenance shall be the absence of sign material or loose materials (including peeling paint,
6676 sign message, paper or other material), the lack of excessive rust, the lack of excessive vibration or
6677 shaking, the proper illumination of all lighting originally approved and constructed for the sign, and the
6678 presence of the original structural integrity of the sign, its frame and other supports, its mounting, and
6679 all components thereof.

6680 C. The repainting, changing of parts, and preventive maintenance of signs which completely conform to
6681 the requirements of this chapter, and result in absolutely no change in the appearance of the sign from
6682 that originally approved, shall not be deemed alterations requiring a sign permit.

6683 D. Any signs which may be, or may hereafter become rotted, unsafe, or in a state which is not properly
6684 maintained shall be repaired or removed by the licensee or owner of the sign, or owner of the property
6685 upon which the sign stands upon notice of the zoning administrator.

6686 E. All permanent signs shall be constructed and mounted so as to withstand a wind pressure of thirty
6687 pounds per square foot.

6688 F. Signage found to be in violation of the provisions of this chapter shall be subject to the provisions of
6689 Chapter 19.75.

6690 (Ord. 1577A § 11, 2005; Ord. 1263 § 1(part), 1993).

6691

6692 **19.54.080 Nonconforming signs.**

6693 A. Nonconforming Signs.

6694 1. Signs existing as of the effective date of the ordinance codified in this chapter (see Chapter 19.60)
6695 which do not conform to the provisions of this chapter, shall be nonconforming signs and shall be
6696 subject to the provisions of subsection B of this section. Nonconforming signs may be maintained. No
6697 nonconforming sign shall be altered or moved to a new location without being brought into compliance
6698 with the requirements of this chapter (see subsection (B)(1) of this section).

6699 2. Business signs on the premises of a nonconforming use or building may be continued per Section
6700 19.54.040(B), but such signs shall not be allowed, nor shall expand in number, area, height or
6701 illumination. New signs, not to exceed the maximum allowable aggregate sign area may be erected only
6702 upon the complete removal of all other signs existing at the time of adoption of the ordinance codified
6703 in this chapter.

6704 3. Nonconforming signs shall be removed when the principal structure located on the premises
6705 undergoes a change of use, or shall be removed per subsection B of this section. Closing businesses
6706 must remove their signs within sixty days of closing.

6707 4. Signage not in compliance with the provisions of this section shall be subject to the provisions of
6708 subsection B of this section.

6709 B. Removal of Nonconforming Signs.

- 6710 1. Alteration of Signs.
6711 a. For the purpose of this chapter, alteration of a sign is considered to be any change to the exterior
6712 appearance of any part of the sign, its frame, its supporting structure, or its lighting including changing
6713 the message (except for menu type/letter board signs), symbols, color, material, height, location or any
6714 other alterations as determined by the zoning administrator.
6715 b. Altering a sign does not include maintaining the existing appearance of the sign or replacing the sign
6716 face or the supporting structure with identical materials, colors, and messages nor changing the
6717 message of a menu type/letter board sign.
6718 2. All signs found not to be in compliance with the provisions of this chapter shall be removed within
6719 thirty days of receiving written notice of noncompliance and removal from the zoning administrator.
6720 3. The penalties of Chapter 19.75 shall be applicable to violations of the provisions of this chapter.
6721 C. Modification Sign Location/Height Requirement.
6722 1. Location is required under Sections 19.54.030(B) and 19.54.052.
6723 a. The above may be waived by the zoning administrator and/or the plan and architectural review
6724 commission, in instances where a hardship is created by this chapter for any freestanding sign existing at
6725 the time the ordinance codified in this chapter is adopted.
6726 2. The petitioner must demonstrate that compliance with location requirements for the freestanding
6727 sign will create a public safety hazard (such as visibility hazard) or result in a sign which is not possible
6728 because of building setbacks and/or other obstructions located near the public right-of-way, or is not
6729 clearly visible from pedestrian and/or vehicular traffic on nearby public rights-of-way.
6730 3. This modification shall not be applicable to limitations on types of signage, area of signage, color of
6731 signage, or other standards except location and height of signage.
6732 (Ord. 1263 § 1(part), 1993).
6733

6734 **Chapter 19.55 WIRELESS TELECOMMUNICATIONS FACILITIES**

6735 Sections:

6736 19.55.010 Purpose.

6737 19.55.020 Applicability.

6738 19.55.030 Areas where wireless telecommunication facilities allowed.

6739 19.55.040 Type of approval required.

6740 19.55.050 Required application submittal information.

6741 19.55.060 Co-location and use of alternative support structures.

6742 19.55.070 Structural, design and aesthetic standards.

6743 19.55.080 Abandonment and removal.

6744 19.55.090 Compliance.

6745 **19.55.010 Purpose.**

6747 The purpose of this chapter is to provide a thorough and consistent set of standards for the
6748 siting and installation of wireless communications facilities in the various zoning districts in which they
6749 may be allowed, and more generally to protect the public health, safety, welfare, aesthetics and natural
6750 environment of the city in such a manner that does not unduly interfere with the placement and
6751 construction of said facilities. More specifically, the intent of this chapter is to:

- 6752 A. Mitigate the potential for adverse visual impacts caused by wireless telecommunications facilities
6753 through design and siting standards.
6754 B. Ensure that a business environment characterized by high service quality, competition and non-
6755 discrimination prevails with regard to wireless telecommunication services in a manner consistent with
6756 the Federal Telecommunications Act of 1996.

6757 C. Establish a clear process for obtaining necessary permits for wireless telecommunications facilities
6758 that adequately protect the interests of the citizens of the city while minimizing the burden of
6759 compliance to service providers.
6760 D. Protect environmentally and aesthetically sensitive areas of the city by restricting the design, height,
6761 location and operation of wireless telecommunications facilities in these areas, and by promoting their
6762 disguise, camouflage, screening or other design treatments intended to minimize their obtrusiveness.
6763 E. Encourage use of multiple-antenna alternative support structures such as buildings and water towers
6764 as an alternative to stand-alone, single-use, single-provider structures, and require good-faith attempts
6765 for co-location of facilities.
6766 (Ord. 1499 § 24(part), 2001).

6767
6768 **19.55.020 Applicability.**

6769 The requirements of this chapter shall apply to all new wireless telecommunications facilities
6770 that had not received a building permit prior to adoption of this chapter. Wireless telecommunications
6771 facilities, which pre-exist this chapter, or have been legally permitted prior to its adoption, shall not be
6772 required to meet the requirements contained herein. This chapter is not intended to regulate residential
6773 satellite dishes that are thirty-six inches or less in diameter, residential television antennas, or amateur
6774 radio facilities, which instead are regulated under Section 19.06.110. This chapter shall not be construed
6775 as to override additional or more stringent Federal or State of Wisconsin requirements, including but
6776 not limited to any regulations or restrictions imposed by the State Bureau of Aeronautics, the Federal
6777 Communications Commission (FCC), or the Federal Aviation Administration (FAA).
6778 (Ord. 1499 § 24(part), 2001).

6779
6780 **19.55.030 Areas where wireless telecommunication facilities allowed.**

6781 Chapter 19.15 to Chapter 19.48 identify the zoning districts in which wireless
6782 telecommunications facilities may be allowed, and what types of facilities are allowed as permitted or
6783 conditional uses. In no case shall a wireless telecommunications facility be located in or on districts or
6784 sites listed on the State or National Register of Historic Places, or within environmental corridors,
6785 wetlands, floodplains, or critical species habitats mapped by the Southeastern Wisconsin Regional
6786 Planning Commission, Wisconsin Department of Natural Resources, or through more detailed field
6787 surveys.
6788 (Ord. 1499 § 24(part), 2001).

6789
6790 **19.55.040 Type of approval required.**

6791 In zoning districts where they are allowed, the first wireless telecommunications facility to be
6792 located on an alternative support structure and all new freestanding wireless communication facilities
6793 shall require a conditional use permit, and shall meet the standards in this chapter and Chapter 19.66 to
6794 obtain approval. In zoning districts where they are allowed, the second or greater wireless
6795 telecommunications facility to be located on an alternative support structure already supporting a
6796 wireless telecommunications facility or on a pre-existing wireless telecommunications facility shall be
6797 allowed as a permitted use, except that any addition or extension to an existing wireless
6798 telecommunications facility that adds more than ten feet to the overall height of the existing facility or
6799 alternative support structure shall require a conditional use permit. In zoning districts where wireless
6800 telecommunication facilities are allowed, wireless telecommunication support facilities shall be allowed
6801 as permitted accessory uses upon the establishment of the principal facility. All wireless
6802 telecommunication facilities and wireless telecommunication support facilities shall be subject to plan
6803 review in accordance with Chapter 19.63.
6804 (Ord. 1499 § 24(part), 2001).

6805
6806 **19.55.050 Required application submittal information.**

6807 With the application for plan review or conditional use permit for a wireless
6808 telecommunications facility, the petitioner, shall submit all information required under Section
6809 19.63.020, along with the following additional information:

6810 A. The identity, legal status, signature and contact information of the carrier, service provider,
6811 petitioner, and landowner.

6812 B. FCC license and registration numbers if applicable.

6813 C. A report prepared by a Wisconsin licensed engineer certifying the structural design of the
6814 telecommunications facility of a new freestanding wireless telecommunications facility as proposed and
6815 its physical ability to accommodate, either initially or at some time in the future, a total of at least three
6816 antenna arrays for separate providers.

6817 D. In the case of a leased site, a lease agreement, option or binding lease instrument which does not
6818 preclude the lessee from entering into sub-leases on the site at market rates with another co-locating
6819 provider(s) and includes the legal description and amount of property lease.

6820 E. For a proposed wireless telecommunications facility within a one-mile radius of an airport, copies of
6821 an Affidavit of Notification indicating that the airport operator and airport property owner have been
6822 notified via certified mail, along with copies of the determination of no hazard from the FAA or any
6823 other finds of the Wisconsin State Bureau of Aeronautics, such as they may apply.

6824 F. Proof of a satisfactory level of liability insurance coverage, with the City of Whitewater listed as an
6825 additional named insured party.

6826 G. Certified statement and map prepared by a licensed radio frequency engineer showing the coverage
6827 area of the proposed facility.

6828 H. For a wireless telecommunications facility that requires a conditional use permit, a feasibility
6829 analysis that identifies at least three alternative sites, pre-existing freestanding wireless
6830 telecommunications facilities, and/or alternative support structures that could technically support a
6831 comparable level of service. The intent of this analysis is to present options to minimize the number,
6832 size, and adverse environmental impacts of wireless telecommunications facilities. The analysis shall
6833 specifically address the potential for co-location on pre-existing freestanding wireless
6834 telecommunications facilities and the use of alternative support structures. It shall also explain the
6835 rationale for selection of the proposed site in view of the relative merits of the ~~alternative~~alternatives.
6836 Approval of the project is subject to the plan and architectural review commission's determination that
6837 the chosen site is more advantageous than any other alternative site that is both technically feasible and
6838 available for use. The plan and architectural review commission may choose to independently verify the
6839 findings of the analysis at the applicant's expense.

6840 I. For a wireless telecommunications facility that requires a conditional use permit, a performance
6841 bond in the amount of twenty thousand dollars naming the city as obligee, as security for the potential
6842 future removal of abandoned or inactivated facilities.

6843 J. For a wireless telecommunications facility that would be set back from any property line or, principal
6844 building a distance less than the height of the facility, including the height of any alternative support
6845 structure, an analysis prepared by a licensed structural engineer demonstrating that the facility would
6846 not pose a threat to the public, existing principal buildings or adjacent properties in the event of failure.

6847 K. The amount and location of any fuel proposed to be stored on site.

6848 L. Any other information that the zoning administrator may deem necessary.
6849 (Ord. 1499 § 24(part), 2001).

6850
6851 **19.55.060 Co-location and use of alternative support structures.**

6852 A. In its review of alternative sites considered by the petitioner, the plan and architectural review
6853 commission shall prioritize reasonable alternatives that involve co-locating the new facility on an
6854 existing freestanding wireless telecommunications facility or locating the new facility on an alternative
6855 support structure, such as a tall building, water tower, smokestack, or electrical transmission tower. Co-
6856 location or use of an alternative support structure shall not be required on any facility or structure not
6857 structurally designed to accommodate a new wireless telecommunications facility.

6858 B. All freestanding wireless telecommunication facilities issued a conditional use permit after the
6859 effective date of this chapter, known hereinafter as "host facilities," shall make available space for the
6860 co-location of telecommunications antennas or antenna arrays for at least two additional competing
6861 wireless telecommunications providers, including space for wireless telecommunication support
6862 facilities. This requirement does not apply if the owner or operator of the host facility can demonstrate,
6863 to the satisfaction of the plan and architectural review commission, that the placement of the additional
6864 antennas or equipment would impair or disrupt, for a significant period of time, the service provided by
6865 the host facility.

6866 C. Where a wireless telecommunication facility provider proposes to utilize an alternative support
6867 structure, the provider shall make available space for the co-location of telecommunications antennas
6868 or antenna arrays for at least two additional competing wireless telecommunications providers to the
6869 extent practical, and shall thereafter be considered a host facility. If the plan and architectural review
6870 commission determines based on evidence supplied by the applicant that the proposed facility or
6871 alternative support structure is not structurally sound or not otherwise appropriate for additional
6872 antennas or arrays, the commission may waive this requirement.

6873 D. All new wireless telecommunication facilities and sites shall be designed to promote sharing of both
6874 tower space and ancillary facilities such as access roads, parking areas, buildings, and utilities.

6875 E. The owner or operator of the host facility shall make co-location space reasonably available to other
6876 competing providers at prevailing market lease rates for the industry. Failure to comply with this
6877 provision shall be grounds for revocation of the conditional use permit.

6878 F. Alternative support structures must be at least fifty feet in height to be considered for the addition
6879 of a wireless telecommunication facility, not including the height of any architectural projections. The
6880 plan and architectural review commission may deny the placement of numerous wireless
6881 telecommunication facilities on a single alternative support structure if it determines that such
6882 placement would have a negative aesthetic, architectural, public safety, or operational impact.

6883 G. Wireless telecommunications facilities located on alternative support structures shall be considered
6884 accessory uses.

6885 (Ord. 1499 § 24(part), 2001).

6886

6887 **19.55.070 Structural, design and aesthetic standards.**

6888 All wireless telecommunications facilities shall be designed and sited in such a manner to
6889 minimize or avoid adverse safety, aesthetic or environmental effects per the following requirements:

6890 A. Compliance with all applicable restrictions. All wireless telecommunications facilities shall comply
6891 with all city, state and federal regulations, restrictions, codes, standards and power density limits,
6892 including other city zoning ordinance standards.

6893 B. Materials. Wireless telecommunications facilities shall be constructed of metal or other non-
6894 flammable material, and freestanding facilities shall be self supporting monopoles or lattice towers,
6895 unless otherwise permitted by the plan and architectural review commission. Material color shall blend
6896 with surroundings.

6897 C. Placement. All wireless telecommunications facilities and support facilities shall be located and
6898 installed in such a manner to minimize disturbance to, take advantage of, or locate behind existing
6899 topography and vegetation to minimize visual impact on surrounding properties and public rights-of-

6900 way. No wireless telecommunication facility shall be placed in a location that would physically obstruct
6901 or otherwise interfere with the full use of other wireless telecommunication facilities, residential
6902 satellite dishes, residential television or radio antennas, or amateur radio facilities.

6903 D. Setback. The minimum setback of a new wireless telecommunications facility from all property lines
6904 and principal buildings on the site shall equal the height of the wireless telecommunications facility,
6905 including the height of any alternative support structure. A reduced setback below this minimum may be
6906 considered by the plan and architectural review commission based on submittal of a structural
6907 engineering analysis demonstrating that the facility would not pose a threat to the public, existing
6908 principal buildings, or adjacent properties in the event of failure. All wireless telecommunications
6909 support facilities shall be set back from property lines the same distance as required for principal
6910 buildings in the zoning district.

6911 E. Height. The maximum height above existing grade for any freestanding wireless telecommunications
6912 facility, including all antennas, shall be two hundred and fifty feet. Any wireless telecommunications
6913 facility mounted on an alternative support structure may extend no greater than fifty feet above the
6914 height of an alternative support structure that is less than two hundred feet in height, or no greater than
6915 ten feet above the height of an alternative support structure that is two hundred feet in height or
6916 greater. The plan and architectural review commission may approve waivers to such height limitations if
6917 necessary to facilitate co-location of facilities.

6918 F. Wireless telecommunications support facilities. All wireless telecommunications support facilities
6919 shall be located within enclosed buildings or fully screened rooftop locations. Such accessory buildings
6920 shall not exceed fifteen feet in height and twelve hundred square feet in area, unless otherwise
6921 permitted by the plan and architectural review commission to facilitate co-location. The design and
6922 exterior surfacing of all such buildings or rooftop screening structures shall be in harmony with the
6923 existing or desired architecture for the area. The exterior walls of all such buildings shall be masonry,
6924 stone, stucco, pre-cast, concrete or other similar surface.

6925 G. Signage. No commercial message or signage shall be allowed at or on any wireless
6926 telecommunications facility, wireless telecommunications support facility, or site used for a wireless
6927 telecommunications facility.

6928 H. Driveways. Access driveways shall be surfaced in accordance with the requirements of Section
6929 19.51.110.

6930 I. Landscaping and Fencing. The site including the wireless telecommunications facility shall be
6931 attractively landscaped, with particular emphasis on landscaping near buildings, tower foundations, and
6932 driveways. New vegetation for screening purposes shall be a minimum of five feet in height upon
6933 planting and shall be located on the outside of any required fencing. The base of all freestanding
6934 wireless telecommunications facilities shall be enclosed with security fencing, unless the applicant
6935 provides other acceptable improvements designed to secure the base of the facility (tower) from public
6936 access.

6937 (Ord. 1499 § 24(part), 2001).

6938

6939 **19.55.080 Abandonment and removal.**

6940 Any wireless telecommunications facility not continuously operating for a period of twelve
6941 months shall be considered abandoned and shall be removed (along with its wireless
6942 telecommunication support facilities) within ninety days of receiving an order to remove from the
6943 zoning administrator. The cost of removal and site restoration shall be borne entirely by the permit
6944 holder. In the event that the permit holder fails to remove the facility, the city may cash the required
6945 performance bond and remove the facility and all support facilities itself.

6946 (Ord. 1499 § 24(part), 2001).

6947
6948 **19.55.090 Compliance.**
6949 A. All wireless telecommunications facilities granted site plan or conditional use permit approval after
6950 the effective date of this chapter shall remain in compliance with approved plans, conditions of
6951 approval, the provisions of this chapter as they existed at the time of permit approval, and applicable
6952 standards of Sections 19.63.100 and 19.66.050. The permit holder shall be responsible for the continued
6953 maintenance and/or replacement of all buildings, fencing, landscaping and other site improvements.
6954 B. The permit holder for all wireless telecommunications facilities granted conditional use permit
6955 approval after the effective date of this chapter shall file an annual report with the zoning administrator
6956 demonstrating continued compliance with approved plans, conditions of approval, the provisions of this
6957 chapter as they existed at the time of permit approval, and the standards of Sections 19.63.100 and
6958 19.66.050. The petitioner shall also demonstrate that the term of any performance bond or liability
6959 insurance policy required under Section 19.55.050 shall remain in effect for at least two years from the
6960 date the annual report is submitted. Such report shall be filed within thirty days of the original month of
6961 conditional use permit approval.
6962 C. Failure to comply with subsections A and B above may be grounds for revocation of the permit,
6963 penalties pursuant to Section 19.75.080, or both.
6964 (Ord. 1499 § 24(part), 2001).

6965
6966 **Chapter 19.57 GENERAL PERFORMANCE STANDARDS**

6967 Sections:

- 6968 19.57.010 Compliance with standards required.
6969 19.57.020 Air pollution prohibited.
6970 19.57.030 Fire and explosive hazards--Location--Safety precautions.
6971 19.57.040 Glare and heat restrictions.
6972 19.57.050 Liquid or solid wastes--Storage and discharge restrictions.
6973 19.57.060 Noise restrictions.
6974 19.57.070 Vibration.
6975 19.57.080 Odors.
6976 19.57.090 Radioactivity and electrical disturbances.
6977 19.57.100 Uses and land suitability.
6978 19.57.110 Topography preservation conditions.
6979 19.57.130 Minimum usable floor area.
6980 19.57.140 Required screens and buffers.
6981 19.57.150 Outdoor lighting standards.
6982 19.57.160 Keeping of horses as a residential accessory use.

6983
6984 **19.57.010 Compliance with standards required.**

6985 All land uses and activities, unless otherwise specified, in the City of Whitewater established
6986 after June 24, 1982, the effective date of the ordinance codified in this title, shall comply with the
6987 standards set out in this chapter.
6988 (Ord. 994 § 6.1, 1982).

6989
6990 **19.57.020 Air pollution prohibited.**

6991 No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to
6992 cause soiling, or danger to the health of persons, animals, vegetation or other forms of property.
6993 (Ord. 994 § 6.2, 1982).

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19.57.030 Fire and explosive hazards--Location--Safety precautions.

All activities involving the manufacturing, utilization, processing or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion, and with adequate firefighting and fire-suppression equipment and devices that are standard in the industry. Such activities shall be located and managed in a manner so as not to endanger any adjoining properties or the public in general.
(Ord. 994 § 6.3, 1982).

19.57.040 Glare and heat restrictions.

No activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the industrial district which may emit direct or sky-reflected glare which shall not be visible outside the district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.
(Ord. 994 § 6.4, 1982).

19.57.050 Liquid or solid wastes--Storage and discharge restrictions.

No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive elements, can overload the existing municipal utilities, or can injure or damage persons or property. No such wastes shall be stored in the city for a period longer than three months.
(Ord. 994 § 6.5, 1982).

19.57.060 Noise restrictions.

A. No activity shall produce a sound-level extending outside its premises that exceeds the following:
TABLE INSET:

<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

B. All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittance, duration, beat frequency, impulse character, periodic character or shrillness. Sirens, whistles, horns, power speakers and bells which are maintained and utilized solely to serve a public emergency purpose are exempt from the sound-level standards of this title.

7027 (Ord. 994 § 6.6, 1982).

7028

7029 **19.57.070 Vibration.**

7030 No activity shall emit vibrations which are discernible without instruments outside its premises.

7031 (Ord. 994 § 6.7, 1982).

7032

7033 **19.57.080 Odors.**

7034 No activity shall emit any odorous matter of such nature or quantity to be offensive, obnoxious
7035 or unhealthful outside their premises.

7036 (Ord. 994 § 6.8, 1982).

7037

7038 **19.57.090 Radioactivity and electrical disturbances.**

7039 No activity shall emit radioactivity or electrical disturbances outside its premises that are
7040 dangerous or adversely affect the use of neighboring premises.

7041 (Ord. 994 § 6.9, 1982).

7042

7043 **19.57.100 Uses and land suitability.**

7044 No land shall be used or structure erected where the land is held unsuitable for such use or
7045 structure by the city zoning administrator or plan commission by reason of flooding, concentrated
7046 runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, erosion
7047 susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and
7048 general welfare of this community. In applying this provision, the city may deny or condition the
7049 granting of a zoning permit. The city shall, in writing, recite the particular facts upon which it bases its
7050 conclusion that the land is not suitable for certain uses. The applicant shall have the opportunity to
7051 present evidence contesting such unsuitability to the board of zoning appeals in compliance with the
7052 requirements of Chapter 19.72.

7053 (Ord. 994 § 6.10, 1982).

7054

7055 **19.57.110 Topography preservation conditions.**

7056 In order to preserve the natural topography as much as possible and in order to protect against
7057 danger and damage caused by manmade changes in the existing topography, no lots nor portions of lots
7058 nor any parcels of land shall be excavated or filled unless the following conditions are met:

7059 A. If a difference in grade between two adjacent lots along a lot line is to be not greater at any point
7060 than two feet, this difference in levels may be sloped toward or away from the lot line at a gradient of
7061 one foot vertical to two feet horizontal, and as soon as practicable must be covered adequately with
7062 topsoil and sodded or seeded to prevent erosion so as to assure acceptable restoration; or, a
7063 satisfactory retaining wall of stone, concrete or other suitable masonry material shall be constructed to
7064 retain the higher ground. Within a single lot, any excavation or fill not exceeding two feet vertical shall
7065 also be treated in this same manner.

7066 B. If a difference in grade between two adjacent lots along a lot line, or wholly within a single lot, is to
7067 be greater than two feet at any point, the following procedure shall govern:

7068 1. No slope to be covered with sod, grass seed or other natural plant material may exceed a gradient of
7069 one foot vertical to two feet horizontal;

7070 2. A slope covered with a stone riprap construction may not exceed a gradient of one foot vertical to
7071 one foot horizontal;

7072 3. A difference in adjacent grades may be held by an approved type of retaining wall which is also
7073 protected for safety.

7074 C. Alterations to existing drainage ways or water flows that would cause material detriment to
 7075 adjoining property shall not be permitted.
 7076 (Ord. 994 § 6.11, 1982).

7077
 7078 **19.57.130 Minimum usable floor area.**

7079 A. Within the city, no dwelling unit shall be constructed or remodeled to have less living area than the
 7080 following minimum standards:

7081 TABLE INSET:
 7082

<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;

7083 B. For the purpose of this section, "floor area" shall be the sum of the several floors of a building used
 7084 for human occupancy or use, as measured from the interior faces of the walls, but not including
 7085 basement, garages, porches, breezeways of common hallways and unfinished attics.
 7086 (Ord. 994 § 6.13, 1982).

7087
 7088 **19.57.140 Required screens and buffers.**

7089 Where screens or buffers are required by this title or by the plan and architectural review
 7090 commission to reduce the impact of proposed uses on adjacent properties, the following standards shall
 7091 be followed. Buffer yards and screens may be required jointly or separately.

7092 A. Landscaped Buffer Yards.

7093 1. Buffer yards are horizontal separations along lot lines that are intended to increase the physical
 7094 separation between uses. The width of the required buffer yard shall be determined by the plan and
 7095 architectural review commission or zoning administrator. The minimum width shall be the greater of ten

7096 feet or the width of the required yard abutting a less intensive zoning district, if a specific buffer yard
7097 requirement is established in a particular zoning district.

7098 2. All buffer yards shall be attractively landscaped with a minimum of two canopy/shade trees, five
7099 understory evergreen trees and twelve shrubs planted for every one hundred feet of buffer yard length.
7100 A substitute treatment incorporating plantings and/or a decorative fence or wall is acceptable if
7101 approved by the plan and architectural review commission. All buffer yards shall be kept free of debris,
7102 and noxious weeds. No structure, activity, storage of materials, parking of vehicles or loading shall be
7103 permitted in a buffer yard, except emergency, cross, and pedestrian access. Maintenance of buffer yards
7104 shall be the continuing obligation of the owner of the property.

7105 B. Screens.

7106 1. Screens and barriers located in a limited space, ten feet or less, intended to perform a buffering
7107 effect, particularly for noise reduction or visual screening. Screens may consist of existing or planted
7108 vegetation, fences, walls, earth berms, or similar techniques. Plant screens shall be sufficient to provide
7109 a year-round screen within two years of installation. Walls or earth berms shall be required where noise
7110 reduction is necessary.

7111 2. Screen plantings shall be permanently maintained by the owner of the property, and any plant
7112 materials which do not live shall be replaced within six months.

7113 3. The height of walls and fences shall be regulated by the provisions of Section 19.06.120.
7114 (Ord. 1452 § 7, 2000; Ord. 994 § 6.14, 1982).

7115

7116 **19.57.150 Outdoor lighting standards.**

7117 A. Purpose. The purpose of this section is to provide for adequate and safe lighting of private property,
7118 while limiting light spillover and glare onto adjacent properties and public streets. Such limitations are
7119 intended to prevent the creation of nuisances, promote traffic safety, conserve energy, preserve the
7120 area's dark sky and support astronomy.

7121 B. Applicability. This section shall be applied to the installation of all new and replacement private
7122 outdoor lighting fixtures. Outdoor lighting fixtures legally installed prior to the effective date of the
7123 ordinance codified in this chapter shall not be required to comply with these outdoor lighting standards;
7124 however, any replacement of the lighting fixtures shall comply with all outdoor lighting standards as set
7125 forth in this section.

7126 C. Required Lighting Plan. Where a development requires site plan review under Chapter 19.63, all
7127 outdoor lighting fixtures shall be depicted and described on the required site plan or on a separate
7128 lighting plan. The zoning administrator may also require the following information:

7129 1. A catalog page, cut sheet or photograph of the outdoor lighting fixture(s) including the mounting
7130 method and light cutoff angles;

7131 2. A photometric plot plan, drawn to the same scale as the site plan, and indicating the location of all
7132 lighting fixtures proposed, mounting and/or installation height in feet, the average illumination level (in
7133 footcandles) within the parking lot, and illumination levels at regular intervals around the site and at
7134 property lines.

7135 D. Maximum Luminaire Height. The maximum permitted luminaire height shall be thirty-five feet in all
7136 commercial, industrial and institutional districts, and twenty-five feet in all residential districts. The
7137 height of both the pole and base shall be considered in the measurement of luminaire height.

7138 E. Maximum Illumination Levels. Average illumination levels within parking lots shall not exceed 1.0
7139 footcandle within residential districts, and 2.5 footcandles within all other districts. The illumination
7140 level at any property line shall not exceed 0.5 footcandles above the ambient lighting conditions on a
7141 cloudless night where the property adjoins land in a residential district, and 2.0 footcandles above the
7142 ambient lighting conditions on a cloudless night where the property adjoins land in any other zoning
7143 district. The plan and architectural review commission may agree to allow greater lighting levels based

7144 on specific and reasonable written justification provided by the applicant. In no instance shall a
7145 commercial outdoor lighting fixture be mounted or oriented such that the lighting element is visible
7146 from a property in a residential district.

7147 F. Use of Shielded Light Fixtures. All outdoor lighting fixtures shall be shielded as defined in Section
7148 19.09.623, except incandescent fixtures of one hundred fifty watts or less, other sources of seventy
7149 watts or less, lighting within public street rights-of-way and lighting required for a specialized security or
7150 safety purpose. No searchlights shall be permitted.

7151 G. Types of Light Source. All outdoor lighting fixtures shall have high pressure sodium (HPS), low
7152 pressure sodium (LPS), incandescent or fluorescent light sources, except that in cases where true color
7153 rendition is required (including display lots and certain outdoor recreational uses), white lights such as
7154 metal halide shall be permitted. No new mercury vapor lighting fixtures shall be installed, and no
7155 replacement equipment or bulbs for preexisting mercury vapor lighting fixtures shall be installed after
7156 January 1, 2001. No flickering or flashing lights shall be permitted, except low wattage seasonal lighting
7157 between November 1st and January 31st and lighting required for a specialized security or safety
7158 purpose.

7159 H. Location. No exterior light fixture shall be located within any required landscape bufferyard or within
7160 three feet of any property line.

7161 I. Hours of Illumination. Within one hour after closing of the store, completion of the final work shift, or
7162 completion of specific activities associated with an institutional use, only building mounted security
7163 lighting and up to twenty-five percent of all other outdoor lighting fixtures may remain illuminated.

7164 J. Exterior Lighting for Outdoor Recreational Uses. Ball diamonds, playing fields, golf driving ranges,
7165 tennis courts, parks and similar outdoor recreational uses may be exempted from one or more of the
7166 outdoor lighting standards of this section if approved by the plan and architectural review commission
7167 through site plan review.

7168 K. Street Lighting. Street lighting shall conform to the standards set forth by the state for state and
7169 federal highways, appropriate county for county highways and the city for city streets and highways.
7170 (Ord. 1452 § 8, 2000).

7171

7172 **19.57.160 Keeping of horses as a residential accessory use.**

7173 Horses may be kept as an accessory use only in certain residential zoning districts, upon the
7174 granting of a conditional use permit, and subject to the following standards:

7175 A. The lot on which the horses will be kept and exercised shall be not less than two acres in total area.

7176 B. For each horse kept on the lot, there shall be a minimum of one acre of open land usable for horse
7177 exercise and manure management. Such open land may not include lands in wetlands or woodlands,
7178 with over a twelve-percent slope, or within seventy-five feet of navigable waters or wetlands.

7179 C. Outdoor horse containment areas, including, but not limited to barns and exercise areas, shall be
7180 completely enclosed, shall be a minimum of twenty feet from any other lot, and shall meet the
7181 standards of Wisconsin Statutes Chapter 90. D. The keeping of horses shall not be for commercial
7182 purposes, such as the commercial stabling of horses.

7183 E. The use shall meet and maintain any other specific conditions of conditional use permit approval
7184 that relate to the protection of human, animal, or environmental health, or the character of the
7185 surrounding neighborhood or publicly owned lands.

7186 (Ord. 1589A § 3, 2005).

7187

7188 **Chapter 19.58 NOISE RESTRICTIONS**

7189 Sections:

7190 19.58.010 Policy, purpose, title, and scope.

7191 19.58.020 Definitions.

7192 19.58.030 Exemptions to this chapter.
7193 19.58.040 Residential noise.
7194 19.58.050 General noise disturbance prohibited.
7195 19.58.060 Maximum permissible sound levels by land use category.
7196 19.58.070 Emergency signaling devices.
7197 19.58.080 Specific activities prohibited.
7198 19.58.090 Sound equipment and sound-amplifying equipment.
7199 19.58.100 Motorized vehicles.
7200 19.58.110 Construction.
7201 19.58.120 Nonemergency signaling devices.
7202 19.58.130 Animals and birds.
7203 19.58.140 Enforcement.
7204 19.58.150 Noise variances.
7205 19.58.160 Penalty.
7206
7207 **19.58.010 Policy, purpose, title, and scope.**
7208 A. Statement of Public Policy. The city council finds and declares that:
7209 1. Excessive noise is a serious hazard to the public health and welfare and the quality of life in a close
7210 urban society.
7211 2. A substantial body of science and technology exists by which excessive noise can be substantially
7212 abated without serious inconvenience to the public.
7213 3. Certain of the noise-producing equipment in this community is essential to the quality of life herein
7214 and should be allowed to continue at reasonable levels with moderate regulation.
7215 4. Each person has a right to an environment reasonably free from noise which jeopardizes health or
7216 welfare or unnecessarily degrades the quality of life.
7217 5. It is the declared policy of this city to promote an environment free from excessive noise, otherwise
7218 properly called "noise pollution," which unnecessarily jeopardizes the health and welfare and degrades
7219 the quality of the lives of the residents of this community, without unduly prohibiting, limiting or
7220 otherwise regulating the function of certain noise-producing equipment which is not amenable to such
7221 controls and yet is essential to the economy and quality of life of the community.
7222 B. Purpose, Title and Scope.
7223 1. The purpose of this chapter is to establish standards for the control of noise pollution in the city by
7224 setting maximum permissible sound levels for various activities, to protect the public health, safety and
7225 general welfare.
7226 2. This chapter may be cited as the "Noise Control Ordinance of the City of Whitewater."
7227 3. This chapter shall apply to the control of all noise originating within the limits of the city, except
7228 where either (a) a state or federal agency has adopted a standard or rule and has so preempted the
7229 regulation of noise from a particular source as to render this chapter inapplicable thereto; or (b) the city
7230 council has determined that, by reason of public acceptance of the activity producing a particular noise
7231 or noises, such noise is deemed acceptable to the residents of this city.
7232 (Ord. 1310 § 2(part), 1995).
7233
7234 **19.58.020 Definitions.**
7235 Unless otherwise expressly stated or the context clearly indicates a different intention, the
7236 following terms shall have the meanings shown. Definitions of technical terms used in this chapter
7237 which are not herein defined shall be in conformance with the standard ANSI § 1.1-1994, Acoustical
7238 Terminology.

7239 "Ambient noise level" means the composite of noise from all sources near and far. In this
7240 context, the ambient noise level constitutes the normal or existing level of environmental noise at a
7241 given location and time.

7242 "A-weighted sound level" means the sound level in decibels as measured on a sound-level meter
7243 using the A-weighting network. The level so read is designated dB(A) or dBA.

7244 "Construction" means any site preparation, assembly, substantial repair, alteration, similar
7245 action, for or of public or private rights-of-way, structures, utilities or similar property or similar activity
7246 upon public or private structures or land.

7247 "Continuous sound" means sound which is of a steady and uninterrupted nature of a specified
7248 time period. For the purpose of this title, the minimum time period shall be one hour.

7249 "Daytime" means the hours between seven a.m. and ten p.m. on any given day.

7250 "Decibel" means a unit for measuring the amplitude of sound, equal to twenty times the
7251 logarithm to the base ten of the ratio of the pressure of the sound measured to the referenced pressure,
7252 which is twenty micropascals.

7253 "Emergency work" means any work performed for the purpose of preventing or alleviating the
7254 physical trauma or property damage threatened or caused by an emergency.

7255 "Enforcement office(r)" means the city employee and/or police officer having lead responsibility
7256 for enforcing this chapter; and, the city employee/police officer having responsibility for making noise
7257 surveys, noise analyses, noise investigations and for the administration of this chapter.

7258 "Equivalent sound level (Leq)" means the average sound level measured over a stated period of
7259 time. For the purpose of this chapter, the averaging time shall be one minute.

7260 "Fixed noise source" means a stationary device which creates sounds while fixed or motionless,
7261 including but not limited to residential, agricultural, industrial and commercial machinery and
7262 equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

7263 "Impulse sound" means sound of short duration, usually less than one second, with an abrupt
7264 onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts,
7265 and the discharge of firearms.

7266 "Intermittent sound" means sound which is not continuous or which is of a cyclic or repetitive
7267 nature.

7268 "Intrusive noise" means that noise which intrudes over and above the existing ambient noise at
7269 a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency
7270 and time of occurrence, and tonal or informational content as well as the prevailing ambient noise level.

7271 "Leq" means see equivalent sound level.

7272 "Lmax" means the maximum instantaneous sound level reading.

7273 "Mobile noise source" means any noise source other than a fixed noise source.

7274 "Nighttime" means the hours between ten p.m. and seven a.m. on any given day.

7275 "Noise disturbance" means any noise exceeding the noise-level limits for a designated land-use
7276 category specified in Table 1 or 2.

7277 "Noise sensitive area" means any area designated by the planning commission for the purpose
7278 of ensuring exceptional quiet.

7279 "Public right-of-way" means any street, avenue, boulevard, highway, bikeway, sidewalk or alley
7280 or similar place which is owned or controlled by a government entity.

7281 "Public space" means any real property or structures thereon which are owned or controlled by
7282 a governmental entity.

7283 "Pure tone" means any sound which can be judged as audible as a single pitch or a set of single
7284 pitches by the enforcement officer or police officer.

7285 "Real property boundary" means an imaginary line along the ground surface, and its vertical
7286 extension, which separates the real property owned by one person from that owned by another person,
7287 but not including intra-building real property divisions.

7288 "Sound-amplifying equipment" means any machine or device for the amplification of the human
7289 voice, music, or any other sound. Sound-amplifying equipment, as used in this title, shall not be
7290 construed as including standard automobile radios when used and heard only by occupant(s) of the
7291 vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other
7292 warning devices on other vehicles used only for traffic safety purposes. This definition shall include
7293 remotely located loudspeakers attached to and/or operated from a vehicle.

7294 "Sound-level meter" means an instrument, including a microphone, an amplifier, and an output
7295 meter for the measurement of sound levels, which meets or exceeds the requirements for Type 2
7296 meters in American National Standards Institute specifications for sound-level meters, S1.4-1971.

7297 "Vibration perception threshold" means the minimum ground-borne or structure-borne
7298 vibrational motion necessary to cause a normal person to be aware of the vibration by such direct
7299 means as, but not limited to, sensation by touch or visual observation of moving objects. The perception
7300 threshold shall be presumed to be a motion velocity of .001 inches per second over the range of one to
7301 one hundred Hz.

7302 "Weekday" means any day, Monday through Friday, which is not a legal holiday.
7303 (Ord. 1310 § 2(part), 1995).

7304

7305 **19.58.030 Exemptions to this chapter.**

7306 The provisions of this chapter shall not apply to:

7307 A. The emission of sound for the purpose of alerting persons to the existence of an emergency;

7308 B. The emission of sound in the performance of emergency work;

7309 C. Noncommercial public speaking and public assembly activities conducted on any private property,
7310 public space, or public right-of-way, except those activities controlled by Sections 19.58.040, 19.58.090
7311 and 19.58.100;

7312 D. Agricultural activities, exclusive of those involving the ownership or possession of animals or birds;

7313 E. Rail and air transportation and public mass transportation vehicles;

7314 F. The emission of sound in connection with activities conducted at ~~Wachawick~~Perkins Stadium during
7315 events permitted by the city;

7316 G. The emission of sound in the discharge of weapons or in fireworks displays licensed by the city
7317 council;

7318 H. The emission of sound in the operation of snow removal equipment;

7319 I. Parades or processions for which a parade permit has been issued by the city;

7320 J. Residential garbage collection activities as contracted for by the city;

7321 K. The emission of sound in the operation of yard maintenance equipment.

7322 (Ord. 1310 § 2(part), 1995).

7323

7324 **19.58.040 Residential noise.**

7325 A. Residential noise disturbances (even if the residence is located in a commercial district) shall be
7326 governed by this section and shall not be subject to the sound levels established in Section 19.58.060.

7327 B. No person shall make, allow or assist in making any noise from a residence or residential yard which
7328 is likely to unreasonably disturb the peace and quiet of any person outside of the residence.

7329 C. For the purpose of this section:

7330 1. It is not necessary to prove that any particular person was disturbed by the noise.

7331 2. A resident of a premises is in violation of allowing a noise disturbance at the premises under this
7332 section if noise in violation of this section is emitted from a residence and the authorities are unable to

7333 gain entry to the premises or sufficient information to identify the actual parties at the premises at the
 7334 time of the disturbance.

7335 3. All residents of a residential unit who are at the premises at the time of a noise disturbance are
 7336 deemed to have allowed the disturbance.

7337 (Ord. 1310 § 2(part), 1995).

7338

7339 **19.58.050 General noise disturbance prohibited.**

7340 No person shall make, continue, or cause to be made or continued, except as permitted, any
 7341 noise disturbance as defined in this chapter, or any noise in excess of the limits for such noise
 7342 established in this chapter.

7343 (Ord. 1310 § 2(part), 1995).

7344

7345 **19.58.060 Maximum permissible sound levels by land use category.**

7346 A. Maximum Permissible Sound Levels. With the exception of sound levels elsewhere specifically
 7347 authorized or allowed in this chapter, the following are the maximum permissible sound levels allowed
 7348 at the real property boundary of the source of offending noise. No person shall produce or allow the
 7349 production of noise in excess of that specified in Table 1 or 2.

7350 TABLE 1 SOUND LEVEL LIMITS FOR DAYTIME

7351 (7 a.m. - 10 p.m.) in dBA

7352 TABLE INSET:

7353

<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 PCDD (except residential PCDD 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 PCDD (when adjacent to residential districts)	75	60
All other nonresidential categories	75	60

7354 TABLE 2 SOUND LEVEL LIMITS FOR NIGHTTIME HOURS in dBA

7355 TABLE INSET:

7356

<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 PCDD (except residential PCDD 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 PCDD <u>PCDD</u> (when adjacent to residential districts)	75	60
All other nonresidential categories	75	60

7357 For the purpose of this chapter, sound levels in excess of the dBA listed in Table 1 or 2 above
7358 shall be deemed a violation.
7359 (Ord. 1310 § 2(part), 1995).

7360
7361 **19.58.070 Emergency signaling devices.**

7362 A. No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil
7363 defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency
7364 purposes or for testing, as provided in subsection B of this section.

7365 B. Testing of a stationary emergency signaling device shall occur at the same time of day each time the
7366 test is performed, but not before nine a.m. or after four p.m. Any such testing shall use only the
7367 minimum cycle test time.
7368 (Ord. 1310 § 2(part), 1995).

7369
7370 **19.58.080 Specific activities prohibited.**

7371 A. Loading and Unloading. No person shall so load, unload, open, close or handle boxes, crates,
7372 containers, building materials, garbage cans or similar objects between the hours of seven p.m. and
7373 seven a.m. the following morning as to create a noise disturbance across a residential real property
7374 boundary or within a noise sensitive area. This section shall not apply to activities covered by Section
7375 19.58.110.

7376 B. Vehicle or Motorboat Repairs and Testing. No person shall repair, rebuild, modify or test any motor
7377 vehicle in a public or private place out of doors or within a noise sensitive area between the hours of ten
7378 p.m. and seven a.m. the following day.
7379 (Ord. 1310 § 2(part), 1995).

7380
7381 **19.58.090 Sound equipment and sound-amplifying equipment.**

7382 A. No person shall so operate, play or permit the operation or playing of any sound equipment so as:
7383 1. To create a noise disturbance across a residential real property boundary or outdoors within a noise
7384 sensitive area;
7385 2. To create a noise disturbance fifty feet from the device, when operated in or on a motor vehicle on a
7386 public right-of-way or public space, or in a boat on public waters.

7387 B. Sound Equipment.
7388 1. No person shall use, operate or cause to be used or operated any sound equipment, upon the public
7389 streets or in any building or upon any premises, public or private, if the sound therefrom is plainly
7390 audible from any public street or public place within the city.

7391 2. Sound equipment shall not include:
7392 a. Equipment used for public health and safety purposes;
7393 b. Church or clock carillons, bells or chimes;
7394 c. Automobile radios, tape decks or CD players, or other standard automobile equipment used and
7395 intended for the use and enjoyment of the occupants, provided the sound emitting therefrom is not
7396 audible for more than fifty feet from the vehicle;
7397 d. Recorded music used in a nonresidential district in conjunction with a civil or religious celebration;
7398 e. Live music provided, sponsored or funded, in whole or in part, by a governmental entity.
7399 (Ord. 1310 § 2(part), 1995).

7400 (Ord. No. 1682A, § 1, 5-20-2008)

7401

7402 **19.58.100 Motorized vehicles.**

7403 A. No person shall operate the engine providing motive power or an auxiliary engine, of a motor
7404 vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds or more for a
7405 consecutive period longer than twenty minutes while such vehicle is standing and located within one
7406 hundred fifty feet of property zoned and used for residential purposes except where such vehicle is
7407 standing within a completely enclosed structure and does not create a noise disturbance across a real
7408 property boundary as defined in Section 19.58.060 of this chapter unless approved by a conditional use
7409 permit. This section shall not apply to delivery or pickup vehicles that require the operation of the
7410 engine to unload or load their vending loads.

7411 B. No person shall operate within the speed limits specified in this section either a motor vehicle, or a
7412 combination of vehicles of a type subject to registration, at any time or under any condition of grade,
7413 load, acceleration or deceleration in such manner as to exceed the noise limit listed hereinbelow for the
7414 category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which
7415 operated, such noise to be measured at a distance of no more than fifty feet from the center line of
7416 travel under test procedures established by subsection C of this section. In the event the distance of the
7417 measuring instrument from center line of travel is less than fifty feet, such listed noise limits shall be
7418 corrected to reflect the equivalent noise limits for the actual distance.

7419 TABLE INSET:

7420

	Noise Limit in Relation to Legal Speed Limit	
	<u>35 MPH or Less</u>	<u>Over 35 MPH</u>
<u>Type of Vehicle</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)

7421 This section applies to the total noise from a vehicle or combination of vehicles and shall not be
7422 construed as limiting or precluding the enforcement of any other provisions of this code relating to
7423 motor vehicle mufflers or noise control.

7424 C. The measurement of sound or noise shall be made with a Type 1 or 2 sound level meter meeting the
7425 standards prescribed by the American National Standards Institute or its successor body. The instrument
7426 shall be calibrated and maintained in good working order. Measurements recorded shall be taken so as
7427 to provide a proper representation of the noise source. The microphone during measurement shall be
7428 positioned so as not to create any unnatural enhancement or attenuation of the measured noise. A
7429 windscreen for the microphone shall be used when required.

7430 D. No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a
7431 muffler cut-out or bypass, and no person shall operate a motor vehicle or motorcycle which has been so

7432 modified. A motor vehicle so operated shall be deemed equipped with a muffler which emits excessive
7433 and unusual noise and which is not in good working order.

7434 E. 1. No person shall operate a recreational vehicle or permit the operation of one or more recreation
7435 vehicles, individually or in a group or in an organized racing event, on public or private property in such a
7436 manner that the sound level resulting from such operation exceeds:

7437 Seventy-three dBA for any total of three minutes in any continuous one-hour period, or exceeds
7438 ninety dBA for any period of time during such operation. Sound levels which exceed the limits herein
7439 described at the real property boundary of the source property shall be deemed a noise disturbance.

7440 2. Notwithstanding Section 19.58.030 of this chapter, no person shall permit the conducting of any part
7441 of an organized racing event which involves contest between or among recreational vehicles on public
7442 or private property between the hours of ten thirty p.m. and ten a.m. the following morning.

7443 (Ord. 1310 § 2(part), 1995).

7444

7445 **19.58.110 Construction.**

7446 A. This chapter shall not prohibit the operation of any tools or equipment in public or private
7447 construction, drilling, demolition work, or in maintenance work between the hours of seven a.m. and
7448 nine p.m. Additional hours of construction may be granted by the zoning administrator or his designee.

7449 B. The terms of this section shall not apply to emergency work or repair work performed by or for
7450 governmental entities or public service utilities.

7451 (Ord. 1310 § 2(part), 1995).

7452

7453 **19.58.120 Nonemergency signaling devices.**

7454 A. No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar
7455 device, intended primarily for nonemergency purposes, from any place, for more than one minute in
7456 any hourly period.

7457 B. Devices used in conjunction with the places of religious worship shall be exempt from compliance
7458 with this section.

7459 C. Exemptions for sound sources covered by this section, but not exempted under subsection B of this
7460 section, may be granted under the procedure set forth in Section 19.58.150.

7461 (Ord. 1310 § 2(part), 1995).

7462

7463 **19.58.130 Animals and birds.**

7464 No person shall own, possess or harbor any animal or bird which frequently or for continued
7465 duration emits sounds native to the species which are a noise disturbance across a residential real
7466 property boundary, or within a noise sensitive area.

7467 (Ord. 1310 § 2(part), 1995).

7468

7469 **19.58.140 Enforcement.**

7470 A. The noise control program established by this chapter shall be implemented, administered and
7471 enforced by the zoning department and police department.

7472 B. The provisions of this chapter which prohibit the making, continuing of a noise disturbance, or
7473 causing the making or continuing of a noise disturbance across a real property boundary or within a
7474 noise sensitive area, shall be enforced upon receipt of complaint made or filed with the city officials by a
7475 person disturbed by such noise disturbance or by direction of the chief of police or his or her designee.
7476 Certification by an official charged with enforcement of provisions of this chapter that such complaint
7477 was made shall be sufficient to establish the fact of such complaint.

7478 C. Noise and vibration measurements shall be made in compliance with generally accepted practices
7479 and procedures. The zoning administrator shall prepare, and make available upon request, a "Code of
7480 Recommended Practices" for the measurement of noise and vibration.

7481 D. To implement and enforce this chapter the zoning department and police department shall have the
7482 additional power to:

- 7483 1. Conduct research, monitoring, and other studies related to sound;
- 7484 2. Conduct programs of public education regarding the causes, effects and general methods of
7485 abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for
7486 reporting violations;
- 7487 3. Coordinate the noise control activities of all municipal departments;
- 7488 4. Review public and private projects, including those subject to mandatory review or approval by
7489 other departments, for compliance with this chapter, if these projects are likely to cause sound in
7490 violation of this chapter;
- 7491 5. Upon presentation of proper credentials, enter and inspect any private property or place, any time
7492 when granted permission by the owner resident or by some other person with apparent authority to act
7493 for the owner;
- 7494 6. Issue noise variances pursuant to the provisions of Section 19.58.150;
- 7495 7. Prepare recommendations for consideration by the city council, after publication of notice and
7496 public hearing, for establishing the boundaries of noise sensitive areas.

7497 E. All departments and agencies of the city shall carry out their programs in furtherance of the policy of
7498 this chapter.

7499 (Ord. 1310 § 2(part), 1995).

7500

7501 **19.58.150 Noise variances.**

7502 A. Any person who cannot comply with provisions of this noise ordinance due to technological
7503 limitations or in cases of significant hardship, may apply for a conditional use permit in accordance with
7504 Chapter 19.66 of this code. Through this process, the governing body may grant a conditional use permit
7505 to exceed the provisions of this chapter for a specific period of time.

7506 B. During this period of time, the operators of the nonconforming noise source must make every
7507 reasonable attempt to come into compliance with this chapter. Should total compliance not become
7508 feasible at the time the conditional use permit expires, the operator of the source must demonstrate to
7509 the satisfaction of the governing body that a good faith effort has been made to come into compliance.
7510 If a good faith effort is demonstrated to the satisfaction of the governing body, the governing body may,
7511 at its discretion, extend the conditional use permit for an additional period of time.

7512 (Ord. 1310 § 2(part), 1995).

7513

7514 **19.58.160 Penalty.**

7515 Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be
7516 subject to a penalty of not less than one hundred fifty dollars or more than three hundred dollars for the
7517 first offense; and for the second offense within one year shall be subject to a penalty of not less than
7518 two hundred dollars or more than four hundred dollars; and for the third and subsequent offenses
7519 within one year, not less than three hundred dollars or more than five hundred dollars, together with
7520 the costs of prosecution.

7521 (Ord. 1430 § 2, 1999; Ord. 1364 § 14, 1997).

7522

7523 **Chapter 19.60 NONCONFORMING USES, STRUCTURES AND LOTS**

7524 Sections:

7525 19.60.010 Existing nonconforming uses.

- 7526 19.60.020 Existing nonconforming structures.
- 7527 19.60.030 Discontinuance or replacement of nonconforming use or structure.
- 7528 19.60.040 Changes and substitutions.
- 7529 19.60.045 Floodland nonconforming uses and structures.
- 7530 19.60.046 Wetland nonconforming uses and structures.
- 7531 19.60.050 Nonconforming lots.

7532
7533 **19.60.010 Existing nonconforming uses.**

7534 The lawful nonconforming use of a structure, land or water existing prior to June 24, 1982, the
7535 effective date of this title, may be continued although the use does not conform with the provisions of
7536 this title; however:

7537 A. Only that portion of the land or water in actual use may be so continued, and any associated
7538 structures may not be extended, enlarged, reconstructed, substituted, moved or structurally altered
7539 except as otherwise permitted by the provisions of this title;

7540 B. Substitution of new uses or equipment may be permitted by the board of zoning appeals if such use
7541 or equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
7542 (Ord. 994 § 7.1, 1982).

7543
7544 **19.60.020 Existing nonconforming structures.**

7545 Any lawful nonconforming structure existing prior to June 24, 1982, the effective date of this
7546 title, may be continued although its size or location does not conform with the lot width, lot area, yard,
7547 height, parking and loading and access provisions of this title; however, it shall not be extended,
7548 enlarged, moved or structurally altered except when required to do so by law or order, or so as to
7549 comply with the provisions of this title. Normal maintenance is permitted. This provision shall not be
7550 interpreted to disallow the extension or enlargement of a structure in respect to those dimensions that
7551 are or may still be in conformance with this title so long as such extensions or enlargements do not
7552 thereby create additional nonconforming dimensions or increase the nonconformance with respect to
7553 parking and loading and access. Any extension or enlargement of a nonconforming structure is subject
7554 to review and approval of the plan and architectural review commission in accordance with Chapter
7555 19.63 of this title.

7556 (Ord. 994 § 7.2, 1982).

7557
7558 **19.60.030 Discontinuance or replacement of nonconforming use or structure.**

7559 A. If such nonconforming use or structure is discontinued or terminated for a period of twelve months,
7560 any future use of the structures, land or water shall conform to the provisions of this title.

7561 B. When a nonconforming use or structure is damaged or destroyed, it may be restored if completed
7562 within one year from damage occurring.

7563 C. Time extensions may be granted by the plan and architectural review commission in accordance with
7564 Chapter 19.63.

7565 (Ord. 994 § 7.3, 1982).

7566
7567 **19.60.040 Changes and substitutions.**

7568 Once a nonconforming use or structure has been changed to conform, it shall not revert back to
7569 a nonconforming use or structure. Once the board of zoning appeals has permitted the substitution of a
7570 more-restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose
7571 the original status as a legal nonconforming use and become subject to all the conditions required by
7572 the board of zoning appeals.

7573 (Ord. 994 § 7.4, 1982).

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19.60.045 Floodland nonconforming uses and structures.

Floodland nonconforming uses and structures shall be regulated under the provisions of Section 19.46.060 of this title.
(Ord. 1600 § 5, 2006; Ord. 1060 § 17, 1935).

19.60.046 Wetland nonconforming uses and structures.

Notwithstanding Section 62.23(7)(h) of the Wisconsin Statutes, the repair, reconstruction, renovating, remodeling or expansion of a legal nonconforming structure, or any environmental control facility related to a legal nonconforming structure, located in the C-1 shoreland wetland district and in existence at the time of adoption or subsequent amendment of the ordinance codified in this title is permitted pursuant to Section 62.231(5) of the Wisconsin Statutes.
(Ord. 1196 § 1(part), 1990).

19.60.050 Nonconforming lots.

A lot which does not contain sufficient area to conform to the dimensional requirements of this title but which is at least thirty feet wide and four thousand square feet in area may be used as a building site provided that the use is permitted in the zoning district, providing the lot is of record in the county register of deeds' office prior to the effective date or amendment of the ordinance codified in this title, and providing that all other requirements for the district in which it is located can be met. Establishment of a use or structure on a nonconforming lot shall be reviewed and approved by the city plan and architectural review commission in accordance with Chapter 19.63.
(Ord. 994 § 7.5, 1982).

Chapter 19.63 PLAN REVIEW

Sections:

- 19.63.010 Zoning permit--Purpose--Required when.
- 19.63.012 Certificate of compliance--Purpose--Required when.
- 19.63.014 Other permits.
- 19.63.020 Plan review--Application requirements.
- 19.63.030 Zoning permit application--Review by zoning administrator.
- 19.63.040 Zoning permit application--Review by plan and architectural review commission, when.
- 19.63.050 Developments automatically requiring approval by plan and architectural review commission.
- 19.63.060 Review procedures.
- 19.63.070 Notification of public hearing.
- 19.63.080 Conditions attached to approvals when.
- 19.63.090 Professional services--Consultation--Preparation of plans.
- 19.63.100 Plan review guidelines.
- 19.63.110 Zoning permit--Issuance conditions--Modification restrictions.
- 19.63.120 Appeals procedure.

19.63.010 Zoning permit--Purpose--Required when.

For the purposes of assuring compliance with the standards and intent of this title and of promoting compatible development and preservation of the unique character of the city, no structure shall be erected, constructed, altered, demolished or moved and no land or building shall be changed in use without the issuance of an approved zoning permit. Zoning permits shall not be required for minor structures, incidental repairs, interior structural alterations and/or changes not resulting in an increase in intensity.

7622 Notwithstanding the aforesaid exemption, no floodland structure or improvement shall be
7623 exempt from obtaining a zoning permit.
7624 (Ord. 1060 § 18, 1985).

7625
7626 **19.63.012 Certificate of compliance--Purpose--Required, when.**

7627 For the purpose of assuring compliance with the standards and intent of this title and of
7628 assuring sound floodplain development, no undeveloped land within the floodland districts shall be
7629 developed, occupied or used, and no structure hereafter erected, altered, moved or substantially
7630 improved shall be occupied until the applicant submits to the zoning administrator a certification by a
7631 registered professional engineer or land surveyor that the floodplain regulations set forth in this title
7632 have been fully complied with. Such certification shall include the first-floor elevation of any structure
7633 erected on the site.
7634 (Ord. 1060 § 19, 1985).

7635
7636 **19.63.014 Other permits.**

7637 It is the responsibility of a permit applicant to secure all other necessary permits required by any
7638 state, federal or local agency. This includes, but is not limited to, a water use permit pursuant to
7639 Chapters 30 and 31 of the Wisconsin Statutes or a wetland fill permit pursuant to Section 404 of the
7640 Federal Water Pollution Control Act.
7641 (Ord. 1060 § 20, 1985).

7642
7643 **19.63.020 Plan review--Application requirements.**

7644 Applications for plan review shall be made to zoning administrator at least ten days prior to the
7645 plan and architectural review committee meeting at which the plan is to be considered, and shall
7646 include the following information to be considered complete. The zoning administrator or plan and
7647 architectural review commission may reduce the information requirements where deemed appropriate.
7648 Twenty complete sets of all required plan materials shall be required, unless the applicant receives prior
7649 written approval from city staff that fewer copies, and/or an electronic/digital submission of materials
7650 will be considered adequate for the purposes of meeting the submission deadlines

- 7651 A. Names, phone numbers, and addresses of the applicant, owner of the site, architect, professional
- 7652 engineer, contractor and all other individuals responsible for preparation of plan materials;
- 7653 B. Identification of the subject site by lot, block and recorded subdivision, or by metes and bounds;
- 7654 C. Description of the existing and proposed use or operation of the structure or site, number of
- 7655 employees, building lot coverage, landscaped surface ratio, residential density and existing zoning;
- 7656 D. Building elevations and exterior architectural drawings, including enough detail to show the
- 7657 proposed building style, exterior materials, colors, mechanicals and lighting;
- 7658 E. Site plans drawn to a scale not less than fifty feet to the inch, showing:
 - 7659 1. The natural features of the site, including water bodies, wetlands, floodplains, environmental
 - 7660 corridors, trees with trunks greater than four inches in diameter, existing drainage patterns, and
 - 7661 topography at two foot intervals,
 - 7662 2. The location and dimensions of proposed and existing structures in relation to street and property
 - 7663 lines, including buildings, ~~Dumpsters~~ dumpsters, signs, mechanicals, walls and fences,
 - 7664 3. The location, dimensions and arrangement of all open spaces, yards, and landscape plantings and
 - 7665 buffer yards, including the species and size at time of planting for all landscaping,
 - 7666 4. The location, arrangement and capacity of all areas used for vehicle and pedestrian access, off-street
 - 7667 parking, off-street loading and unloading, including methods for screening,
 - 7668 5. The capacity and arrangement of all buildings used or intended to be used for dwelling purposes,

- 7669 6. The proposed location and other characteristics of all outdoor lighting fixtures, pursuant to Section
7670 19.57.150(C),
7671 7. The location and size of all existing and proposed utilities and all related easements,
7672 8. The location of any proposed stormwater management facilities, including proposed drainage
7673 patterns and detention/retention facilities where required;
7674 F. Other information deemed necessary by the zoning administrator or the plan and architectural
7675 review commission to fully assess the impacts of a proposed project.
7676 (Ord. 1452 § 18, 2000: Ord. 994 § 8.2, 1982).

7677

7678 **19.63.030 Zoning permit application--Review by zoning administrator.**

7679 The zoning administrator shall review zoning permit applications for the proposed structure,
7680 addition, alteration or use to assure that the plan meets the minimum standards of this title for the
7681 district in which it is located. The zoning administrator shall grant, deny or refer to the plan and
7682 architectural review commission within ~~thirty~~ten calendar days of receiving the completed zoning permit
7683 application.
7684 (Ord. 994 § 8.3, 1982).

7685

7686 **19.63.040 Zoning permit application--Review by plan and architectural review commission, when.**

7687 If the zoning administrator, at his or her discretion, finds that an application for a zoning permit
7688 has characteristics that should have broader public review or special conditions attached in order to
7689 preserve the intent of this title, the zoning administrator may require that such an application require
7690 review and approval of the plan and architectural review commission.
7691 (Ord. 994 § 8.4(A), 1982).

7692

7693 **19.63.050 Developments automatically requiring approval by plan and architectural review
7694 commission.**

7695 The following developments automatically require approval by the plan and architectural review
7696 commission:

- 7697 A. All applications for zoning permits proposing exterior modifications of structures in the B-2 central
7698 business district, except minor remodeling or use changes;
7699 B. All applications for zoning permits for major remodeling or conversion of existing buildings that will
7700 increase the number of dwelling units;
7701 C. All applications for zoning permits proposing any exterior modifications to structures that are listed
7702 on the National Register of Historic Places. This review requirement shall also extend to properties
7703 immediately adjoining national register landmarks;
7704 D. Establishment of a use or structure on a nonconforming lot (see Section 19.60.050);
7705 E. Developments proposing driveway access within one hundred feet of the centerline of intersecting
7706 streets in the B-1 and B-3 districts. This is to be applied only to arterial streets and local streets
7707 intersecting arterial streets.
7708 (Ord. 994 § 8.4(B), 1982).

7709

7710 **19.63.060 Review procedures.**

7711 A. The zoning administrator shall transmit all applications requiring commission review and approval to
7712 the plan and architectural review commission. The plan and architectural review commission shall
7713 review the applications at ~~the~~its next scheduled meeting. The application shall be reviewed for
7714 compliance with the plan review guidelines, and a permit shall be granted, denied, or conditionally
7715 granted within thirty days of the date of application. A simple majority approval of the plan and
7716 architectural review commission constitutes final action.

7717 B. The applicant may request a conceptual review by the plan and architectural review commission
 7718 prior to filing a formal application for plan review.
 7719 (Ord. 994 § 8.4(C), 1982).

7720
 7721 **19.63.070 Notification of public hearing.**

7722 The city plan architectural review commission shall notify the applicant of the scheduled hearing
 7723 by mail at least five mailing days prior to the hearing date. The commission may require that Class 1
 7724 notice be given if deemed appropriate.
 7725 (Ord. 994 § 8.4(D), 1982).

7726
 7727 **19.63.080 Conditions attached to approvals, when.**

7728 A. Conditions on approval may include landscaping, modification to architectural design, type of
 7729 construction, operational controls, sureties, or deed restrictions upon the plan and architectural review
 7730 commission's findings that these are necessary to fulfill the purpose and intent of this title. Also, as a
 7731 condition of the issuance of a temporary occupancy permit, the plan commission may require that the
 7732 developer post a deposit for the completion of the site improvements which have been approved by the
 7733 commission. The amount of the deposit shall be in accordance with the following schedule:

7734 TABLE INSET:
 7735

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	

7736 B. The required deposit shall be released at the time all required site improvements have been
 7737 completed and approved by the building inspector/zoning administrator. Fifty dollars shall be retained
 7738 by the city as an additional fee for the issuance of the temporary occupancy permit prior to completion
 7739 of the site improvements. If the site improvements are not completed by the time of the expiration of
 7740 the temporary occupancy permit, and the occupancy permit has not been renewed or extended, the
 7741 entire deposit shall be forfeited to the city. These provisions are in addition to all of the other
 7742 enforcement provisions and remedies in the Whitewater Municipal Code.
 7743 (Ord. 1129 § 1, 1988).

7744
 7745 **19.63.090 Professional services--Consultation--Preparation of plans.**

7746 The plan and architectural review commission may consult professional services when it is
 7747 deemed necessary. The commission may also require that plans submitted for review be certified by an
 7748 architect, historic preservationist, site planner, engineer, or other appropriate professional meeting the
 7749 approval of the plan and architectural review commission.
 7750 (Ord. 994 § 8.4(F), 1982).

7751
 7752 **19.63.100 Plan review guidelines.**

7753 As the basis for determining the acceptability of an application for a zoning permit, the plan and
7754 architectural review commission shall apply the following criteria:

7755 A. The proposed structure, addition, alteration or use will meet the minimum standards of this title for
7756 the district in which it is located;

7757 B. The proposed development will be consistent with the adopted city ~~master~~ comprehensive plan;

7758 C. The proposed development will be compatible with and preserve the important natural features of
7759 the site;

7760 D. The proposed use will not create a nuisance for neighboring uses, or unduly reduce the values of an
7761 adjoining property;

7762 E. The proposed development will not create traffic circulation or parking problems;

7763 F. The mass, volume, architectural features, materials and/or setback of proposed structures, additions
7764 or alternations will appear to be compatible with existing buildings in the immediate area;

7765 G. Landmark structures on the National Register of Historic Places will be recognized as products of
7766 their own time. Alterations which have no historical basis will not be permitted;

7767 H. The proposed structure, addition or alteration will not substantially reduce the availability of
7768 sunlight or solar access on adjoining properties.

7769 (Ord. 994 § 8.4(G), 1982).

7770

7771 **19.63.110 Zoning permit--Issuance conditions--Modification restrictions.**

7772 A. Issuance of Zoning Permit. A zoning permit shall be issued to applicant, stating the official action of
7773 the zoning administrator or the plan and architectural review commission, and shall be filed in the office
7774 of the zoning administrator and referred to for enforcement of this title. Approved zoning permits shall
7775 expire in six months unless substantial work has commenced and is continuing in a progressive,
7776 workmanlike manner. Extensions may be granted by the approving authority.

7777 1. If the project is conditionally approved, the zoning permit shall be issued subject to the conditions.

7778 2. If the project is disapproved, the applicant may modify the proposal and resubmit.

7779 B. Modification of Plans Approved by the Plan and Architectural Review Commission. Minor
7780 modifications to plans approved for issuance of a zoning permit may be approved by the zoning
7781 administrator. Any major modification in approved plans or alteration of conditions must be approved
7782 by the plan and architectural review commission in compliance with procedures listed above.

7783 (Ord. 994 § 8.5, 1982).

7784

7785 **19.63.120 Appeals procedure.**

7786 Appeals from decisions of the city plan and architectural review commission in its plan-review
7787 function may be appealed to the board of zoning appeals if filed with the city clerk within thirty days of
7788 the date of decision. The appeal shall be governed by the procedures in Chapter 19.72 of this title.

7789 (Ord. 1364 § 15, 1997; Ord. 1082 § 10, 1986; Ord. 994 § 8.6, 1982).

7790 [Steps for Review of Zoning Permit](#)

7791 **GRAPHIC LINK:** [Click here](#)

7792

7793 **Chapter 19.66 CONDITIONAL USES**

7794 Sections:

7795 [19.66.010 Issuance of conditional use permits authorized, when.](#)

7796 [19.66.020 Application for permit.](#)

7797 [19.66.030 Hearings.](#)

7798 [19.66.040 Notification to property owners.](#)

7799 [19.66.050 Standards for review and approval.](#)

7800 [19.66.060 Additional conditions authorized when.](#)

- 7801 19.66.070 Time limits and periodic review.
- 7802 19.66.080 No exemption from all other requirements.
- 7803 19.66.090 Determination of approval or disapproval.
- 7804 19.66.100 Recordkeeping requirements.
- 7805 19.66.110 Appeals procedure.

7806

7807 **DISCUSSION POINT: TIMELINE ISSUES**

7808

7809 **19.66.010 Issuance of conditional use permits authorized when.**

7810 The city plan and architectural review commission may authorize the zoning administrator to

7811 issue a zoning permit for conditional uses after review and a public hearing, provided that such

7812 conditional uses and structures are in accordance with the purpose and intent of this title, are consistent

7813 with sound planning and zoning principles, and are found to be not hazardous, harmful, offensive or

7814 otherwise adverse to the environment or the value of the neighborhood or the community.

7815 (Ord. 1364 § 16, 1997; Ord. 994 § 9.1, 1982).

7816

7817 **19.66.020 Application for permit.**

7818 Applications for zoning permits for conditional uses shall be made to the zoning administrator

7819 on forms furnished by the zoning administrator, and shall include the information required by Section

7820 19.63.020.

7821 (Ord. 994 § 9.2, 1982).

7822

7823 **19.66.030 Hearings.**

7824 The city plan and architectural review commission shall hold a public hearing upon each

7825 conditional use application, giving Class 1 notice.

7826 (Ord. 994 § 9.3, 1982).

7827

7828 **19.66.040 Notification to property owners.**

7829 Notice of the hearing shall be given to owners of record of properties abutting and within three

7830 hundred feet of the property that is involved in the application, and to other persons who are

7831 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish

7832 these notifications shall not invalidate the procedures.

7833 (Ord. 994 § 9.4, 1982).

7834

7835 **19.66.050 Standards for review and approval.**

7836 The plan commission shall use the following standards when reviewing applications for

7837 conditional use:

- 7838 A. That the establishment, maintenance, or operation of the conditional use will not create a nuisance
- 7839 for neighboring uses or substantially reduce the values of other property.
- 7840 B. That adequate utilities, access roads, parking drainage, landscaping and other necessary site
- 7841 improvements are being provided.
- 7842 C. That the conditional use conforms to all applicable regulations of the district in which it is located,
- 7843 unless otherwise specifically exempted in this ordinance. Where a variance is required, the plan
- 7844 commission may condition ~~their~~ its approval on the subsequent approval of the variance.
- 7845 D. That the conditional use conforms to the purpose and intent of the city ~~master~~ comprehensive plan.
- 7846 E. The conditional use and structures are consistent with sound planning and zoning principles.
- 7847 (Ord. 1364 § 17, 1997; Ord. 994 § 9.5(part), 1982).

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19.66.060 Additional conditions authorized, when.

A. Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, added restrictions, highway access restrictions, increased yards, or parking requirements, may be permitted by the plan and architectural review commission upon its finding that these are necessary to fulfill the purpose and intent of this title. Also, as a condition of the issuance of a temporary occupancy permit, the plan commission may require that the developer post a deposit for a completion of the site improvements which have been approved by the commission. The amount of the deposit shall be in accordance with the following schedule:

TABLE INSET:

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	

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B. The required deposit shall be released at the time all required site improvements have been completed and approved by the building inspector/zoning administrator. Fifty dollars shall be retained by the city as an additional fee for the issuance of the temporary occupancy permit prior to completion of the site improvements. If the site improvements are not completed by the time of the expiration of the temporary occupancy permit, and the occupancy permit has not been renewed or extended, the entire deposit shall be forfeited to the city. These provisions are in addition to all of the other enforcement provisions and remedies in the Whitewater Municipal Code.
(Ord. 1130 § 1, 1988).

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19.66.070 Time limits and periodic review.

If an applicant does not commence construction within one year after city approval of a conditional use permit, or complete construction according to all specified plans and conditions within two years after city approval, the previously approved conditional use permit shall be considered null and void. Conditional uses may be subject to time limits or requirements for periodic reviews where such requirements relate to review standards.
(Ord. 1452 § 21, 2000; Ord. 994 § 9.5(part), 1982).

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19.66.080 No exemption from all other requirements.

Compliance with all other provisions of this title, such as lot width and area, yards, height, parking, loading, traffic and highway access, shall be required, unless otherwise specifically exempted in this title, of all conditional uses. Variances shall only be granted as provided in Chapter 19.69.
(Ord. 994 § 9.5(part), 1982).

7883

19.66.090 Determination of approval or disapproval.

7884 Following the public hearing and review of the conditional use application, the plan and
7885 architectural review commission shall approve, disapprove or further conditionally approve the
7886 application. A simple majority approval by the plan commission constitutes final approval of the
7887 conditional use.

7888 (Ord. 994 § 9.5(part), 1982).

7889

7890 **19.66.100 Recordkeeping requirements.**

7891 Records of all plan and architectural review commission actions approving conditional uses shall
7892 be maintained by the zoning administrator, and shall be referred to in regard to enforcement and
7893 modification of conditional use approvals.

7894 (Ord. 994 § 9.5(part), 1982).

7895

7896 **19.66.110 Appeals procedure.**

7897 Decisions of the city plan and architectural review commission in its conditional use review
7898 function may be appealed to the board of zoning appeals if filed with the city clerk within thirty days of
7899 the date of decision. The appeal shall be governed by the procedures in Chapter 19.72 of this title.

7900 (Ord. 1364 § 18, 1997; Ord. 1082 § 11, 1986).

7901 Steps for Review of Conditional Uses

7902 **GRAPHIC LINK:**[Click here](#)

7903

7904 **Chapter 19.69 CHANGES AND AMENDMENTS**

7905 Sections:

7906 19.69.010 City council authority.

7907 19.69.020 Who may initiate.

7908 19.69.030 Petitions--Contents and filing.

7909 19.69.040 Review and recommendation--Plan commission authority.

7910 19.69.050 Hearing--Notice to property owners.

7911 19.69.060 City council vote on proposed change or amendment.

7912 19.69.065 Floodland district boundary changes limited.

7913 19.69.066 Amendments to the C-1 and FWW districts.

7914 19.69.070 Protests against change or amendment.

7915

7916 **19.69.010 City council authority.**

7917 Whenever the public necessity, convenience, general welfare or good zoning practice require,
7918 the city council may, by ordinance, change the district boundaries or amend, change or supplement the
7919 regulations established by this title or amendments thereto. Such change or amendment shall be subject
7920 to the review and recommendation of the city plan commission.

7921 (Ord. 994 § 10.1, 1982).

7922

7923 **19.69.020 Who may initiate.**

7924 A change or amendment may be initiated by the city council or any member thereof, the city
7925 plan commission, or by a petition of one or more of the owners, lessees, or authorized agents of the
7926 lessees of property within the area proposed to be changed.

7927 (Ord. 1159 § 1, 1989; Ord. 994 § 10.2, 1982).

7928 (Ord. No. 1690A, § 1, 6-17-2008)

7929

7930 **19.69.030 Petitions--Contents and filing.**

7931 Petitions for any change to the district boundaries or amendments to the regulations shall be
7932 filed with the city clerk, describe the premises to be rezoned or the regulations to be amended, list the
7933 reasons justifying the petition, specify the proposed use, and have attached the following:
7934 A. Plot plan, drawn to a scale of one inch equals one hundred feet, showing the area proposed to be
7935 rezoned, its locations, its dimensions, the location and classification of adjacent zoning districts, and the
7936 location and existing use of all properties within three hundred feet of the area proposed to be rezoned;
7937 B. ~~Owners' names and addresses of all properties lying within three hundred feet of the area proposed to be rezoned;~~
7938 ~~Additional information required by the city plan commission or city council.~~
7939 (Ord. 994 § 10.3, 1982).

7940
7941 **19.69.040 Review and recommendation--Plan commission authority.**
7942 The city plan commission shall review all proposed changes and amendments within the
7943 corporate limits, conduct a public hearing (with Class 2 notice), and shall recommend that the petition
7944 be granted as requested, modified, or denied.
7945 (Ord. 994 § 10.4, 1982).

7946
7947 **19.69.050 Hearing--Notice to property owners.**
7948 Notice of the hearing shall be given to all owners of record of properties abutting and within
7949 three hundred feet of the property that is involved in the application, and to other persons who are
7950 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
7951 these notifications shall not invalidate the procedures.
7952 (Ord. 994 § 10.5, 1982).

7953
7954 **19.69.060 City council vote on proposed change or amendment.**
7955 Following such hearing and after consideration of the city plan commission's recommendations,
7956 the city council shall vote on the passage of the proposed change or amendment. City council action on
7957 the zoning change must take place within thirty days of the plan commission's recommendations.
7958 (Ord. 1159 § 2, 1989; Ord. 994 § 10.6, 1982).

7959
7960 **19.69.065 Floodland district boundary changes limited.**
7961 The common council shall not permit changes to the floodland district boundaries that are
7962 inconsistent with the purpose and intent of this chapter, in conflict with the applicable rules and
7963 regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency
7964 Management Agency (FEMA), or inconsistent with the provisions of Chapter 19.46.
7965 (Ord. 1600 § 7, 2006; Ord. 1196 § 1(part), 1990).

7966
7967 **19.69.066 Amendments to the C-1 and FWW districts.**
7968 Amendments to wetland zoning districts shall be reviewed by the Wisconsin Department of
7969 Natural Resources in accordance with the following procedures:
7970 A. The city shall transmit a notice of any change (text or map) in the C-1 or FWW districts to the
7971 Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:
7972 1. A copy of every petition for a text or map change mailed within five days of filing with the city
7973 manager;
7974 2. At least ten days prior notice of any public hearing on a C-1 or FWW zoning amendment;
7975 3. Notice of a city plan commission recommendation no later than ten days following the
7976 recommendation;
7977 4. Notice of a common council decision no later than ten days following the decision.

7978 B. No wetland in a C-1 or FWW district shall be rezoned if the rezoning may result in a significant
7979 adverse impact on storm or floodwater storage capacity; maintenance of dry season streamflow, the
7980 discharge of groundwater from the wetland to another area, or the flow of groundwater through a
7981 wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would
7982 otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning; breeding,
7983 nursery or feeding grounds; wildlife; habitat; or areas of special recreational, scenic or scientific interest,
7984 including scarce wetland types.

7985 C. If the DNR has notified the city plan commission that an amendment to the C-1 or FWW district may
7986 have a significant adverse impact upon any of the criteria listed in subsection B above, that amendment,
7987 if approved by the common council, shall contain the following provision:

7988 "This amendment shall not take effect until more than 30 days have elapsed since written notice of the
7989 Common Council's approval of this amendment was mailed to the Department of Natural Resources.
7990 During that 30-day period, the Department of Natural Resources may notify the Common Council that it
7991 will adopt a superseding shore land ordinance for the City pursuant to Section 62.231 of the Wisconsin
7992 Statutes. If the Department does so notify the Common Council, the effect of this amendment shall be
7993 stayed until the Section 61.231 adoption procedure is completed or otherwise terminated."

7994 (Ord. 1196 § 1(part), 1990).

7995

7996 **19.69.070 Protests against change or amendment.**

7997 A. In the event of a protest against such district change or amendment to the regulations of this title,
7998 duly signed and acknowledged by the owners of twenty percent or more either of the areas of land
7999 included in such proposed change, or by the owners of twenty percent or more of the land immediately
8000 adjacent extending one hundred feet therefrom, or by the owners of twenty percent or more of the land
8001 directly opposite thereto extending one hundred feet from the street frontage of such opposite land,
8002 such changes or amendments shall not become effective except by the favorable vote of three-fourths
8003 of the members of the council voting on the proposed change. (See Section 66.23(7)(d)(2), Wisconsin
8004 Statutes.)

8005 B. Protests against changes or amendments may also be filed by a petition duly signed by at least two
8006 hundred resident landowners in the city. In case of such a protest, such changes or amendments shall
8007 not become effective except by the favorable vote of three-fourths of the members of the council voting
8008 on the proposed change.

8009 (Ord. 994 § 10.7, 1982).

8010 [Steps for Zoning Amendment](#)

8011 **GRAPHIC LINK:**[Click here](#)

8012

8013 **Chapter 19.72 BOARD OF ZONING APPEALS**

8014 Sections:

8015 [19.72.010 Established--Purpose.](#)

8016 [19.72.020 Membership, appointment and officers.](#)

8017 [19.72.030 Organization--Meetings--Voting.](#)

8018 [19.72.040 Powers and duties.](#)

8019 [19.72.050 Application for appeal--Contents and filing time.](#)

8020 [19.72.060 Hearing--Time and conduct.](#)

8021 [19.72.070 Hearing--Notice to property owners.](#)

8022 [19.72.075 Hearings--Notice to DNR.](#)

8023 [19.72.080 Findings prerequisite to grant of variance.](#)

8024 [19.72.085 Wetland and floodland mapping disputes.](#)

8025 [19.72.090 Board decisions guided by title provisions.](#)

8026 19.72.100 Decisions--Time limit--Additional conditions--Expiration and extensions.

8027 19.72.110 Notice to floodland variance applicants.

8028

8029 **19.72.010 Established--Purpose.**

8030 There is established a board of zoning appeals for the city for the purpose of hearing appeals
8031 and applications, and granting variances and exceptions to the provisions of this title in harmony with
8032 the purpose and intent of this title.

8033 (Ord. 994 § 11.1, 1982).

8034

8035 **19.72.020 Membership, appointment and officers.**

8036 Membership and appointment procedures for the zoning board of appeals shall be provided in
8037 Section 62.23(7)(e)2, Wisconsin Statutes, except that the city manager shall perform the duties
8038 designated as those of the mayor; the term of designations of chairman shall be one year, and the city
8039 clerk or designee shall serve as recording secretary. Members of the Common Council and/or the Plan
8040 Commission may not serve as members of the zoning board of appeals.

8041 (Ord. 994 § 11.2, 1982).

8042

8043 **19.72.030 Organization--Meetings--Voting.**

8044 A. The board of zoning appeals shall organize and adopt rules of procedures for its own government in
8045 accordance with the provisions of this title.

8046 B. Meetings shall be called by the secretary on behalf of the chairman, and shall be open to the public,
8047 except as otherwise allowed under Section 19.85, Wisconsin Statutes.

8048 C. Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the
8049 vote of each member upon each question, the reasons for the board's determination and its finding of
8050 facts. These records shall be immediately filed in the office of the board and shall be a public record.

8051 D. The concurring vote of four members of the board shall be necessary to correct an error, grant a
8052 variance, make an interpretation, and permit a utility, temporary, unclassified or substituted use.

8053 E. A quorum shall be four members of the board.

8054 (Ord. 994 § 11.3, 1982).

8055

8056 **19.72.040 Powers and duties.**

8057 The board of zoning appeals shall have the following powers:

8058 A. Appeals. To hear or decide appeals where it is alleged there is error in any order, requirement,
8059 decision, or determination made by the zoning administrator, or by the city plan and architectural
8060 review commission in its plan review or conditional use review function;

8061 B. Variances. To hear and grant applications for variances as will not be contrary to the public interest,
8062 where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary
8063 hardship, so that the spirit and purposes of this title shall be observed and the public health, safety,
8064 welfare, and justice are secured. Use variances shall not be granted;

8065 C. Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses
8066 for existing nonconforming uses, provided no structural alterations are to be made. Whenever the board
8067 permits such a substitution, the use may not thereafter be changed without application;

8068 D. Unclassified Uses. To hear and grant applications for unclassified and unspecified uses, where a clear
8069 determination cannot be made by the zoning administrator, provided that such uses are similar in
8070 character to the principal uses permitted in the districts;

8071 E. Interpretations. To hear and decide applications for interpretations of the zoning regulations and the
8072 location of the boundaries of the zoning districts after review and recommendation by the city plan

8073 commission. Pursuant to the procedure set forth in Section 19.72.085 of this chapter, the board of
8074 appeals may determine the location of disrupted floodland boundaries;
8075 F. Assistance. The board of zoning appeals may request assistance from other municipal officers,
8076 departments, boards and commissions, or may seek outside professional opinion and pay for same,
8077 provided funds for such consultation services are made available by the city council;
8078 G. Oaths. The ~~chairman~~ chair may administer oaths and compel the attendance of witnesses.
8079 H. Floodplain Regulations. The board of zoning appeals has responsibilities related to the city's
8080 floodplain regulations as specified in Section 19.46.070(C) of this title.
8081 (Ord. 1600 § 8(part), 2006; Ord. 1060 § 23, 1985).

8082
8083 **19.72.050 Application for appeal--Contents and filing time.**

8084 A. Appeals from the decision of the zoning administrator concerning the literal enforcement of this title
8085 may be made by any person aggrieved, or by an officer, department, commission, or bureau of the city.
8086 Such appeals shall be filed with the secretary within fifteen days after the date of written notice of
8087 decision or order of the zoning administrator. Such appeals and applications shall include the following:

8088 1. ~~Name and address of the appellant or applicant and all abutting and opposite property owners on record, and owners within three~~
8089 ~~hundred feet of the property in question~~ Site plan as required under Chapter 19.63 of this title;

8090 ~~2. Site plan as required under Chapter 19.63 of this title;~~

8091 2.2. Additional information required by the board of zoning appeals or by other chapters in this title,
8092 such as Chapter 19.46 of this title.

8093 B. The right to an appeals hearing shall be contingent upon applicant's prepayment ~~of~~ of costs of
8094 publication and mailing of notices required by the ordinance codified in this title, as computed and billed
8095 by the secretary, prior to the time set for hearing.
8096 (Ord. 1600 § 8(part), 2006; Ord. 994 § 11.5, 1982).

8097
8098 **19.72.060 Hearing--Time and conduct.**

8099 The board of zoning appeals shall fix a reasonable time and place for the hearing, give public
8100 notice thereof at least ten days prior to the hearing by publication as a Class 2 notice, and shall give due
8101 notice to the zoning administrator and the city plan commission, and the parties specified in Section
8102 19.72.070. At the hearing, the appellant or applicant may appear in person, by agent, or attorney.
8103 (Ord. 994 § 11.6, 1982).

8104
8105 **19.72.070 Hearing--Notice to property owners.**

8106 Notice of the hearing shall be given to all owners of record of properties abutting and within
8107 three hundred feet of the property that is involved in the application, and to other persons who are
8108 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
8109 these notifications shall not invalidate the procedures.
8110 (Ord. 994 § 11.7, 1982).

8111
8112 **19.72.075 Hearings--Notice to DNR.**

8113 The zoning board of appeals shall transmit a copy of each application for a variance to wetland
8114 regulations in the C-1 and FWW districts or to floodland regulations Chapter 19.46 and a copy of all
8115 appeals in these districts, to the Wisconsin Department of Natural Resources (DNR) for review and
8116 comment at least ten days prior to any public hearing. Final action on the application shall not be taken
8117 for thirty days or until the DNR has made its recommendation, whichever comes first. A copy of all
8118 decisions relating to shoreland wetland regulation or to floodland regulations, and a copy of all decisions
8119 relating to shoreland wetland and floodland appeals, shall be transmitted to the DNR within ten days of
8120 the date of such decision.

8121 (Ord. 1600 § 8(part), 2006: Ord. 1196 § 1(part), 1990).

8122

8123 **19.72.080 Findings prerequisite to grant of variance.**

8124 No variance to the provisions of this title shall be granted by the board unless it finds beyond a
8125 reasonable doubt that all of the following facts and conditions exist, and so indicates in the minutes of
8126 its proceedings:

8127 A. The particular physical surroundings, shape, or topographical conditions of the specific property
8128 involved would result in a particular hardship upon the owner as distinguished from a mere
8129 inconvenience, if the strict letter of the regulations were to be carried out;

8130 B. The conditions upon which the application for a variance is based would not be applicable generally
8131 to other property within the same zoning classification;

8132 C. The purpose of the variance is not based exclusively upon a desire for economic or other material
8133 gain by the applicant or owner;

8134 D. The hardship is not one that is self-created;

8135 E. The proposed variance will not impair an adequate supply of light and air to adjacent property or
8136 substantially increase the congestion in the public streets, or increase the danger of fire, or endanger
8137 the public safety, or substantially diminish or impair property values within the neighborhoods;

8138 F. The proposed variance will not have the effect of permitting a use which is not otherwise permitted
8139 in the district;

8140 G. No variance shall be granted in a floodland district where not in compliance with Section
8141 19.46.070(C)(4) of this title.

8142 (Ord. 1600 § 8(part), 2006: Ord. 1060 § 24, 1985).

8143

8144 **19.72.085 Wetland and floodland mapping disputes.**

8145 The following procedure shall be used in settling disputes of wetland and floodland boundaries:

8146 A. Wetland Disputes. Whenever the board of appeals is asked to interpret a C-1, C-2 or FWW district
8147 boundary where an apparent discrepancy exists between the city's Final Wetland Inventory Map and
8148 actual field conditions, the city shall contact the Wisconsin Department of Natural Resources (DNR) to
8149 determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was
8150 incorrectly mapped as a wetland, the board of appeals shall direct the city plan commission to initiate
8151 appropriate action to rezone the property within a reasonable amount of time.

8152 B. Floodland Disputes. Whenever the board of appeals is asked to interpret a floodland boundary
8153 where an apparent discrepancy exists between the federal Flood Insurance Study and actual field
8154 conditions, the procedure specified in Section 19.46.070(C)(3) of this title shall be used.

8155 (Ord. 1600 § 8(part), 2006: Ord. 1196 § 1(part), 1990).

8156

8157 **19.72.090 Board decisions guided by title provisions.**

8158 In deciding applications for appeals of administrative interpretations, for substitutions, and for
8159 approvals of unclassified uses, the board shall be guided by the intent of this title.

8160 (Ord. 994 § 11.9, 1982).

8161

8162 **19.72.100 Decisions--Time limit--Additional conditions--Expiration and extensions.**

8163 A. The board of zoning appeals shall decide all appeals and applications within thirty days after the final
8164 hearing, and shall transmit a signed copy of the board's decision to the appellant or applicant, zoning
8165 administrator, and city plan commission.

8166 B. Conditions may be placed upon any zoning permit ordered or authorized by this board.

8167 C. Variances, substitutions or zoning permits acted upon by the board shall expire within six months
8168 unless substantial work has commenced pursuant to such grant. Extension may be granted by decision
8169 of the board.

8170 (Ord. 994 § 11.10, 1982).

8171 Steps for Appeals to Board of Zoning Appeals

8172 **GRAPHIC LINK:**[Click here](#)

8173

8174 **19.72.110 Notice to floodland variance applicants.**

8175 Applicants receiving variances in floodland districts shall be notified, in writing, by the board of
8176 appeals that increased flood insurance premiums and threat to life and property may result from the
8177 granting of the variance. The board shall keep a copy of the notification in its files.

8178 (Ord. 1196 § 1(part), 1990).

8179

8180 **Chapter 19.75 ADMINISTRATION AND ENFORCEMENT**

8181 Sections:

8182 19.75.010 Introduction to Chapter 19.75.

8183 19.75.020 Zoning administrator--Office created--Powers and duties generally.

8184 19.75.030 Zoning administrator--Ordinance interpretation duties.

8185 19.75.035 Public information.

8186 19.75.040 Zoning administrator--Permit issuance duties.

8187 19.75.050 Certificate of zoning compliance requirements.

8188 19.75.060 Zoning administrator--Inspection of properties for compliance--City attorney duties.

8189 19.75.070 City manager's administrative responsibilities.

8190 19.75.080 Unlawful activities designated--Penalties--Additional remedies.

8191

8192 **19.75.010 Introduction to Chapter 19.75.**

8193 Chapter 19.75 deals with the administrative responsibilities of the zoning administrator,
8194 recordkeeping responsibilities of the city manager, and with compliance inspection and enforcement
8195 under this title. It should be recognized that the city plan commission and the board of zoning appeals
8196 have administrative responsibilities as well, and these are prescribed elsewhere in this title.

8197 (Ord. 994 § 12.1, 1982).

8198

8199 **19.75.020 Zoning administrator--Office created--Powers and duties generally.**

8200 A. The office of zoning administrator is hereby created. The zoning administrator is the administrative
8201 and enforcement officer for the provisions of this Title 19.

8202 B. The duties of the zoning administrator shall be to:

8203 1. Issue interpretations of the zoning ordinance codified in this title, and make and maintain records
8204 thereof;

8205 2. Issue all zoning permits and make and maintain records thereof;

8206 3. Issue all certificates of zoning compliance, and make and maintain records thereof;

8207 4. Conduct inspections to determine compliance with the terms of this title;

8208 5. Record the lowest floor elevations of all structures erected, moved, altered or improved in the
8209 floodland districts;

8210 6. Maintain permanent and current records of activities under this title, including, but not limited to all
8211 maps, amendments, conditional use records, variance records, appeal records, and applications

8212 ~~therefor~~ therefore;

8213 7. Provide a public information program relative to all matters arising out of this title;

8214 8. Receive, file and forward to the city clerk all applications for amendments to this title;

- 8215 9. Receive, file and forward to the plan commission all applications for amendments to this title and
8216 applications for plan and architectural review;
- 8217 10. Receive, file and forward to the board of zoning appeals all applications for appeals, variances or
8218 other matters on which the board of zoning appeals is required to act under this title. See also Section
8219 19.72.050 allowing appeals to be filed with the board secretary;
- 8220 11. Initiate enforcement activities, and participate in such enforcement activities in relation to existing
8221 or potential violations of this title;
- 8222 12. Initiate studies of the provisions of this title, and make recommendations to the plan commission at
8223 appropriate intervals or upon request;
- 8224 13. Attend meetings of the plan commission and the board of zoning appeals;
- 8225 14. Perform such activities as are reasonably required to conduct the responsibilities enumerated
8226 herein, and respond to requests or directives from supervising officials of the city.
8227 (Ord. 1060 § 26, 1985).

8228
8229 **19.75.030 Zoning administrator--Ordinance interpretation duties.**

- 8230 A. A primary duty of the zoning administrator is interpretation of the ordinance codified in this title.
8231 The zoning administrator shall respond expeditiously to requests for clarification and interpretation. The
8232 administrator is encouraged to seek counsel of the city attorney in making such interpretations.
- 8233 B. Informal and unwritten interpretations by the zoning administrator are not binding upon the city
8234 government, nor are those written interpretations that are expressly stated not to be binding. The
8235 zoning administrator shall have sole authority to decide when an interpretation shall be put in writing,
8236 except that the administrator shall make response to duly filed permit applications.
- 8237 C. Written interpretations by the zoning administrator are binding upon the city unless they are
8238 expressly made nonbinding. The written interpretation placed on this title by the zoning administrator
8239 shall be the official city interpretation unless that interpretation is retracted or revised in writing by the
8240 zoning administrator, or until it is reversed or modified by order of the board of zoning appeals or by a
8241 court.
- 8242 D. Written interpretations by the zoning administrator may be appealed to the board of zoning appeals
8243 as provided in Section 62.23(7)(e), 7, Wisconsin Statutes, and in Chapter 19.72.
8244 (Ord. 994 § 12.3, 1982).

8245
8246 **19.75.035 Public information.**

8247 To the fullest extent possible, the zoning administrator shall make available to the public all
8248 reports and documents concerning the city comprehensive plan and any component thereof. In
8249 addition, available information in the form of reports, bulletins, maps, and engineering data shall be
8250 readily available and widely distributed. The plan commission may set fees necessary to recover the
8251 costs of providing information to the public. Where useful, the zoning administrator, or his agent, may
8252 set marks on bridges or buildings or other markers which show the depth of the 100-year recurrence
8253 interval flood; or may set markers delineating the boundaries of wetlands.
8254 (Ord. 1196 § 1(part), 1990).

8255
8256 **19.75.040 Zoning administrator--Permit issuance duties.**

8257 A. Most types of land use change that are regulated by this title require a permit to be issued before
8258 the change may be legally undertaken. (See Chapter 19.63, Plan Review.) The zoning administrator's
8259 decision whether to issue a zoning permit is an interpretation decision in which the terms of this title are
8260 applied to a projected land use as described in the permit application and accompanying documents.
8261 When a permit is issued, the city is communicating its official statement that the land use described in
8262 the permit application is deemed to be legal under this title as Title 19 stands at that time. A permit that

8263 is issued does not, by itself, vest a right to complete the land use change. Changes in law or ordinance
8264 may have the effect of cancelling city approval if these occur before the project is far enough toward
8265 consummation to have a vested right to proceed to completion. A permit that is issued applies only to
8266 the development project as it is specifically described in the application. Permits may be time-limited in
8267 their duration to allow a re-review of prevailing conditions.

8268 B. 1. Every application for a zoning permit shall contain the information required in Section 19.63.020,
8269 on plan review application requirements. The administrator may also require evidence of compliance
8270 with other applicable laws or ordinances as a condition precedent to the issuance of a zoning permit.

8271 2. Any permit obtained through material misrepresentation shall be null and void.

8272 C. 1. Coincident with the issuing of a permit, the zoning administrator shall prepare a card, certifying
8273 that a permit has been issued. This card shall bear the same number as the permit and shall identify the
8274 construction and premises covered by the permit. This card shall be posted in a conspicuous place on
8275 the premises during construction and no construction shall be commenced until this card has been
8276 posted.

8277 2. If the zoning administrator deems it appropriate, conditions may be placed on the permit. The
8278 permit card shall spell out the Title 19 requirements as applied by the zoning administrator to the
8279 development proposal. A full set of conditions shall be retained by the zoning administrator and a
8280 summary of pertinent parts shall be communicated in writing to the owner, agents and contractors.

8281 D. When a fully completed permit application is submitted and is then denied by the zoning
8282 administrator, the denial and the reasons for the denial shall be recorded in the records of the zoning
8283 office, and this decision shall be appealable under subsection D of Section 19.75.030. Permit denials that
8284 are done without presentation of a fully completed application and the issuance of a denial on that
8285 application are not appealable.

8286 E. Issuance of a permit is equivalent to a written interpretation decision and is appealable as provided
8287 in subsection D of Section 19.75.030.

8288 F. Where a development requires a uniform state building permit, the zoning permit may take the form
8289 of inscription of zoning approval on the building permit and description of pertinent conditions in the
8290 file and on the permit placard.

8291 (Ord. 994 § 12.4, 1982).

8292

8293 **19.75.050 Certificate of zoning compliance requirements.**

8294 No building or addition thereto constructed after June 24, 1982, the effective date of this Title
8295 19, and no addition to a previously existing building shall be occupied, and no land (except that used for
8296 garden purposes, or for public recreation purposes and without buildings or structures), which is vacant
8297 on June 24, 1982, shall be used for any purpose until a certificate of zoning compliance has been issued
8298 by the zoning administrator. No use shall be changed until the certificate of zoning compliance has been
8299 issued by the zoning administrator. The application for and processing of a request for such a certificate
8300 shall be the same as for a zoning permit. A certificate of zoning compliance shall state that the uses of
8301 the property are legal under the zoning ordinance, either by expressed terms of the ordinance, or as a
8302 matter of nonconforming usage. Conditions or qualifications may be appended.

8303 (Ord. 994 § 12.5, 1982).

8304

8305 **19.75.060 Zoning administrator --Inspection of properties for zoning compliance--City attorney duties.**

8306 A. It shall be the duty of the zoning administrator to inspect or cause to be inspected all properties for
8307 which a zoning permit has been issued to determine whether the development of land use change that
8308 was the subject of the permit has occurred in full compliance with this title. The acceptance by an
8309 applicant of a zoning permit grants consent to the zoning administrator to make such inspections as are
8310 reasonably necessary to determine compliance.

8311 B. It shall also be the duty of the zoning administrator to inspect or cause to be inspected all properties
8312 within the jurisdiction of this title for compliance with the terms of this title. Inspections may be at
8313 random, under a routine pattern, as a follow-up to permit issuance, or upon complaint or inquiry. Based
8314 on the possible violation, the zoning administrator or designee may inspect the property.

8315 C. Where facts obtained from inspection or by other means lead the zoning administrator to conclude
8316 that a violation of this title probably exists, the zoning administrator shall create an evidentiary file
8317 documenting the basis for this conclusion. After completion and review of this file, the zoning
8318 administrator may take the following initial enforcement actions on his/her own motion:

8319 1. Communicate in person, by letter, or telephone, with the owner, the architect, contractors, or other
8320 relevant parties, expressing the conclusion that a violation probably exists, requesting information,
8321 requesting that the parties review the compliance question, and that they communicate with the zoning
8322 administrator on this matter within a specified time appropriate to the circumstances.

8323 2. Where the zoning administrator deems it appropriate to prevent further construction or alteration, a
8324 stop-work order may be issued by the administrator. This order shall be prominently posted on the
8325 property and mailed to relevant parties, and it shall demand that work violating this title be halted
8326 immediately and shall advise its readers and recipients to contact the zoning administrator's office.

8327 3. Where the zoning administrator deems it appropriate, he may issue a citation for a zoning ordinance
8328 violation, under the city's citation ordinance.

8329 4. All written communications, including stop-work orders, shall have an expressed time limit for
8330 contact with the zoning office, and shall advise that the matter will be turned over to the city attorney
8331 for legal action on that date unless the matter has been resolved.

8332 D. Where enforcement actions described in subsection C above have not satisfied the zoning
8333 administrator that the property and its usage have been made to comply, the evidentiary file and all
8334 correspondence shall be turned over to the city attorney. The city attorney shall review the file. The
8335 attorney may require an evidentiary hearing before making a prosecutorial decision. If the file is deemed
8336 by the city attorney not to show a probable violation, the city attorney shall so indicate in an
8337 explanatory letter, and pertinent parties shall be so notified. If the city attorney does not so conclude,
8338 the attorney shall immediately issue a letter to the violating parties and other pertinent individuals
8339 establishing a specific timetable for compliance to be accomplished and specifying that legal action will
8340 be taken if compliance is not accomplished within the time period specified. If the deadline is not met,
8341 the attorney shall institute prosecution by lawsuit requesting injunctive relief or forfeiture or both. The
8342 attorney may also prosecute a nuisance action and/or may refer the matter to the district attorney for
8343 possible violation of state law or code, as the facts may indicate.

8344 E. Formal decisions by the zoning administrator or by the city attorney on probable violations are
8345 administrative determinations made in the course of enforcing this title, and are capable of appeal to
8346 the board of zoning appeals pursuant to Section 66.23(7), Wisconsin Statutes.

8347 F. The city police department shall have enforcement authority concerning all of the provisions of Title
8348 19. This shall include, but not be limited to, issuance of citations for zoning ordinance violations under
8349 the city's citation ordinance.

8350 (Ord. 1382 § 1, 1997; Ord. 994 § 12.6, 1982).

8351
8352 **19.75.061 Zoning administrator --Inspection of properties for occupancy compliance--City attorney**
8353 **duties.**

8354 A. It shall be the duty of the zoning administrator or designee to inspect properties for which a
8355 complaint has been filed to determine whether the permitted occupancy is in full compliance with this
8356 title for districts R-O, R-1, R-2, R-3, and all overlay districts of this title. The acceptance by an applicant of
8357 a zoning permit grants consent to the zoning administrator to make such inspections as are reasonably
8358 necessary to determine compliance.

8359 B. Inspections may include a site visit to request a lease from the tenants. Inspections will be due to a
8360 complaint or inquiry.

8361 C. Where facts obtained from inspection, or by other means, lead the Zoning Administrator to conclude
8362 that a violation of occupancy probably exists, the zoning administrator shall create an evidentiary file
8363 documenting the basis for this conclusion. After completion and review of this file, Zoning Administrator
8364 may take the following initial enforcement actions on his/her own motion:

8365 1. Communicate in person, by letter, or telephone, with the property owner requesting information,
8366 requesting that the parties review the compliance question, and that they communicate with the zoning
8367 administrator on this matter within a specified time appropriate to the circumstances.

8368 2. Where the Zoning Administrator deems it appropriate, he or she may issue a citation for a zoning
8369 ordinance violation, under the city's citation ordinance.

8370 E. Formal decisions by the zoning administrator or by the city attorney on probable violations are
8371 administrative determinations made in the course of enforcing this title, and are capable of appeal to
8372 the board of zoning appeals pursuant to Section 66.23(7), Wisconsin Statutes.

8373 (Ord. 1382 § 1, 1997; Ord. 994 § 12.6, 1982).

8374

8375

8376 **19.75.070 City manager's administrative responsibilities.**

8377 A. It shall be the duty of the city manager, or of other city officials and staff as determined by the city
8378 manager, to provide the plan commission and the board of zoning appeals with staff services to assure
8379 that all meetings are fully noticed and conducted in accordance with procedural requirements of the
8380 Wisconsin planning and zoning statute (Section 62.23(7), Wisconsin Statutes), the open meeting law and
8381 the public record law. Similarly, the city manager or delegated public official shall maintain all minutes,
8382 proceedings and records of the plan commission and board of zoning appeals in full compliance with the
8383 public record requirements of state planning and zoning ~~laws~~ and the open meeting and public record
8384 laws of the State of Wisconsin.

8385 B. The city manager is the appointing officer for the zoning administrator. The city manager shall not,
8386 however, dictate the outcome of interpretation or permit decisions or enforcement decisions by the
8387 administrator. The city manager, if affected by any decision of the zoning administrator, shall have the
8388 right to appeal the administrator's decision to the board of zoning appeals, pursuant to Section
8389 62.23(7)(e)4, Wisconsin Statutes.

8390 C. It shall be the duty of the city manager and zoning administrator to establish and maintain a system
8391 of records on land usage, coordinating records of permits, decisions of the plan commission and board
8392 of zoning appeals, city council, land subdivision records, city-required covenants, development
8393 conditions and contracts, etc., so as to provide city officials and citizens with reasonably full access to all
8394 the regulatory matters pertaining to particular parcels.
8395 (Ord. 994 § 12.7, 1982).

8396

8397 **19.75.080 Unlawful activities designated--Penalties--Additional remedies.**

8398 A. The following ~~activities~~ shall constitute violations of this title, and shall subject those responsible to
8399 penalties as listed below.

8400 It is a violation of Title 19 to:

8401

8402 1. Own any property or structure that does not fully comply with the terms of this title: one hundred to
8403 three hundred dollars. 2. Establish or cause to be established, or allow or fail to remedy, any usage of
8404 land or premises or any structure which does not fully comply with the terms of this title, or to aid or
8405 abet in such activity: ~~five~~ one hundred to ~~two~~ three hundred fifty dollars;

8406 3. ~~a. Failure~~ Fail to request and obtain a zoning permit for a land use or a land use change that requires
8407 such a permit under this title: ~~fifty to two~~ one hundred fifty to three hundred dollars; ~~(Double permit fees if a permit is~~
8408 ~~subsequently requested.)~~ In cases where a permit is subsequently requested, the standard permit fee shall be
8409 doubled;

8410 a4. Fail to comply with a stop-work order duly issued by the zoning administrator: Two hundred fifty to
8411 four hundred dollars.

8412 B. Each day of a ~~known~~ violation shall constitute a separate offense.

8413 C. In addition to the remedies specified above, adjacent or neighboring property owners may institute
8414 appropriate actions or proceedings to prevent, enjoin, abate, remove or correct structural or land use
8415 activities that are or will be in violation of this title, or to prevent or abate activities or conditions that
8416 constitute nuisances.

8417 D. In addition to any other penalties or remedies available, the city or any landowner within three
8418 hundred feet of the property, may maintain an action for injunctive relief to restrain any violation of the
8419 density and use limitations set forth in Section 19.09.520 and/or to enforce compliance with Section
8420 19.09.520, upon a showing that a person has engaged in, or is about to engage in, an act or practice
8421 constituting a violation of that section.

8422 (Ord. 994 § 12.8, 1982).

8423 (Ord. No. 1695A, 8-5-2008)

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8426

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Latisha Birkeland

From: Wallace McDonell [wkm@hmattys.com]
Sent: Monday, February 17, 2014 12:06 PM
To: Latisha Birkeland
Cc: Witzling, Larry P.; Cameron Clapper
Subject: R-O amendment
Attachments: SKMBT_42314021712580.pdf

February 17, 2014

lbirkeland@whitewater-wi.gov

Dear Latisha:

I have attached herewith a copy of recent State legislation that limits the information that a city can require a landlord to provide to the City. Based on this legislation, I drafted the attached amendment to 19.25.050, which removes the landlord reporting language from the section. This was done after consultation with you and Larry Witzling. I would appreciate it if you would circulate this ordinance amendment with the main re-write ordinance so that it can be considered by the Plan Commission and Council.

If you have any questions in regard to this, please feel free to contact me at any time.

Thanks,

Wally

Wallace K. McDonell

Harrison, Williams & McDonell, LLP
452 W. Main Street
P.O. Box 59
Whitewater, WI 53190
Phone: 262-473-7900
Fax: 262-473-7906
wkm@hmattys.com

From: scanner@hmattys.local [mailto:scanner@hmattys.local]
Sent: Monday, February 17, 2014 11:59 AM
To: Wallace McDonell
Subject: Message from copier

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 19.25.050
NON-CONFORMING USE AND REGISTRATION IN
THE R-O OVERLAY DISTRICT

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

Section 1: Whitewater Municipal Code Chapter 19.25, Section 19.25.050 Non-conforming use and registration, is hereby amended to read as follows:

19.25.050 Non-conforming use ~~and registration.~~

~~In order to assist the enforcement of this zoning classification, the owner of any property claiming non-conforming use status regarding the unrelated persons limitation imposed by R-O zoning shall register with the city clerk on a form provided by the clerk within ninety days of the imposition of the zoning on the property. The information required on the registration form shall include the history of the property that supports its designation as a non-conforming use which shall include the three letter initials and dates of residency of current tenants (or most recent tenants if not currently occupied), and the three letter initials and dates of residency of all tenants who resided at the premises for the last one hundred twenty days. The party claiming the non-conforming use status shall also have a continuing requirement to update the registration information to provide the initials of current tenants. Failure to register within ninety days of the imposition of the R-O zoning classification shall cause the non-conforming use status to terminate. The city shall mail a notice of this requirement to the address on the property's real estate tax statement within fifteen days of the imposition of the zoning on the property. Properties that qualify as legal non-conforming uses under this chapter shall be allowed to continue the use subject to the provisions contained in City of Whitewater Code Chapter 19.60 Nonconforming Uses, Structures and Lots. The non-conforming use status of any property under this chapter will be subject to the provisions contained in City of Whitewater Ordinance Section 19.60.010, existing non-conforming uses.~~

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Cameron Clapper, City Manager

ABSENT:

Michele R. Smith, City Clerk

ADOPTED:

Westlaw

W.S.A. 66.0104

Page 1

P

West's Wisconsin Statutes Annotated Currentness
Municipalities (Ch. 59 to 68)

Chapter 66. General Municipality Law (Refs & Annos)

Subchapter I. General Powers; Administration

→ 66.0104. Prohibiting ordinances that place certain limits or requirements on a landlord

(1) In this section:

- (a) "Premises" has the meaning given in s. 704.01(3).
- (b) "Rental agreement" has the meaning given in s. 704.01(3m).
- (c) "Tenancy" has the meaning given in s. 704.01(4).

(2)(a) No city, village, town, or county may enact an ordinance that places any of the following limitations on a residential landlord:

1. Prohibits a landlord from, or places limitations on a landlord with respect to, obtaining and using or attempting to obtain and use any of the following information with respect to a tenant or prospective tenant:

- a. Monthly household income.
- b. Occupation.
- c. Rental history.
- d. Credit information.
- e. Court records, including arrest and conviction records, to which there is public access.
- f. Social security number or other proof of identity.

2. Limits how far back in time a prospective tenant's credit information, conviction record, or previous housing may be taken into account by a landlord.

3. Prohibits a landlord from, or places limitations on a landlord with respect to, entering into a rental agreement for a premises with a prospective tenant during the tenancy of the current tenant of the premises.

4. Prohibits a landlord from, or places limitations on a landlord with respect to, showing a premises to a prospective tenant during the tenancy of the current tenant of the premises.

(b) No city, village, town, or county may enact an ordinance that places requirements on a residential landlord with respect to security deposits or earnest money or pretenancy or posttenancy inspections that are additional to the requirements under administrative rules related to residential rental practices.

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W.S.A. 66.0104

<Text of subsec. (2)(c) eff. March 1, 2014>

(c) No city, village, town, or county may enact an ordinance that limits a residential tenant's responsibility, or a residential landlord's right to recover, for any damage or waste to, or neglect of, the premises that occurs during the tenant's occupancy of the premises, or for any other costs, expenses, fees, payments, or damages for which the tenant is responsible under the rental agreement or applicable law.

<Text of subsec. (2)(d) eff. March 1, 2014>

(d)1.a. No city, village, town, or county may enact an ordinance that requires a landlord to communicate to tenants any information that is not required to be communicated to tenants under federal or state law.

b. Subdivision 1.a. does not apply to an ordinance that has a reasonable and clearly defined objective of regulating the manufacture of illegal narcotics.

2. No city, village, town, or county may enact an ordinance that requires a landlord to communicate to the city, village, town, or county any information concerning the landlord or a tenant, unless any of the following applies:

a. The information is required under federal or state law.

b. The information is required of all residential real property owners.

c. The information is solely information that will enable a person to contact the owner or, at the option of the owner, an agent of the owner.

<Text of subsec. (3) eff. until March 1, 2014>

(3) If a city, village, town, or county has in effect on Dec. 21, 2011, an ordinance that is inconsistent with sub. (2), the ordinance does not apply and may not be enforced.

<Text of subsec. (3) eff. March 1, 2014>

(3)(a) If a city, village, town, or county has in effect on December 21, 2011, an ordinance that is inconsistent with sub. (2)(a) or (b), the ordinance does not apply and may not be enforced.

(b) If a city, village, town, or county has in effect on March 1, 2014, an ordinance that is inconsistent with sub. (2)(c) or (d), the ordinance does not apply and may not be enforced.

<<For credits, see Historical Note field.>>

HISTORICAL AND STATUTORY NOTES

Source:

- 2011 Act 108, § 1, eff. Dec. 21, 2011.
- 2013 Act 76, §§ 1 to 4, eff. March 1, 2014.

2013 Legislation:

2013 Act 76 created subsecs. (2)(c) and (d) and (3)(b); and renumbered and amended subsec. (3) as (3)(a).

W. S. A. 66.0104, WI ST 66.0104

Current through 2013 Act 116, published 12/21/2013.

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ZONING MAP OVERLAY PERMISSION AREA MAP

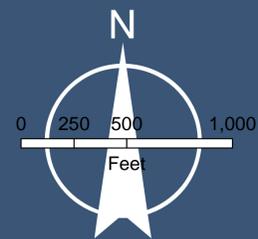
CITY OF WHITEWATER
WISCONSIN

OVERLAY PERMISSION AREAS

-  Proposed B-1 Overlay
-  Proposed B-2 Overlay
-  Proposed R-2 Overlay
-  Proposed R-3 Overlay

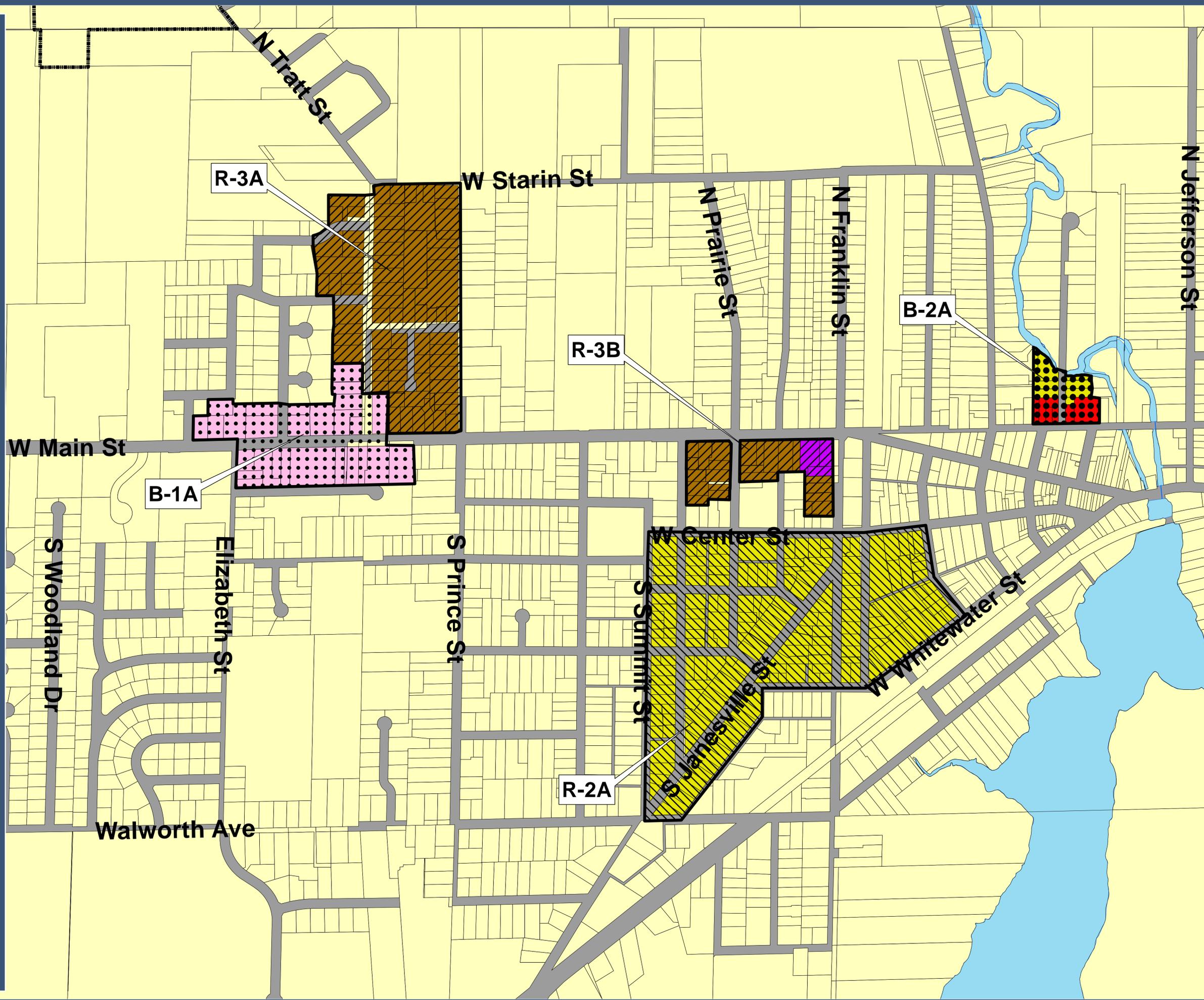
ZONING UNDERLYING OVERLAY PERMISSION AREAS

-  B-1
-  B-2
-  PCD
-  R-2
-  R-3

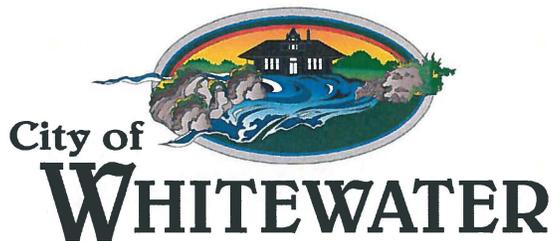


1 in = 400 ft

GRAEF



User: 1686 Date Saved: 9/10/2012 4:23:11 P.M. Path: L:\Jobs\2011\201108\GIS\Map\Current_Zoning\GRAEF_Overlay_09072012.mxd



Neighborhood Services Department
*Planning, Zoning, Code Enforcement, GIS
and Building Inspections*

www.whitewater-wi.gov
Telephone: (262) 473-0540

To the Common Council and the Plan and Architectural Review Commission:

Attached are comments received regarding the zoning rewrite. You have seen most of them before, however one is new.

Let me know if you have any questions.

Latisha

lbirkeland@whitewater-wi.gov
262-473-0143

Latisha Birkeland

From: Ryan Hughes [warhawkcountry@gmail.com]
Sent: Friday, August 16, 2013 12:22 PM
To: Cameron Clapper; Latisha Birkeland
Subject: zoning rewrite

Categories: Red Category

Cameron & Latisha,

I have been a property owner in Whitewater since 2005 and am a 2003 graduate of UWW. With the west overlay zoning concept in process, I recently purchased the blighted Olsen Funeral Home property on the corner of Prince and Main Street. I have seen the campus buildings transform for the better and my hope is to continue with that just off campus. I feel that the prominent location I have could serve as a new benchmark for what student housing needs to be. I foresee a quality, architecturally pleasing, masonry building with underground parking.

As the draft rewrite sits today, I feel that the "Lot Area" (19.22.040) too restrictively limits development in this area. I would prefer to see the density restriction be controlled by required setbacks, lot width, open space requirements & building height.

In my eyes it would be unfortunate for the community to be deprived the additional tax base and quality construction that could be offered in this area and more particularly this site.

I appreciate your time and hope I have your support.

Ryan

--

Ryan C. Hughes
Campus Edge Apartments, LLC
8820 Hollybush Lane, Verona, WI 53593
Phone: (608) 279-9969
warhawkcountry@gmail.com

Latisha Birkeland

From: David Saalsaa [dsaalsaa@sbcglobal.net]
Sent: Tuesday, April 30, 2013 2:45 PM
To: Latisha Birkeland
Cc: Tami Brodnicki; rtelfer@ameritech.net; Kristine Zaballos; Nate Parrish
Subject: Downtown Whitewater, Inc street level residential policy
Attachments: Street level residential letter.docx

Hi Latisha,

Please find attached the policy of DTWW, board of directors concerning the subject of street level residential in the B-2 commercial district as outlined in the current B-2 ordinance. As I stated in our conversation with you today, it is the very strong recommendation of DTWW that no change in the current ordinance be allowed. In my conversations with the retail businesses in the downtown, I find strong support for our policy as well. Please share this policy letter with Larry and any others so they understand that DTWW will work hard to assure the success of our retail district and that any change in this ordinance allowing street level residential will be looked upon as a setback to our efforts.

Regards,
Dave Saalsaa

Latisha Birkeland

From: Mike Kachel [leonk@idcnet.com]
Sent: Tuesday, February 07, 2012 11:18 AM
To: Latisha Birkeland
Subject: Zoning Committee

Latisha,

After attending the zoning committee meeting last week, I must say I am sorry for the way the townspeople of Whitewater acted. They took the "committee" meeting over like it was a town hall meeting. They acted completely inappropriately by not allowing the "committee" to discuss the agenda as they were enlisted to do. I believe the committee will have to take a more stern position regarding public input, after all the array of people on the committee was intended to represent each facet of the community, they were empowered to act on behalf of these people, not to be placed on the committee as a powerless figurehead.

Once again, I do apologize

Sincerely,

--

Mike Kachel
D.L.K. Enterprises, Inc.

Latisha Birkeland

From: Christine Riedel [walton_rentals@sbcglobal.net]
Sent: Wednesday, September 26, 2012 2:18 PM
To: Latisha Birkeland
Subject: FW: Zoning Re-write concerns

Categories: Red Category

Latisha I wanted to thank you for all the hard work you have been doing and to share a few of my thoughts with you from the Zoning Re-write meeting last week.

The initial goal of the committee was to make getting building permits, etc. more expedient to complete. We have been moving forward at a slow pace and maybe the process will speed up once we get from the college and residential into the commercial and industrial portion. I am concerned with this from a personal stand point and I feel it is also important for the City of Whitewater to streamline business into town.

When discussing the bedroom size – I had some concerns. I agree that a closet being turned into a bedroom is a problem, however in some of our homes we have actual bedrooms that are on the small side. The house was initially built with the room being intended as a bedroom, and was not a closet.

When adding on to a driveway and requiring it to be paved is fine but we cannot require the old driveway to be paved or re-paved. I feel it was vague the way we left it. An example is if someone adds on a 2nd bathroom to their home – we cannot require them to bring the existing bathroom up to the new codes. If we require them to do the entire driveway then people will not make improvements to their property or may not pull permits and work around the system.

I know the process is slow but I feel we need to also be voting or polling each member on items and not just rushing through the process, it is leaving a lot of unanswered questions.

I would appreciate it if you could forward my concerns to Larry.

Thank you

Russell Walton

Latisha Birkeland

From: R Helmick [rrhelmick@att.net]
Sent: Wednesday, February 01, 2012 12:40 PM
To: Latisha Birkeland
Cc: James and Rose Mary Leaver
Subject: zoning advisory meeting

I will be unable to attend the full meeting this evening of the zoning advisory board. Unfortunately, the meetings are held on the same nights that the Landmarks Commission holds its meetings.

I want to, again, re-iterate my concerns with any weakening of the present, R-2 zoning regulations which effect my property. I understand that other interests in the city are lobbying for a change that would allow as many occupants in a building as the number of the building's bedrooms.

I vigorously oppose such a change. First of all, it would be next to impossible to regulate what constitutes an original bedroom. As too frequently happens now, landlords quickly chop older, single family homes into apartments as soon as possible in order to increase their rental income. Secondly, and more importantly, increased density will bring about an increase in crime, trash, noise, and general neighborhood neglect - especially considering the age of the prospective renters and their transient conditions.

Please do not allow our current zoning regulations to be weakened. We need to protect what few remaining, single family residences that are left in the central part of the city. With UW-W proposing the addition of hundreds of new students each year over the next five years, the city must take steps to protect its family neighborhoods if it expects to continue to receive the benefits derived from a stable, involved community.

R-

Latisha Birkeland

From: Christine Hayes [thehayesfamily@me.com]
Sent: Thursday, February 02, 2012 8:12 AM
To: Latisha Birkeland
Cc: kbrunner@whitewawter-wi.gov
Subject: Rezoning

Follow Up Flag: Follow up
Flag Status: Completed

Dear Latisha,

We were unable to attend the meeting last evening. As we have lived in the HSPNA neighborhood for 25 years, served on a variety of committees, including City Council, and worked diligently to preserve and maintain the type of quality of life in our city that residents seek, we are appalled by the concert that rental properties could have as many tenants as there are bedrooms. This proposal is nothing more than an attempt by rental property owners to get around the efforts of the citizens who live in these areas and who have worked to maintain the neighborhoods. It all comes down to a desire to get more money anyway possible. Please do not allow the greed of a few cause the demise of years of effort to protect our citizen occupied neighborhoods.

Sincerely,
Glenn & Christine Hayes

Latisha Birkeland

From: James and Rose Mary Leaver [jrleaver@sbcglobal.net]
Sent: Monday, May 07, 2012 11:43 AM
To: Latisha Birkeland
Subject: Re: Next Zoning Rewrite Steering Committee Meeting

Thank you, Latisha, I did receive the agenda and have forwarded it to HSPNA members. Certainly urgent family situations take precedence over an agenda, important though these meetings are to our members, and I hope your father is doing well after surgery.

Has an information packet been provided to members of the steering committee about the state of the zoning rewrite? I was unable to find a packet at the library. Is the committee prepared to vote on recommendations and take them to the Plan Commission and Council?

I know you are aware of HSPNA's concern re this entire zoning rewrite issue for a host of reasons. But I also believe that if homeowners "in R-2 District, S of UW-W" were aware of the "No. of Bedrooms" issue proposed for their neighborhood, as shown on the map provided at one of the meetings, they would be very concerned indeed. There are few homeowners in the central city (indeed, the city as a whole) who realize that this extensive overhaul is proposed, since it has been virtually absent from media coverage except for the initial announcement (May 2011), a short item in the Janesville Gazette, and some mention made at the League of Women Voters candidates forum.

Rose Mary Leaver
473-5602

Latisha Birkeland

From: kevin collins [kcm1950@yahoo.com]
Sent: Thursday, September 13, 2012 3:13 PM
To: Latisha Birkeland
Subject: rezoning

ms birkeland

i am opposed to changing the zoning law concerning non- related people living in a house. changing the situation to unlimited groups based on the number of bedrooms would be a mistake. we already have too much student housing in whitewater. just look at all the for rent signs that are found in the city. this change would allow for the development of a student ghetto in the center of the city.

we need more affordable housing for young families. the homes that would be converted into multiple housing units are the same homes that could be sold to families once the state's economy improves.

thank you for your consideration.

kevin and marsha mckinnon

716 w. peck st

whitewater

262 473 6722

Latisha Birkeland

From: Drucker, Thomas L. [druckert@uww.edu]
Sent: Monday, September 17, 2012 7:47 AM
To: Latisha Birkeland
Subject: Re-Zoning

Follow Up Flag: Follow up
Flag Status: Completed

Richard Helmick has brought to our attention the plan to re-zone our neighbourhood (we live at 230 South Cottage Street) to allow for more than three unrelated individuals to live in the same house. While we recognize that such higher density is fairly common as a matter of practice, we can't help thinking that the legalization of such an increase would make it more common and lead to a further flight of families looking for single-family dwellings. We also recognize that the increased enrollment at the university with a lack of corresponding increase in housing available on campus is bound to push the need for rental properties even beyond last year's. Nevertheless, the consequences of a decrease in the number of homes occupied by the owners may not be so easy to reverse. We'll plan to show up at Wednesday's hearing. With best wishes,

Thomas Drucker
230 South Cottage Street
Whitewater, WI

druckert@uww.edu

Latisha Birkeland

From: Courtney Walker [russncourtney@hotmail.com]
Sent: Monday, September 17, 2012 2:33 PM
To: Latisha Birkeland
Subject: Zoning Concern

Latisha and Zoning Commission,

In July 2001 our family moved to Whitewater from Colorado. For the past 11+ years we have lived at 268 S Prairie Street. Whitewater has been a wonderful community where we have been fortunate enough to raise our 4 kids.

We would like to share our concerns with your proposal to rezone our neighborhood to allow rentals to house as many unrelated people as there are bedrooms. As college housing has gradually increased on our street over the past 11 years we have seen a gradual increase in noise, property destruction and theft on our property.

The house directly next to us has just become college housing and we have seen an exponential increase in issues. Just over the past week our family has been awoken to noise on Thursday, Friday and Saturday nights from the parties' next door. We had students "hanging out" in our backyard and urinating in our bushes on Saturday night. I also witnessed someone urinating on my front tree on Friday night. We picked up from our front yard a garbage bag full of empty beer cans, beer boxes and a half bottle of rum, that all came from just over the weekend. You should also find a police report from us on September 3, 2012 where we had \$1200 worth of golf clubs stolen from inside our garage. And, this is all just within the past 2 weeks. Besides that, South Prairie Street has become almost full of parked cars from students that live in the houses around us.

What was once a nice family neighborhood has become like a college dorm. But the difference is there is nobody "in charge" of making sure college students are behaving. The landlords don't always know what is going on and it has forced the homeowners to feel like we are babysitting the students in our neighborhood. We are the ones who get woken up in the middle of night, we are the ones who clean up the messes and we are the ones to take the hit from financial destruction to our properties. While the Whitewater Police has told us they try to keep an eye on things it is unrealistic to expect them to sit parked on our street full time. They have a whole town to take care of.

The only benefit I can see by allowing our neighborhood to be rezoned would be for the landlords' (who own these homes) bottom line. They will be the ones who make more money by cramming more students in their rentals. This change leaves the rest of us with lower property values and having to deal with the increased noise, trash and theft.

The reason why we chose to move to Whitewater was because of the University and the vitality a college can bring to a town. We do realize that with a University comes unique challenges for a community. We are aware that not all college students are "troublemakers" and that a few bad apples can spoil the bunch.

I am asking you to please remember the families who live in this neighborhood. And if the landlords' really need more room for college students let them purchase our homes at full value before our property values really hit the bottom.

Latisha Birkeland

From: Ben McCready [mccready@idcnet.com]
Sent: Friday, November 16, 2012 2:39 PM
To: Latisha Birkeland
Subject: We Want and Need a Zoning Change

We have been asked fairly often what our position is on the rezoning study currently underway. We are in strongly in favor of our home (located at 727 W. Center Street), our side of Center Street, and our immediate area being rezoned to either an R-2 Overlay (as many residents as there are original bedrooms) or to R-3.

Given the demographic, traffic (vehicular and pedestrian), and greatly increased density changes to this area since we first moved into our home in 1990, it only makes sense that our home, street and immediate area be rezoned to the proposed R-2 Overlay or to an R-3 area as soon as possible. We would be very happy to discuss our desire for a zoning change either privately or publicly, along with our recommendations as to which streets and what area should be rezoned. Having lived in our home for 22 years and watching the dramatic changes to our street and neighborhood over the years, we feel that nobody understands our neighborhood better than we do and we look forward to talking with you about this issue.

Sincerely,
Ben and Anne McCready
727 W. Center Street
262 473 0922

Latisha Birkeland

From: Glenn Hayes [thehayesfamily@icloud.com]
Sent: Tuesday, May 07, 2013 10:09 PM
To: Latisha Birkeland
Cc: James Hartwick; Jim Winship; Patrick Singer; Ken Kidd; Cameron Clapper
Subject: Zoning Concerns

Dear Latisha,

I sincerely appreciate the zoning updates received from Jane Wegner. Unfortunately, I will not be able to attend the meeting as I will be out of town. I have endeavored to get through the 200 page document forwarded, but I must admit that the task proved too daunting for the time I had available. Nor do I have the resources to hire legal counsel to digest the document and promote my interests. I have to trust those elected and appointed to do what is best for the citizens of our city. I sincerely hope that the single family neighborhoods will be protected. Obviously, it is vital to maintain the integrity of the Historic Starin Park Neighborhood. I beseech you maintain our family neighborhoods and our quality of life. I thank you for your efforts and integrity.

Sincerely,
Glenn C. Hayes
135 N. Esterly Ave.

Latisha Birkeland

From: McCready [mccready@idcnet.com]
Sent: Sunday, September 15, 2013 9:16 AM
To: Cameron Clapper; Michele Smith; Latisha Birkeland; Lisa Otterbacher; Jane Wegner; Brian Uhl; Tim Gray; Patrick Singer; Phil Frawley; Stephanie Abbott; Jim Winship; Lynn Binnie; Ken Kidd; McCready
Subject: Our "Neighborhood" Is Worse Than Ever

I just want to thank everyone for their concern about the wholesale changes that have occurred in our "Zoning Overlay District" over the past 10-15 years and the change from a 30% student occupancy rate to a more than 80% student occupancy rate today. As everyone is well aware, we badly need the proposed change to a district/area where the number of students in a residence is determined by the number of original bedrooms – a change that reflects the reality of the situation and that will enable us and other residents to market and sell our homes as the best/only suitable use. This neighborhood is no longer viable for single family/owner occupied residences.

Last night in our neighborhood was another example of why this change cannot come too soon – hordes of kids milling about, shouting, running every which way when the police appeared, looking for parties blocking/yelling at traffic from 10:00 PM until after bar time. This noise used to abate somewhat around 2:30 AM but since Toppers expanded their hours on Center Street a couple years ago, we now often have noise until 3:30 AM (not to mention many pizza boxes and dozens of beer cans up and down Center Street, on our lawn, on our FRONT PORCH, and next to our house which is also used as a bathroom because of the shrub cover). Students keep very different hours than single family/owner occupied residents keep and, because our neighborhood/area is now 80% student-occupied housing, we are awakened once or twice a night most nights of the week, including every Thursday, Friday and Saturday night.

As many of you know, I have taken some time to walk this "Proposed Overlay District" and document the change in housing occupancy over the past 15 years (and going back to when we first moved to this neighborhood in 1990). Those of you who have walked this area with me over the past 6 months have all been shocked at how many residences you thought were owner-occupied are, in fact, now student residences. I have also talked to all but a few of the single family/owner occupied residents of this area. More than 30 of these people support the zoning change and only 2 oppose it (including my friend, Richard Helmick).

We are looking forward more than you can imagine to the new "Zoning Overlay District." Until then, please keep a good eye on 718 Center Street as it seems to be the main "Party/Noise House" this semester (one of many, though, sadly). We look forward to the meeting October 8.

Sincerely,

Ben and Anne McCready
727 W. Center Street
262 473-0922

Latisha Birkeland

From: Ryan Hughes [warhawkcountry@gmail.com]
Sent: Friday, January 31, 2014 2:51 PM
To: Cameron Clapper; Latisha Birkeland; Patrick Singer
Subject: Zoning

Cameron, Latisha & Patrick,

I am writing in regards to the zoning rewrite. I am pleased to see the process progressing forward with the date set for the commercial portion and to see that the February 4th common council agenda includes an item for direction regarding the timeline.

As I have communicated before, I am anxious to work through a redevelopment of the old Olsen Funeral Home property on the corner of Prince and Main Street. With the focus on student rentals, the construction timing revolves around the rental cycle. The ideal commencement for construction is May/June. Prior to construction, both plans and approvals need to be complete and most importantly the zoning needs to be in place before anything can start.

I am hopeful the rewrite process can move forward at a pace that would allow this project to begin in 2014.

The redevelopment will benefit the city by enhancing blighted property, adding to the tax base and providing quality housing very close to campus.

In prior joint rewrite meeting discussions, the R-3 overlay west of campus seemed to carry support and not generate much debate. I ask all of your help to timely move this section of the code forward for approval. Thanks

Ryan

--

Ryan C. Hughes
Campus Edge Apartments, LLC
8820 Hollybush Lane, Verona, WI 53593
Phone: (608) 279-9969
warhawkcountry@gmail.com

