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**TITLE 10. ZONING CODE**
**CHAPTER 10-1. ZONING CODE<sup>1</sup>**
**ARTICLE A. INTRODUCTION; DISTRICTS AND MAPS; DEFINITIONS**
**Sec. 10-1-1. Interpretation and purposes.**

The provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the city. It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easement, covenant, or agreement between parties or with any rules, regulations or permits previously adopted or issued pursuant to laws; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises, or upon the height of a building, or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall govern unless otherwise stated.

**Sec. 10-1-2. Districts.**

For the purposes of this chapter, the city is divided into 18 districts as follows:

Abbreviation	Title
R-1	Single-Family Residence district
R-2	Single- and Double-Family Residence district
R-3	Single- and Double-Family Residence district
R-4	Multiple-Family Residence district
B-1	Business district
B-2	Business district
B-3	Business district
WFB	Waterfront Business district
I-1	Industrial district
I-2	Industrial district
I-3	Business Park district
C-1	Conservancy district
C-2	Conservancy district
PUD	Planned Unit Development district
PDD	Planned Development district
OSB	Office/Service Business district
IPF	Institutional/Public Facilities district
CSD	Conservation Subdivision district

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<sup>1</sup>Editor's note(s)—Adopted by the city council of the City of Two Rivers (Title 10, Ch. 1, of the 1981 Code).  
Amendments noted where applicable.

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Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-3. Zoning district maps.**

A. The boundaries of the districts are established as shown on the maps entitled:

(1) "District map, Two Rivers, Wisconsin," dated March 7, 2016.

(a) The boundaries of the various zoning districts identified herein shall be depicted on the city's district map. Said map shall depict said boundaries as adopted by the ordinance approved by the city council on March 7, 2016, and as subsequently updated by the zoning administrator in the manner described below:

The zoning administrator or his/her designee shall, in January of each year or as otherwise directed by the city council, present for city council a report to reflect changes in the boundaries of the zoning districts to comport with changes to those boundaries resulting from ordinances adopted by the city council in the preceding year.

(2) "Official map, Two Rivers, Wisconsin," dated June 1, 1959.

(3) "Floodplain Zoning Map, Two Rivers, Wisconsin," dated August 2, 2011.

B. Amendments to the zoning map, as authorized from time to time by ordinance, shall be maintained with the official map in the city's offices.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-4. Official map.**

A. *Establishment.* There is hereby established an official map of the city, dated June 1, 1959, as amended, showing the location and width of streets, highways and parkways as laid out, adopted and established. Such official map consists of:

(1) Sheet 1 showing the location and width of future streets and highways in the city;

(2) Sheet 2 showing the location and width of highways in the environs of Two Rivers within which the approval of land subdivision plats by the council is required by Wis. Stats. § 236.10, such highways being extensions of major streets within the city.

B. *Certificate of adoption and amendment.* The city clerk shall file with the Register of Deeds of Manitowoc County a certificate showing that the city has established an official map dated June 1, 1959, and shall file a similar certificate when the city makes amendments to such official map.

### **Sec. 10-1-5. Annexation.**

A. All territory annexed to the city shall automatically become a part of the single-family residence district until definite boundaries and regulations are recommended by the city plan commission and adopted by the council; provided, however, that the council shall adopt definite boundaries and district regulations within 90 days from the date of the annexation.

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## Sec. 10-1-6. District boundaries.

- A. *Streets and alleys.* district boundaries line are the center lines of highways, streets, alleys, easements or right-of-way lines of railroads, or sections, division of sections, tracts and lot lines, or such lines extended unless otherwise indicated.
- B. *Subdivided property.* Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where designations on the district map are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of the district.
- C. *Unsubdivided property.* In unsubdivided property, the district boundary lines shown on the district map shall be determined by use of the scale shown on such map.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

## Sec. 10-1-7. Definitions.

- A. Words used in the present tense include the future; the singular number includes the plural number and the plural number includes the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. Any words not herein defined shall be as defined in the state and city building codes.

- B. For the purposes of this chapter, certain words and terms are defined as follows:

*Accessory building.* A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises. When an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard requirements of the main building shall be applied to the accessory building.

*Accessory use.* A subordinate use which is incidental to and customary in conjunction with the principal building or use and which is located on the same lot as such principal building or use.

*Agriculture.* Use of property for keeping, raising, growing or producing food, feed, biofuel, medicinal plants and fiber commodities, livestock, poultry, bees, fruits and vegetables, sod, ornamental, nursery or horticultural crops.

*Alley.* A street or thoroughfare less than 21 feet wide and affording only secondary access to abutting property.

*Apartment house.* See "dwelling, multiple."

*Auction facility.* An enclosed place or establishment conducted or operated for compensation or profit as a private or public market, where items are offered for sale through competitive bidding. The term "auction facility" shall not include on-premises estate, foreclosure, real estate or personal property sales conducted upon the estate, foreclosed or for-sale property or property belonging to the personal property owner. The term "auction facility" shall not include flea markets, yard sales or livestock markets defined or regulated elsewhere or sheriffs' or bank repossession sales.

*Auction facility, business.* An auction facility for items of a personal or business nature generally found within retail stores located within the underlying zoning district.

*Auction facility, industrial.* An auction facility for motor vehicles, machinery, heavy equipment, items of an industrial nature, or items not normally found within retail stores.

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*Awning, permanent or fixed.* Shielding or decorative fixture attached to a building and extending from the face of the building, which is nonretractable and permanent in nature.

*Awning, retractable.* Shield or decorative fixture attached to a building and extending from the face of the building, which can be mechanically retracted to the face of the building.

*Basement.* A story partly underground, which if occupied for living purposes shall be counted as a story for purposes of height measurement.

*Boardinghouse.* A building other than a hotel where meals, or lodging and meals, are furnished for compensation for three or more persons not members of a family.

*Building.* A structure having a roof supported by columns or walls and used or intended for the protection, shelter, enclosure or support of persons, animals, or property.

*Building, detached.* A building surrounded by open space on the same lot.

*Building, height of.* The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the declivity of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

*Canopy.* A structure attached and extending from the face of the building, constructed as a permanent fixture, which may be supported from the ground.

*Canopy, storage.* A shelter for outdoor storage having a frame made of metal, plastic, or combination thereof, having a roof, with or without walls, and not attached to any structure, building, fence or anything permanently located on the ground.

*Carport.* See "garage, private."

*Clinic.* An organization of specializing physicians or dentists having offices in a common building for the medical examination and treatment of persons on an outpatient or nonboarding basis only.

*Community-based residential facility (CBRF).* A community living arrangement licensed and operated under the authority of the State of Wisconsin, and subject to requirements as defined and described in Wisconsin Statutes. Said requirements in Wisconsin Statutes as may be applicable to CBRFs are incorporated herein for purposes of regulation of such facilities under this chapter.

*Community living arrangement (CLA).* A facility licensed and operated under the authority of the State of Wisconsin, including group homes for children, foster homes, treatment foster homes, adult family homes, and community-based residential facilities, but not including nursing homes or day-care facilities.

*Contractors.* General contractors and builders engaged in the construction of building, either residence or commercial structures, or alterations thereto, as well as heavy construction contractors engaged in activities such as paving, highway construction and utility construction.

*Contractors' storage yards.* An unenclosed portion of the lot or parcel upon which a construction contractor maintains its principal office or a permanent business office. Designation of the lot or parcel as a contractors storage yard would allow this area to be used to store and maintain construction equipment and other materials customarily used in the trade carried on by the construction contractor. If permitted to be used in this manner, the entire lot or parcel would then be classified as a "contractors storage yard" and will be required to conform to all applicable zoning district standards and other legislative regulations.

*Day-care center, adult.* A facility that provides services for part of a day in a group setting to adults who need an enriched social or health supportive experience, or who may need assistance with activities of daily living, supervision and/or protection. Services may include personal care and supervision, provision of meals, medical care, transportation, and activities designed to meet physical, social, and leisure time needs.

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*Day-care center, child.* A facility required to be licensed under Wis. Stats. § 48.65, where care is provided for nine or more children.

*Dwelling unit.* Any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking and eating of meals.

*Dwelling, multiple.* A building or portion thereof designed for and occupied by more than two families, including tenement houses, row houses, apartment houses and apartment hotels.

*Dwelling, one-family.* A detached building designed for or occupied exclusively by one family.

*Dwelling, two-family.* A detached or semidetached building designed for and occupied exclusively by two families.

*Essential services.* Services provided by public and private utilities necessary to serve a principal use or to service a principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communications systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

*Event facility/assembly hall.* A building or part thereof where the principal use includes services such as banquets, conferences, educational and social group activities, group meetings and weddings. Such uses may be either public or private in nature and may include accessory food services, accessory beverage services and accessory outdoor operations. Such facilities shall not function as a place of worship as the principal use of the building.

*Family.* One or more persons related by blood, marriage, adoption or a group of not more than four persons who need not be related, living together as a single housekeeping organization. A "family" includes any domestic servants and not more than one gratuitous guest residing with said family.

*Fish farming/aquiculture.* A use consisting of the process of raising fish for commercial, food or hobby purposes and including egg hatching, feeding, rearing, and wholesale or retail sales, but not including the processing of fish or fish products.

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

*Garage, private.* An accessory building used for the storage of motor-driven vehicles. Carports shall be considered garages within this definition.

*Garage, public.* Any building or premises other than a private or a storage garage where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

*Garage, storage.* Any building or premises used for open storage purposes where space is leased or rented for varying periods of time. Items stored shall only include motor-driven vehicles, recreational vehicles, campers, motorcycles, all-terrain vehicles, jet skis and boats; and where no equipment, parts, fuel, grease or oil is sold; and vehicles are not equipped, serviced repaired, hired or sold.

*Gardening, produce.* An accessory residential land use which consists of an area of land used for the cultivation of fruits and vegetables.

*Group foster home.* A home in which a sponsoring family or houseparent couple accepts not more than eight nonrelated persons for personalized living and supervision. Such a home shall be of a nonprofit nature and primarily designed for the rehabilitation of the residents. It may be used for short-term or respite care or for long-term care.

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*Home occupation.* A business, profession, occupation or trade conducted for compensation entirely inside a residential dwelling, or a structure accessory thereto, which is accessory to the use of the dwelling as a residence and which does not change the residential character of the building.

*Hospital.* Any building, structure, institution or place offering inpatient, overnight care, and devoted primarily to the maintenance and operation of facilities for diagnosing, treating and providing medical or surgical care of ten or more unrelated individuals who have a physical or mental illness, disease, injury, rehabilitative condition, or are pregnant, and which regularly makes available at least clinical laboratory services, diagnostic x-ray services and treatment facilities for surgery, obstetrical care or other definitive medical treatment. A hospital shall be approved as required by the State of Wisconsin.

*Hotel.* A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation, and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all times. As such, it is open to the public in contradistinction to a boardinghouse, a lodging house, or an apartment house, which are herein separately defined.

*Institution.* A nonprofit establishment for public use.

*Junkyard.* An open area where waste, used or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap metals, paper, rags, rubber, bottles and plastics. A "junkyard" includes an auto wrecking yard, but does not include uses established entirely within closed buildings.

*Kennel (commercial).* A use, either indoor or outdoor, in which dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold, all for a fee or compensation. "Kennels" include canine care facilities which may feature such services as animal day care, sleepovers, salon services, boutique training and veterinary services.

*Lodging house.* A building other than a hotel where lodging only is provided for compensation for not more than three persons not members of the family.

*Lot.* A parcel of land adequate for occupancy by a use herein permitted, providing the yards, area and off-street parking herein required and fronting directly on a street.

*Lot line, front.* The boundary of a lot which is along an existing or dedicated public street or way.

*Lot lines.* The lines bounding a lot as defined herein.

*Lot width.* The horizontal distance between the side lot lines of the lot measured at the front lot line.

*Lot, corner.* A lot abutting on two or more streets at their intersection or upon two parts of the same street at their intersection, such streets or parts of streets forming an interior angle of less than 135°.

*Lot, interior.* A lot other than a corner lot.

*Lot, reversed corner.* A corner lot the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

*Lot, through.* An interior lot having frontage on two nonintersecting streets.

*Manufactured home.* A dwelling structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the Federal Department of Housing and Urban Development as complying with the standards established under 42 U.S.C. §§ 5401 to 5425.

*Market, farmers.* An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public, without any intervening distributor or wholesaler, items such as fresh produce, seasonal fruits, fresh flowers, ornamental plants and trees, arts and craft items, and food and beverage dispensed from booths located on site.

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*Market, flea.* A retail use consisting of an assemblage of individual sellers of a variety of types of merchandise. Spaces are rented to sellers who offer merchandise, such as, but not limited to, bargain-priced items, secondhand articles, fresh produce and plants; and may include food vendors.

*Mobile home.* A transportable factory-built structure designed for long-term occupancy built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

*Motel.* A building in which lodging or boarding and lodging are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a boardinghouse, a lodging house or an apartment house, which are herein separately defined.

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

*Nonconforming use.* A use of a building, structure or land that does not conform with the use regulations in the current zoning ordinance.

*Nursery school.* A building used routinely for the care and education of preschool-age children.

*Nursery, day-care.* A building used routinely for the daytime care of preschool-age children.

*Nursery, horticultural.* A building or parcel of land or portion thereof used for the cultivation or growing of plants.

*Nursing home.* A building used for the continuous care on a commercial or charitable basis of three or more persons who are physically incapable of caring for their own personal needs.

*Recreational vehicle.* A vehicular unit designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are travel trailer, camping trailer, truck camper, or motor home.

*Roadside stand.* A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered, and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 300 square feet in ground area, and there shall be not more than one roadside stand on any one premises.

*Self-storage/mini warehouse facility.*

- (1) A compartmentalized warehouse building in which storage compartments of varying sizes are leased or rented to individuals for general storage purposes for varying periods of time and providing one or more doors serving each compartment.
- (2) The following uses shall be prohibited in self-storage/mini warehouse facilities:
  - (a) Storage of flammable or hazardous materials or chemicals.
  - (b) Auctions, commercial, wholesale, retail or miscellaneous or garage sales; except those conducted by the property owner when property stored in said compartment is abandoned in accord with Wis. Stats. § 704.90(6), or any successor to that statute.
  - (c) Sales, service, repair, fabrication or manufacturing activities.
  - (d) The operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment or other similar equipment.
  - (e) The establishment of a transfer or storage business.
  - (f) Any use that is noxious or offensive of odors, dust, noise, fumes or vibrations.

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*Setback.* The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, excluding permitted encroachments.

*Stable.* The same meaning as "garage," with one draft animal being considered the equivalent of one self-propelled vehicle.

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

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

*Street.* A public thoroughfare normally 21 or more feet in width which affords the principal means of access to abutting property.

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

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

*Structure.* Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

*Temporary structure.* A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

*Use.* The purpose of activity for which the land or buildings thereon is designed, arranged or intended or for which it is occupied or maintained.

*Use, conditional.* A use, either public or private, which because of its unique characteristics cannot be properly classified as a permitted use in a particular district or districts. After due consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such conditional use may or may not be granted.

*Use, permitted.* A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and standards of such district.

*Use, principal.* The main use of land or buildings as distinguished from a subordinate or accessory use. A principal use may be "permitted" or "conditional."

*Vision clearance.* An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points on each street line. The amount of vision clearance is the distance from the intersection of the street lines to the points on each street line.

*Yard.* An open space on the same lot with a building unoccupied and unobstructed from the ground upward except as otherwise provided herein.

*Yard, front.* A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding uncovered steps.

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



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*Yard, rear.* A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the building, excluding uncovered steps. Except on corner lots, where the rear yard shall exclude the street side yard, which extends to the rear lot line.

*Yard, street side.* A side yard which adjoins a public or private street.

(Amended 6-7-2021)

Editor's note(s)—Added at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-8. Comprehensive Plan.**

- A. On August 21, 2006, City of Two Rivers approved a contract with the Bay Lake Regional Planning Commission to prepare a comprehensive plan for the City of Two Rivers under the guidelines of Sec. 66.1001, Wis. Stats.
- B. The project included a public participation component to guide the preparation of the comprehensive plan, which included provisions for wide distribution of the proposed elements of the comprehensive plan, and provided an opportunity for written comments to be received from the public and for the city to respond to such comments.
- C. On March 16, 2010, the City of Two Rivers plan commission recommended to the city council adoption of the comprehensive plan by resolution, which vote is recorded in the official minutes of the plan commission.
- D. The city council held a public hearing on March 22, 2010, which was preceded by a Class 1 notice provided as described in Wis. Stats. Ch. 985, that was published at least 30 days before the hearing was held, and the notice included all of the following information:
  - (1) The date, time and location of the hearing.
  - (2) A summary of the proposed comprehensive plan.
  - (3) The name of the individual employed by the City of Two Rivers who may provide additional information regarding the proposed ordinance.
  - (4) Information relating to where and when the proposed comprehensive plan could be inspected before the hearing and how a copy of the plan could be obtained.
- E. The city council, having carefully reviewed the recommendation of the city plan commission, having determined that all procedural requirements and notice have been satisfied, having given the matter due consideration, including consideration of the plan elements relating to issues and opportunities, natural, agricultural and cultural resources, population and housing, economic development, transportation, utilities and community facilities, intergovernmental cooperation, land use and implementation, and having determined that the comprehensive plan will serve the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City of Two Rivers which will, in accordance with existing and future needs, best promote the public health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development;
- F. The city council of the City of Two Rivers, Manitowoc County, Wisconsin, does ordain as follows:
  - (1) The comprehensive plan recommended by the City of Two Rivers plan commission is adopted.
  - (2) The city manager is directed to file a copy of the comprehensive plan for the City of Two Rivers with all the following entities:
    - (a) Every governmental body that is located in whole or part within the boundaries of the City of Two Rivers.

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- (b) The clerk of the Town of Two Rivers and the City of Manitowoc.
  - (c) The Wisconsin Land council.
  - (d) The Wisconsin Department of Administration.
  - (e) The Bay-Lake Regional Planning Commission.
  - (f) The Lester Public Library in the City of Two Rivers.
- G. Several sections of this chapter are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall only apply to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this chapter are hereby repealed as to those terms in conflict.
- H. Amendments to the comprehensive plan.
- (1) Amendment No. 1 (Harbor Master Plan). On January 21, 2013, city council approved Amendment No. 1 adopting the City of Two Rivers Harbor Master Plan as an element of the city's comprehensive plan.
  - (2) Amendment No. 2. On March 4, 2013, city council approved Amendment No. 2 amending the land use map for 1816 10th Street (former Formrite site) from Industrial to Commercial and Service Business.
  - (3) Amendment No. 3. On May 6, 2013, city council approved Amendment No. 3 adopting the City of Two Rivers Bicycle and Pedestrian Plan as an element of the city's comprehensive plan.
  - (4) Amendment No. 4. On August 5, 2013, city council approved Amendment No. 4 designating 1316 18th Street (former Hamilton site) as Smart Growth Area No. 1A and that funds be provided and grant funding sought for the preparation of a redevelopment plan for the former Hamilton site along with the former Eggers site (currently Smart Growth Area No. 1) to be redesignated as Smart Growth Area 1B and the rest of the fifty-five-acre Central Harbor Study Area, and to encourage Fisher Scientific International, LLC, to engage with the community in planning for the future of the former Hamilton site.
  - (5) Amendment No. 5. On February 17, 2014, city council approved Amendment No. 5 amending the land use map for a parcel identified as Lot 2 of a certified survey map (V.31, P.73) of the city-owned Lakeshore Park property, from park or open space to commercial and service business.
  - (6) Amendment No. 6. On April 7, 2014, city council approved Amendment No. 6 amending the land use map for the property at 2006 14th Street from commercial and service business to existing urban development.
  - (7) Amendment No. 7. On October 6, 2014, city council approved Amendment No. 7 amending the land use map for a sixty-acre city-owned property located on Woodland Drive from Industrial to low density/single-family residential.
  - (8) Amendment No. 8. On November 7, 2016, city council approved Amendment No. 8 to prepare a strategic concept plan for the development of the former Hamilton site and adjacent waterfront areas as a element to the City of Two Rivers Harbor Master Plan and the city's comprehensive plan.
  - (9) Amendment No. 9. On November 21, 2016, city council approved Amendment No. 9 amending the land use map for the property at 1322 33rd Street from governmental/institutional/utilities to commercial and service business.
  - (10) Amendment No. 10. On November 21, 2017, city council approved Amendment No. 10 amending the land use map for St. Mark's Square, which includes 2203 12th Street, 2214 11th Street, 2216 11th Street, 1110 Victory Street and a vacant parcel on Victory Street from

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governmental/institutional/utilities and existing urban development to mixed residential one-, two- and multi-family.

- (11) Amendment No. 11. On January 3, 2017, city council approved Amendment No. 11 amending the land use for the property at 1715 East Street from commercial and service business to mixed use (residential, commercial, office and service business).
- (12) Amendment No. 12. On January 3, 2017, city council approved Amendment No. 12 amending the land use map for the property at 2006 14th Street from existing urban development to commercial and service business.
- (13) Amendment No. 13. On November 4, 2019, city council approved Amendment No. 13 amending the land use map for the property at 1702 13th Street from industrial to mixed use (residential, commercial, office and service business).

Editor's note(s)—Added at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

## *ARTICLE B. GENERAL PROVISIONS*

### **Sec. 10-1-9. General requirements except as otherwise provided.**

- A. *Use and height.* The use and height of buildings hereafter erected, converted and enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
- B. *Yards; open spaces; population density.* No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.
- C. *Unclassified or unspecified uses.* Unclassified or unspecified uses similar in character to the permitted uses listed in a zoning district shall be referred to the zoning administrator for an interpretation and a determination whether such uses shall be permitted. The zoning administrator may consult with the plan commission in the process of making such determination. Such interpretation and determination by the zoning administrator shall be subject to review and approval by the city council.
- D. Farmers' markets may be located on any city-owned property in any zoning district within the city with approval from the city council.

### **Sec. 10-1-10. Lot required; one main building per lot.**

Every building hereafter erected, converted, enlarged or structurally altered shall be on a lot, and there shall be only one principal building on a lot except in certain districts. Such districts include planned unit developments, planned development district and in business, industrial and institutional districts where the plan commission may approve more than one principal building on a lot.

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### **Sec. 10-1-11. Nonconforming uses and structures.**

- A. *Nonconforming uses.* The continued lawful use of a building, premises, structure or fixture existing at the time of the adoption or amendment of this chapter may not be prohibited although the use does not conform with the provisions of this chapter. The nonconforming use may not be extended.
- B. *Change to another nonconforming use.* If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.
- C. *Discontinuance.* If a nonconforming use of a building or premises is discontinued for a period of 12 months, any future use of the building or premises shall conform to the regulations for the district in which it is located.
- D. *Restoration of certain nonconforming structures.* Restrictions that are applicable to damaged or destroyed nonconforming structures may not prohibit the restoration of a nonconforming structure if the structure will be restored to the size, subject to subsection D.(3), location and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of repair, reconstruction, or improvement if the following apply:
  - (1) The nonconforming structure was damaged or destroyed on or after March 2, 2006.
  - (2) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold or infestation.
  - (3) The size of the nonconforming structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.
- E. *Repairs.* The repair, maintenance, renovation, or remodeling of a nonconforming structure which is nonconforming due to development regulations, as defined in Wis. Stats. § 62.23(7)(hb)(1)b, including setback, height, lot coverage and side yard, shall not be prohibited or limited based on cost.
- F. *Modifications to nonconforming uses and structures to accommodate handicapped persons.* If the zoning administrator determines that any portion of a building addition or remodeling or reconstruction project is required to be allowed under the Federal Fair Housing Act, the Wisconsin Open Housing Law or the Americans with Disabilities Act, that portion of the project costs that are necessary to provide equal housing opportunity for handicapped or disabled persons shall not be counted in determining whether or not the 50 percent limit on structural repairs or alterations would be exceeded.

(Amended 3-2-2020)

### **Sec. 10-1-12. Conditional uses.**

- A. The city council may allow a use which is designated a conditional use in a zoning district by granting a conditional use permit. A conditional use permit may be granted upon review of an application and recommendation of the plan commission, and after a public hearing to be held by the council. Such public hearing shall be preceded by a Class 2 notice under Wis. Stats. Ch. 985. The grant of a conditional use permit shall be subject to the terms of this section.
- B. *Substantial evidence.* As used in this section, "substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an

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applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

- C. *Application.* Applications for conditional use permits shall be submitted to the zoning administrator on an application form provided by the city and signed by the property owner. The application shall include the following:
- (1) Name and address of the applicant and property owner of the site, architect, professional engineer, designer, contractor; legal description of the site; type of structure proposed; operation or use of the structure or site; number of employees; and any additional information as may be required by the council, plan commission, city engineer, director of utilities, zoning administrator, or building, plumbing or health inspectors.
  - (2) Payment of required fees.
- D. *Review.* The council and plan commission shall review the existing and proposed structures, architectural plans, neighborhood uses, parking areas, driveway locations street access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.
- (1) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, surety, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, increased yards or parking requirements may be required by the council upon its finding that they are related to the purpose of the zoning ordinance and based on substantial evidence.
  - (2) Compliance with all other provisions of this chapter such as lot width and area, yards, height, parking, traffic and street access shall be required of all conditional uses.
- E. *Grant of permit.* If an applicant for a conditional use permit meets or agrees to meet all requirements and conditions specified in this section or those imposed by the city's zoning ordinances or the city council, the council shall grant the conditional use permit. Any condition imposed must be related to the purpose of the zoning ordinance and be based on substantial evidence.
- F. *Requirements and conditions.* The requirements and conditions described under subsection D. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The council's decision to approve or deny the permit must be supported by substantial evidence.
- G. *Duration and transfer.* Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city council may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the council.
- H. *Violation.* Any authorized conditional use which does not continue in conformity with the conditions of the permit shall be a violation of this chapter.
- I. *Prior conditional uses are conforming.* Any use existing on September 8, 1998, which is classified in this chapter as a conditional use in its respective zoning district shall be considered a conforming conditional use. Any proposed change to such an existing use shall be subject to the procedures and provisions of this section as if it was being established anew.

(Amended 8-5-2019)

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### **Sec. 10-1-13. Off-street parking and loading.**

- A. *Purpose.* The purpose of this section is to prevent or alleviate the congestion of the public streets and promote the safety and welfare of the public by establishing minimum requirements for off-street parking and loading in accordance with the use to which the property is put.
- B. *Applicability:*
- (1) In all zoning districts unless otherwise specifically provided, all newly established uses and all uses which are expanded shall provide off-street parking and loading space in accordance with the standards set forth in this section.
  - (2) Within that area lying between the West Twin River and 22nd Street and between Jefferson and Adams Streets, which area shall be deemed to include properties on both sides of Jefferson, Adams and 22nd Streets, the following special provisions shall apply:
    - (a) Newly established and/or expanded churches need provide only 50 percent of the specified off-street parking space.
    - (b) Newly established, converted or expanded theaters, arenas, auditoriums and similar places of public gathering as well as residences shall provide 100 percent of the off-street parking and loading space.
    - (c) Newly established, converted or expanded uses not specifically identified in subsection B.(2)(a) and (b) above are exempt from the requirements for off-street parking and loading space; however, the provisions of section 10-1-13.B.(6) will apply.
  - (3) Unless otherwise herein provided, in the event that within any five-year period an existing use is expanded to the extent of ten percent or more in floor area, off-street parking and loading space shall be provided based on the additional area in accordance with the standards set forth in this section. Any off-street parking spaces added since adoption of this chapter shall count toward the spaces needed to meet this requirement.
  - (4) Unless otherwise herein provided, in the event that within any five-year period an existing use is expanded to the extent of 50 percent or more in floor area, in addition to providing additional off-street parking and loading as provided in subsection B.(3) above, all existing off-street parking and loading space shall be brought into conformance with the standards set forth in this section.
  - (5) Off-street parking and loading facilities in existence on the effective date of this chapter and located on the same lot as the building or use served shall not hereafter be reduced below the requirements for a similar new building or use under the provisions of this section.
  - (6) Nothing in this section shall be deemed to prevent the voluntary establishment or expansion of off-street parking or loading facilities to serve any existing use, provided that all standards herein governing the location, design, and operation of such facilities are met.
- C. *Permit application.* Applications for off-street parking lot and driveway permits shall be submitted to the zoning administrator. Approval shall be required of any driveway apron or curb cut in accordance with section 4-1-11.
- D. *Construction drawings.* Construction drawings shall show the following information:
- (1) Plot plan and property description.
  - (2) Drawings shall be engineer's scale of preferably one inch equals 20 feet.
  - (3) All buildings and utility lines shall be shown with their size and location.

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- (4) Paved areas shall be shown and dimensioned.
  - (5) The traffic pattern and parking layout shall be indicated.
  - (6) Drainage control shall be indicated by finish grade elevations or directional indications of slopes.
  - (7) The size and location of ingress and egress openings.
  - (8) The location, size and species of all landscape plantings.
  - (9) The location of all lighting systems.
- E. *Permit fees.* The parking lot or driveway permit fee shall be as set forth in section 1-2-1. A minimum penalty of \$100.00 shall be charged for failure to obtain the necessary permits prior to starting construction.
- F. *Definitions.* As used in this section, the following terms shall have the meanings indicated:
- Floor area, usable.* For purposes of computing parking requirements, in that area to be used for the sale of merchandise or services or for use to serve patrons, clients or customers, floor area shall be measured from the interior faces of the exterior walls. Area excluded from usable floor area includes areas principally used for storage or processing of merchandise, hallways, stairways, elevator shafts, areas for utilities or sanitary facilities, and mechanical areas.
- Parking space.* An area not in a street or alley and having dimensions of not less than nine feet by 18 feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.
- G. *Parking on lot.* All parking spaces required herein shall be located within 300 feet of the parcel with the building or use served. One- or two-family residential parking must be on the same lot with the building or use served.
- H. *Joint use of parking areas.* Up to 50 percent of the parking spaces required for theaters, public auditoriums, bowling alleys, or nightclubs, and up to 100 percent of the parking spaces required for churches or school auditoriums, may be provided and used jointly by banks, savings and loans, offices, service establishments and similar uses not normally open, used or operated during the same hours as those listed above; in such event an easement to which the city shall be a third party shall be recorded with the deeds.
- I. *Parking space for handicapped.* Parking spaces designed to accommodate the handicapped shall be provided in accordance with the State Building Code.
- J. *Variations.* Variations to this section may be granted in cases of hardship or practical difficulties by the board of appeals in accordance with the provisions of this section.
- K. *Design standards.*
- (1) *Applicability.* These standards shall apply to parking areas containing five or more spaces.
  - (2) *Drainage.* On-site storm drainage shall be provided in accordance with the State Plumbing Code, Ch. SPS 383, Wis. Adm. Code, and the city plumbing code.
  - (3) *Protection devices.* Barriers, curbing or wheel stops shall be installed and so located to prevent any portion of a vehicle from projecting beyond property lines. Such barriers, curbs, or wheel stops shall be so constructed and anchored to prevent their dislocation.
  - (4) *Surface areas.* Surfacing of parking areas shall be either:
    - (a) Concrete: minimum four inches thick of at least five-bag mix over an adequate base; or
    - (b) Asphalt: minimum two-inch thickness over four-inch thickness of compacted granular base.

- (c) Other materials: crushed stone, gravel or other suitable materials of type, thickness and grade, subject to prior approval by the zoning administrator, which shall be maintained in a dust-free condition.
- (5) *Lighting.* All parking lot lighting fixtures (whether required by code or not) shall be of a "full-cut-off" type to avoid light spill onto adjacent properties.
- (6) *Buffering.*
  - (a) When parking is located on property adjacent to a residential zoning district or residential use, the surfaced areas shall either:
    - [1] Be set back a minimum of five feet from side and rear property lines, and the setback area shall be devoted to landscaping which creates a screen to buffer the effect of noise, light or visual appearance on the adjacent residential property, or
    - [2] Shall provide on the lot line, a four-foot-high fence or wall which will provide at least 50 percent screening capability to separate and buffer the parking lot from the residential property.
  - (b) Also see section 11-1-11.D. for provisions for landscape buffer yards around parking areas in the central business district.
- (7) *Landscaping.* Landscaping materials shall be of a hardy variety common to the geographic area. Plants shall be of sufficient size as to provide at least 50 percent screening capability within five years when adjacent to a residential district or use. Evergreens or dense deciduous shrubs are suggested. Landscaping shall be maintained in a healthy and attractive manner.
- (8) *Planting areas.* A contiguous parking area of 50,000 square feet or greater shall provide planting areas, located in such a manner as to reduce the uninterrupted expanse of hard surface, for five percent of the surface area of the lot. Planting areas shall be in addition to any buffer required adjacent to residentially zoned or used property.

L. *Required space for specific uses.*

<b>Residential</b>	
1- or 2-family	2 per dwelling unit
Multiple-family	1.5 per dwelling unit
Housing for the elderly	1 for each 2 dwelling units; should units revert to general occupancy, additional spaces must be provided
Fraternity, sorority or similar group homes	2 plus 1 for every 6 beds
<b>Institutional</b>	
Museums	1 for each 500 square feet of usable floor area
Churches or temples	1 for each 8 seats (24-inch seats) in the main auditorium
Hospitals	1 for each 1 bed
Homes for aged, convalescent home, or similar use	1 for each 6 beds
College or senior high school	1 for each 8 seats in the main auditorium, or 3 spaces for each classroom, whichever is greater
Elementary or junior high school	1 for each 10 seats in the in the auditorium or main assembly room, or 1 space for each classroom, whichever is greater



Sports arena, stadium, gymnasium, auditorium or theater (except school)	1 for each 5 seats or seating spaces
Community center, dance halls, clubs, union halls, assembly hall or similar use	1 for each 100 square foot of usable floor area
Golf courses open to the general public, except miniature or "par-three" type	6 for each golf hole, plus any requirements of any restaurant or bar
<b>Business</b>	
Shopping centers or discount department stores containing at least 25,000 gross square feet	4 per 1,000 square feet of usable floor area
Furniture and appliance, household equipment, repair shops, showroom of tradesman, and similar uses	1 per each 1,000 square feet of usable floor area
Supermarket, self-service food or beverage shop, retail stores except as otherwise specified, personal services	1 per each 200 square feet of usable floor area
Restaurant, tavern, nightclub, or similar recreation or amusement establishment	1 per each 100 square feet of usable floor area
Laundromats and coin-operated dry cleaners	1 for each 2 washing machines
Drive-in car washes, automatic	15 standing spaces for each vehicle of capacity in the washing bay, plus 1 space for each 2 employees
Car washes, self-service	3 standing spaces for each washing bay
Drive-in banks	4 standing spaces for each drive-in window in addition to 1 space for each employee and 1 for manager
Drive-in restaurant or food product outlet	1 for each vehicle connected with the business, 1 for the owner or manager, 1 for each 2 employees on duty when fully staffed, plus spaces adequate in number, as determined by the plan commission, to serve the public
Filling station	1 for each vehicle connected with the business, 1 for each employee on duty when fully staffed, 1 for the owner or manager, plus 3 for each bay intended for service, repair or other use
Bowling alley	5 for each alley in addition to requirements for restaurants or bars or assembly rooms
Miniature or par-three golf courses	1 for each golf hole
Mortuary establishment	1 for each 50 square feet of usable floor space in public service area
Motels, hotels, or other commercial lodging establishment	1 for each 1 occupancy unit plus any requirements of restaurants, auditorium, or retail services located within the building
<b>Offices</b>	
Business, professional public offices, banks, savings and loans, or dental clinics	1 for every 300 square feet of usable floor space
Medical clinic or office involving patient care	1 for every 200 square feet of usable floor space
<b>Industrial</b>	
Manufacturing or industrial establishments, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment	1 for every 2 employees in the largest shift, plus space to accommodate all trucks and other vehicles in connection therewith

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M. *Loading requirements.*

- (1) There shall be provided at the time any building is erected or expanded off-street loading space in accordance with the requirements which follow. For the purpose of this section, a loading space shall be so designed and maintained as to accommodate the type of delivery vehicles contemplated, but shall not be less than 12 feet wide and 30 feet in length, shall be surfaced with a dustless all-weather material capable of bearing a live load of 200 pounds per square foot, shall be located on the same lot as the use served and shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement and shall be subject to approval by the zoning administrator.
- (2) *Office buildings and hotels.*
  - (a) When located in the B-2 or B-3 district, one space for 5,000 square feet to 50,000 square feet of gross floor area; two spaces for 50,000 square feet to 200,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area in excess of 200,000 square feet.
  - (b) When located in the B-1, I or R district, one space for 20,000 square feet to 50,000 square feet of gross floor area; two spaces for 50,000 square feet to 200,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area in excess of 200,000 square feet.
- (3) *Retail or service establishment or wholesale and business uses:*
  - (a) When located in the B-2 or B-3 district, one space for 2,000 square feet to 20,000 square feet of gross floor area; two spaces for 20,000 square feet to 100,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area in excess of 100,000 square feet.
  - (b) No building, or part thereof, in the B-2 district heretofore erected, which is used for any of the purposes specified above, shall hereafter be enlarged or extended unless off-street loading space is provided in accordance with the provisions of this section.
  - (c) When located in the B-1, R or I district, one space for 4,000 square feet to 20,000 square feet of gross floor area; two spaces for 20,000 square feet to 100,000 square feet of gross floor area; one additional space for each 75,000 square feet of gross floor area in excess of 100,000 square feet.
  - (d) No building or part thereof in the B-1, R or I district heretofore erected, which is used for any of the purposes specified above, shall hereafter be enlarged or extended to provide a gross floor area of 25,000 square feet or more unless off-street loading space is provided in accordance with the provisions of this section.
- (4) Manufacturing or industrial use. When located in the B-1 or I district, one for 5,000 square feet to 25,000 square feet of gross floor area; one additional space for each 100,000 square feet of gross floor area in excess of 25,000 square feet.

(Amended 5-4-2020)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

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### **Sec. 10-1-14. Lots abutting district boundary line.**

Any side yard, rear yard, or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

### **Sec. 10-1-15. Height and area exceptions.**

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- A. *Public and quasi-public buildings.* Churches, schools, hospitals, medical clinics, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 60 feet or five stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.
- B. *Extraordinary structures.* Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, parapet walls not exceeding two feet in height, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless television or broadcasting towers, masts or aerials, telephone, telegraph and power poles and lines, microwave radio relay structures and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or ordinances of the city.
- C. *Residences.* Residences in the residence districts may be increased in height by not more than ten feet when all yards and other required open spaces are increased by one foot for each foot which such building exceeds the height limit of the district in which it is located.
- D. *Through lots.* Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard, provided that the setback requirements on both streets be complied with.
- E. *Nonconforming lots.* Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was of record on September 8, 1953, such lot may be occupied by one family.
- F. *Accessory buildings and structures.*
  - (1) *Time of construction.* No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory unless expressly permitted by the board of appeals.
  - (2) *Height.* In all residential districts the maximum height of any detached accessory building shall not exceed the height of the principal building but in no case be higher than 20 feet unless expressly permitted by the board of appeals.
- G. *Yards to be open upward.*
  - (1) Except where otherwise specified in this chapter, every part of a required yard shall be open to the sky unobstructed.
  - (2) *Location of required open space.* All yards, courts, usable open spaces and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.

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- (3) *Required yards for existing buildings.* No yards now or hereafter provided for a building existing on the effective date of this chapter shall subsequently be reduced below, or further reduced if already less than, the minimum required by this chapter for equivalent new construction.
- (4) *Permitted obstructions in required yards.* The following shall be considered permitted obstructions when located in the required yard specified. Any obstruction not expressly described is prohibited.
- (a) In all yards:
- [1] Arbors and trellises, trees, shrubs and plantings.
  - [2] Awnings.
  - [3] Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, antenna masts or towers, cornices, eaves, gutters and the like, projecting not more than 24 inches.
  - [4] Fences, walls and hedges, subject to the provisions of this chapter.
  - [5] Flagpoles and garden ornaments.
  - [6] Open terraces not over three feet above the average level of the adjoining ground, but not including a permanent roofed-over terrace or porch unless otherwise specifically permitted.
  - [7] Recreational accessory uses.
  - [8] Steps not over three feet above the ground level which are necessary for access to a permitted building or for access to a zoning lot from a street or alley.
  - [9] Walks and driveways.
- (b) In front yards and street side yards:
- [1] Open fire escapes, open porches, decks, patios or terraces, including those with roofs but not walls, extending not more than six feet into a required front yard or street side yard, provided that these projections do not encroach in any vision clearance triangle.
  - [2] Overhanging eaves and gutters projecting three feet or less into the yard.
  - [3] Open off-street vehicle parking spaces when approved by the plan commission in business, industrial, institutional and multifamily residence districts.
  - [4] Open off-street vehicle parking on a paved or graveled driveway, provided no vehicle may be parked within five feet of a front property line or within three feet of a side lot line. The maximum width of driveways on private property shall not exceed 35 percent of the lot width or 35 feet, whichever is less. However, any lot may have a driveway up to 20 feet in width.
  - [5] Garages in embankments. Where the mean natural grade of a front or street side yard is more than eight feet above the curb level, a private garage may be erected within said yard, provided as follows:
    - [a] That such private garage shall be located not less than five feet from the street lot line;
    - [b] That the floor level of such private garage shall be not more than one foot above the curb level; and

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- [c] That at least one-half the height of such private garage shall be below the mean grade of the yard.
  - [6] Produce gardening in front yards existing prior to August 1, 2016. Said front yard gardens may not be expanded. New front yard gardens are prohibited.
  - [7] Produce gardening is permitted in street side yards. Such gardens shall not encroach into the minimum required street side yard.
- (c) In rear yards:
- [1] Open fire escapes, open porches, decks, patios or terraces, including those with roofs but not walls, projecting six feet or less into the required rear yard.
  - [2] Overhanging eaves, bay windows and gutters projecting three feet or less into the required rear yard.
  - [3] Detached accessory buildings and structures such as storage buildings, garages, swimming pools, heating and air-conditioning equipment, wind and solar energy conversion equipment antenna structures, including those mounted on towers or masts or those employing parabolic or similar reflectors, provided such buildings, structures or equipment:
    - [a] In the aggregate shall not occupy more than 30 percent of any required rear yard nor more than 50 percent of non-required rear yard areas.
    - [b] Shall be located no closer than three feet from any part of any other building, structure or property line, except swimming pools as described in subsection H.
    - [c] Shall comply with all applicable municipal and state code provisions.
    - [d] Driveways not exceeding 35 percent of the lot width or 35 feet, whichever is less.
  - [4] Storage canopies complying with the following:
    - [a] Storage canopies erected prior to June 7, 2021.
      - [i] Shall not exceed 240 square feet in area.
      - [ii] Shall not exceed 14 feet in height.
      - [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof but not walls and not attached to any structure, building, fence or anything permanently located on the ground. Corrugated metal or corrugated fiberglass roofing materials are not permitted.
      - [iv] Shall be limited to one storage canopy per parcel.
      - [v] Shall be located no closer than three feet from any property line.
      - [vi] Shall not be located on a vacant parcel.
    - [b] Storage canopies erected or altered on or after June 7, 2021, and prior to January 1, 2023.
      - [i] Shall not exceed 240 square feet in area.
      - [ii] Shall not exceed 14 feet in height.

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- [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof, with or without walls, and not attached to any structure, building, fence or anything permanently located on the ground. Metal, fiberglass, plastic, composite or any other rigid roof or wall materials are not permitted.
  - [iv] Shall be limited to one storage canopy per parcel.
  - [v] In aggregate, all accessory structures, including canopies, on the premises shall not occupy more than 30 percent of any required rear yard nor more than 50 percent of non-required rear yard.
  - [vi] Shall be located no closer than three feet from any property line.
  - [vii] Shall not be located on a vacant parcel.
  - [viii] Shall not be located on a parcel with a garage.
  - [ix] Shall be removed upon construction of a garage.
  - [x] Shall be removed prior to a change in ownership or tenancy.
  - [xi] Garbage and refuse shall not be stored in the canopy.
  - [xii] Shall be maintained in a reasonable state of repair.
  - [xiii] Shall require a permit prior to installation in accord with the fee schedule in section 1-2-1.
  - [xiv] Violation of any of the above listed provisions shall result in removal of the canopy.

- [5] Open off-street vehicle parking spaces when approved by the plan commission in business, industrial, institutional and multifamily residence districts.
- [6] Open off-street vehicle storage in single- and two-family residence districts shall be in accord with section 9-6-4.E.
- [7] Laundry drying equipment.
- [8] Outdoor kennels or exercise runs for household pets.
- [9] Produce gardening.

(d) In interior side yards:

- [1] Open fire escapes, open porches, decks, patios or terraces, including those with roofs but not walls, projecting three feet or less into the required side yard but in no case closer than six feet from a property line.
- [2] Detached accessory buildings and structures such as storage buildings, garages, swimming pools, heating-air conditioning equipment, wind and solar energy conversion equipment, antenna structures, including those mounted on towers or masts or those employing parabolic or similar reflectors, provided that such buildings, structures or equipment:
  - [a] In the aggregate, shall not occupy more than 30 percent of any required interior side yard nor more than 50 percent of non-required rear yard areas.

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- [b] Shall be located no closer than three feet from any part of any other building, structure or property line, except swimming pools as described in subsection H.
  - [c] Shall comply with all applicable municipal and state code provisions.
  - [d] Driveways not exceeding 35 percent of the lot width or 35 feet, whichever is less.
- [3] Storage canopies complying with the following:
- [a] Storage canopies erected prior to June 7, 2021.
    - [i] Shall not exceed 240 square feet in area.
    - [ii] Shall not exceed 14 feet in height.
    - [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof but not walls and not attached to any structure, building, fence or anything permanently located on the ground. Corrugated metal or corrugated fiberglass roofing materials are not permitted.
    - [iv] Shall be limited to one storage canopy per parcel.
    - [v] Shall be located no closer than three feet from any property line.
    - [vi] Shall not be located on a vacant parcel.
  - [b] Storage canopies erected or altered on or after June 7, 2021, and prior to January 1, 2023.
    - [i] Shall not exceed 240 square feet in area.
    - [ii] Shall not exceed 14 feet in height.
    - [iii] Shall have a frame made of metal, plastic, or combination thereof, having a roof, with or without walls, and not attached to any structure, building, fence or anything permanently located on the ground. Metal, fiberglass, plastic, composite or any other rigid roof or wall materials are not permitted.
    - [iv] Shall be limited to one storage canopy per parcel.
    - [v] In aggregate, all accessory structures, including canopies, on the premises shall not occupy more than 30 percent of any required interior side yard nor more than 50 percent of non-required interior side yard.
    - [vi] Shall be located no closer than three feet from any property line.
    - [vii] Shall not be located on a vacant parcel.
    - [viii] Shall not be located on a parcel with a garage.
    - [ix] Shall be removed upon construction of a garage.
    - [x] Shall be removed prior to a change in ownership or tenancy.
    - [xi] Garbage and refuse shall not be stored in the canopy.
    - [xii] Shall be maintained in a reasonable state of repair.

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[xiii] Shall require a permit prior to installation in accord with the fee schedule in section 1-2-1.

[xiv] Violation of any of the above listed provisions shall result in removal of the canopy.

- [4] Open off-street vehicle parking spaces when approved by the plan commission in business, industrial, institutional and multifamily residence districts.
- [5] Open off-street vehicle storage in single- and two-family residence districts shall be in accord with section 9-6-4.E.
- [6] Laundry drying equipment.
- [7] Produce gardening with a setback of not less than three feet from a property line.

H. *Swimming pools.*

- (1) A "swimming pool," for the purposes of this section, shall mean a structure or basin, either temporarily or permanently installed upon or within the ground, containing an artificial body of water more than 40 square feet or greater than 24 inches in depth for swimming, diving or recreation that is constructed in such a manner that the pool cannot be disassembled for storage without the use of tools.
- (2) *Location.*
  - (a) Swimming pools constructed or installed in the R-1, R-2, R-3 and R-4 districts shall be located on the same lot and in either the rear or the side yard of a principal building. Swimming pools shall not be constructed in the front yard or in a required street yard in such districts. Swimming pools, either open or enclosed, shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy on a lot. Swimming pools may not be located in any type of easement.
  - (b) Swimming pools constructed in the B-1, B-2, B-3 and Waterfront Business districts shall not occupy any portion of a required front, side, or rear yard. However, swimming pools may be located in yard areas other than such required yards. Swimming pools may not be located in any type of easement.
- (3) *Clearances.*
  - (a) Swimming pools shall not be located nearer than six feet from any property line of a building.
  - (b) Swimming pools shall be located in accordance with all federal, state and local codes including the National Electric Safety Code (NESC®) 234(e)1, 351(c)1, 351(c)2, Table 234-3, Figure 234-3, and Public Service Commission of Wisconsin (PSCW) Wisconsin State Electrical Code, § PSC 114.234(8), Wis. Adm. Code. These codes will be strictly enforced to ensure the safety of the general public. The proposed location of a swimming pool on a lot must be approved by the city's electric department prior to obtaining a permit to installing or placing the swimming pool on the property.
- (4) *Protection.*
  - (a) Swimming pools shall be protected so as to prevent unauthorized access by means of a fence, wall or other permanent barrier so designed, constructed and maintained as to completely surround the swimming pool extending to a height of not less than four feet above actual grade. Such barrier shall prevent the passage of an object with a diameter



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larger than four inches. All gates provided in such barrier shall be equipped with hardware designed to automatically close and latch said gate.

- (b) No fence shall be required for swimming pools which are at least four feet in height above the ground, but all approaches shall require self-closing and latching gates or doors that are capable of being locked. Ladders must contain a mechanism to lock the ladder in an upright position for pools at least four feet in height or must be removed and stored in the principal or an accessory building when the swimming pool is not in use.
- (c) Protection is not required for "kiddie pools." A "kiddie pool" is defined as a portable pool with a maximum surface area of 40 square feet and 24 inches high.

I. *Screening and vision clearance.*

- (1) *Statement of purpose.* This subsection is established to recognize the public and private benefits accrued from functional and aesthetic screening between areas of incompatible land uses, the increasing demand for active and passive recreational areas, the desirability of providing visual screening of certain parking lots, business and manufacturing areas, and the necessity of providing adequate vehicular vision clearance.
- (2) *Off-street parking.* See section 10-1-13.
- (3) *Screening or fencing erected, placed, maintained or grown shall comply with the following provisions:*
  - (a) Screening in front yards shall not exceed a height greater than four feet above the curb level or its equivalent; provided, however, that, within ten feet from any driveway or alley crossing of a street lot line, any screening shall not exceed two feet in height unless it is at least 90 percent open for through vision.
  - (b) On a corner lot, screening in the street side yard may extend from the side street rear corner of the structure perpendicular to a distance four feet from the side street property line and continue along the side street to the rear property line. The height of any screening shall not exceed six feet; provided, however, that within ten feet from any driveway screening it shall not exceed two feet in height unless it is at least 90 percent open for through vision.
  - (c) Unless otherwise provided, a vision-barrier fence that is within four feet of the lot line shall not exceed six feet in height.
  - (d) Snow fences may be used temporarily, but in no case shall snow fences be left standing longer than six months during any calendar year.
  - (e) It shall be unlawful for any person to construct or maintain any barbed wire or razor wire fence, except that any such fence above the height of six feet may be permitted for agricultural, industrial or commercial security reasons, with permission from the zoning administrator.
  - (f) It shall be unlawful for any person to construct or maintain any aboveground electrical fence.
  - (g) Fences constructed in a manner in which a supporting framework or posts can be construed to represent a back side shall be installed so that the front side/good side faces the adjacent or abutting property.
  - (h) Screening or fencing shall be located in a manner that allows the owner to maintain the screening or fencing from his side of the property line.

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- (4) *Vision clearance.*
- (a) On a corner lot in any residence district, no structure, screening, bush, tree branches or embankment shall be erected, placed, maintained or grown between the heights of three feet and ten feet above the curb level or its equivalent within the triangular space formed by two intersecting street right-of-way lines located a minimum of 25 feet from the intersection thereof in order to provide adequate vehicular vision clearance; provided, however, that a fence so designed, constructed and maintained as to be least 90 percent open for through vision may be constructed in such vision clearance area.
  - (b) On a corner lot in any business or industrial district, no structure, screening, bush, tree branches or embankment of any kind shall be erected, placed, maintained or grown between the heights of three feet and ten feet above the curb level or its equivalent within the triangular space formed by two intersecting street right-of-way lines or their projections and a line joining points on such street right-of-way lines located a minimum of ten feet from the intersection thereof in order to provide adequate vehicular vision clearance; provided, however, that a fence so designed, constructed and maintained as to be 90 percent open for through vision may be constructed in such vision clearance area.
- (5) *Exemptions.* The zoning administrator may modify the provisions for the requirement of screening when suitable screening exists on abutting property, or when he/she determines that such modifications for screening shall be in harmony with the general purpose and intent of this subsection. The zoning administrator may also modify the provisions for the requirement of vision clearance when he determines that such modifications shall be consistent with traffic safety and shall be in harmony with the general purpose and intent of this subsection.
- (6) *Existing screening fencing.* Any screening of fencing which exists at the time of the passage of this chapter (October 5, 2009), but does not conform with the provisions thereof, shall not be altered or enlarged without making the entire unit conform with the provisions of this subsection.

J. *Shipping containers and similar conveyances used for storage only in certain zoning districts.*

- (1) *Purpose.* This subsection regulates the use of shipping containers and similar conveyances which may be permanently placed outdoors and used for storage purposes only in certain zoning districts in accord with the provisions described herein which are intended to protect the aesthetic qualities of the city.
- (2) *Definitions.* As used in this section, the following terms shall have the meanings indicated:
  - Shipping container.* A steel box used for intermodal shipping of products and materials between locations. Such containers are designed and constructed to standards established by the International Organization for Standards (ISO) and are typically 10 feet, 20 feet, 30 feet or 40 feet long.
- (3) *Containers prohibited with exceptions.* Except as described herein, the following shall not be placed for storage or residential use in any zoning district in the city: shipping containers, semitrailers, truck bodies, mobile offices, storage containers or other similar conveyances either with or without wheels.
- (4) *Exception for contractors' use.* In any zoning district, contractors may temporarily use the above-listed conveyances in conjunction with construction activities duly authorized by a permit issued by the city for a construction project, alteration project or demolition project.
- (5) *Exception or household or commercial moving purposes.* In any zoning district, contractors may temporarily use the above-listed conveyances in conjunction with construction activities duly

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authorized by a permit issued by the city for a construction project, alteration project or demolition project.

- (6) *Exception for the i-1, i-2 and i-3 industrial districts.* Shipping containers or similar conveyances may be permanently placed outdoors and used for storage in the districts noted above in accord with the following requirements:
- (a) The use of this container, including its contents, shall be accessory to the principal building or use of the premises.
  - (b) A container shall not be permitted on vacant lots.
  - (c) A container shall be located in the rear yard only and shall be placed on a pad consisting of stone or gravel or concrete or asphalt or a combination of those materials.
  - (d) The container location shall comply with setback requirements as if it were an accessory building. Where a residential use is immediately adjacent to the proposed location of a container, the minimum setback may be increased in combination with required screening or fencing as determined by the zoning administrator.
  - (e) Additional requirements that may be determined by the zoning administrator include painting to match the color of the principal building, fencing, landscaping, lighting, architectural modifications, maintenance standards and site improvements to manage stormwater drainage.
  - (f) The removal of a shipping container or similar conveyance may be ordered by the city due to lack of maintenance or if it becomes a public nuisance. The cost for such removal shall be paid by the property owner. If the property owner is negligent in paying for its removal, the city may charge the removal against the property.
  - (g) Prior to replacement of any shipping container or similar conveyance, the zoning administrator shall issue a permit in accord with these requirements including the payment of the applicable permit fee.

(Amended 6-7-2021)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-16. Small wind energy systems and commercial wind energy systems.**

- A. *Intent.* This section is intended to recognize the expanding use of wind energy systems and the benefits accrued therefrom and the necessity of providing adequate regulations concerning their design, placement and use for the purpose of protecting the health, safety, morals, comfort, prosperity and welfare of the city. This section establishes minimum requirements for small wind energy systems and commercial wind energy systems as defined herein.
- B. *Definitions.* As used in this section, the following terms shall have the meanings indicated:
- Commercial wind energy system.* A wind energy system consisting of one or more wind turbine and tower; a wind energy system which will be used primarily for off-site consumption of power; or a wind energy system in excess of 100 kilowatts per turbine generator.
- Rotor.* That portion of the windmill which includes the blades, hub and shaft.
- Small wind energy system.* A wind energy system consisting of one or more wind turbines, towers and associated controls or conversion electronics which will be used primarily to reduce consumption of utility power

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on the subject site. A small wind energy system shall not exceed a rated capacity of 100 kilowatts per turbine generator.

*Total height.* The distance measured from ground level at the tower base to the blade extended at its highest point.

*Tower.* The supporting structure on which the rotor, turbine and accessory equipment are mounted.

C. *Applicability.* The requirements of this section shall apply to all small wind energy systems and commercial wind systems proposed after June 1, 2009.

D. *Small wind energy system requirements.*

(1) *Permitted locations.* A small wind energy system may be permitted as a conditional use in the institutional/public facilities district (IPF), in any industrial district, and in any conservancy district.

(2) *Total height.* The total height shall not exceed 170 feet.

(3) *Location.* Small wind energy systems:

(a) Shall be located in the rear yard in the institutional/public facilities district (IPF), I-1 industrial district and conservancy districts.

(b) Shall be located in the rear, interior side and street side yards in the I-2 industrial district.

(4) *Setbacks.*

(a) *Property lines.* A small wind energy system shall be set back from property lines and from existing or proposed public road rights-of-way and communication and electrical lines not less than 1.1 times (110 percent) of its total height.

(5) *Design standards.*

(a) *Monopole or freestanding lattice tower.* Small wind energy systems shall be of a monopole or freestanding lattice tower design without guy wires.

(b) *Minimum blade height.* The minimum height of the lowest extent of a turbine blade shall be 30 feet above the ground or 30 feet above any structure or obstacle within 100 feet from the tower.

(c) *Access.* No tower shall have a climbing apparatus within 12 feet of the ground. All access doors or accessways to towers and electrical equipment shall be lockable.

(d) *Noise.* Small wind energy systems shall comply with the noise limits contained in section 9-2-5.C.(1)(a) of the City's Code; provided, however, that sound levels exceeding said noise limits may be allowed to occur if the owner of the small wind energy system obtains written noise easements to affected properties. Any such easements shall be incorporated into the conditional use permit for the small wind energy system.

(e) *Visual appearance.* Small wind energy systems shall be finished in a rust-resistant, nonobtrusive finish and color that is nonreflective. No small wind energy system shall be lighted unless required by the FAA.

(f) *Electrical interconnections.* All electrical interconnection or distribution lines shall be underground and comply with all applicable state and electrical codes, public utility requirements and Wisconsin Public Service Commission requirements.

(g) *Signal interference.* Efforts shall be made to site small wind energy systems to reduce the likelihood of blocking or reflecting television and other communication signals. If signal interference occurs, both the small wind energy system owner and individual receiving interference shall make reasonable efforts to resolve the problem.

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- (h) Overspeed controls. Every small wind energy system shall be equipped with both manual and automatic overspeed controls.
- (6) *Permit application.* Applications for a small wind energy system conditional use permit, building permit and electrical permit shall include the following information:
- (a) Site plan drawn to scale showing the exact location of the proposed small wind energy system and the distance between each tower and all nearby existing buildings, structures and property lines based upon a survey of the subject property.
  - (b) Elevations of the site to scale showing the height, design and configuration of the small wind energy system and the height and distance to all nearby existing structures, buildings, electrical lines and property lines.
  - (c) Standard drawings and an engineering analysis of the system's tower(s), including weight capacity, certified by an engineer licensed by the State of Wisconsin.
  - (d) A standard foundation and anchor design along with soil conditions and specifications for the soil conditions at the site, all certified by an engineer licensed by the State of Wisconsin.
  - (e) Specific information on the type, size, rotor materials, rated power output, performance, safety and noise characteristics of the system including the name and address of the manufacturer, model and serial number.
  - (f) Emergency and normal shutdown procedures.
  - (g) A line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes.
  - (h) Evidence that the provider of electrical service of the property has been notified of the intent to install an interconnected electricity generator unless the system will not be connected to the electricity grid.
  - (i) Fees in accord with Municipal Code section 1-2-1, entitled "License, permit and other fees established."
- E. *Commercial wind energy system requirements.*
- (1) *Permitted locations.* A commercial wind energy system may be permitted as a conditional use in the industrial districts and conservancy districts. Such uses may be either a principal or accessory use.
  - (2) The city may in the granting of a conditional use permit consider factors such as the health, safety and welfare of the community, including but not limited to noise, separation and visual impact.
- F. *Non use.* Any small wind energy system or commercial wind energy system which complies with the terms of this chapter which is not used for two years, excluding repairs, shall be removed within the following six months. Failure to remove the system shall be deemed a violation of this section.

### **Sec. 10-1-17. Wireless telecommunications towers and antennas.**

Wireless telecommunications towers and antennas may be installed, erected and maintained pursuant to the provisions of this section. Telecommunication towers and antennas shall not be regulated or permitted as essential services, public utilities or private utilities.

- A. *Purpose.* The purpose of this section is to balance the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal wireless services, and the legitimate interests of the City of Two Rivers in regulating such uses. The goals of this section are to protect residential areas and land uses from potential adverse impacts of towers and

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antennas; minimize the total number of towers throughout the community; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; consider the public health and safety of communication towers; and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City of Two Rivers shall give due consideration to the comprehensive plan, zoning map, and existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas. This section is not intended to regulate towers or antennas operated by federally licensed broadcast stations.

B. *Definitions.* As used in this chapter, the following terms shall have the meanings set forth herein:

*Alternative tower structure.* Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas, water towers, and electrical transmission towers.

*Antenna.* Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

*Backhaul network.* The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long-distance providers, or the public switched telephone network.

*City.* The City of Two Rivers, Wisconsin.

*Co-location.* The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.

*FAA.* Federal Aviation Administration.

*FCC.* Federal Communications Commission.

*Height.* "Tower height" is the distance measured from the highest point on the tower to either the top of curb grade of the nearest street or to the natural grade of the site at the tower base, whichever is higher. The height of towers located on existing buildings or other structures is measured from the base of the tower to the highest point on the tower.

*Pre-existing towers/antennas.* Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this chapter.

*Tower.* Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and alternative tower structures. The term includes the structure and any support thereto.

C. *Applicability.*

- (1) *New towers and antennas.* All new towers or antennas in the city shall be subject to these regulations, except as provided in subsection C.(2) and (3).
- (2) *Amateur radio station operators/receive-only antennas.* This chapter shall not govern any tower, or the installation of any antenna, that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
- (3) *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this chapter, other than the requirements of subsection E.(2).

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- (4) *Federally licensed radio stations.* This chapter shall not govern a tower or antenna (including any mobile or temporary tower or antenna used for remote broadcasts of special events or in emergencies) that is owned and operated by a federally licensed commercial or public radio station and is being used by such station in the regular conduct of its licensed business.
  - (5) *Temporary or mobile towers and antennas.* This chapter shall not apply to temporary or mobile towers and antennas for remote broadcasting from activities such as, but not limited to, sporting events, or in the provisions of emergency government services.
  - (6) *Wireless facilities in the public right-of-way.* This chapter shall not apply to wireless facilities located in the public right-of-way (See section 4-1-14).
- D. *Permit required.* No tower or antenna shall be installed unless a permit is first obtained from the building inspector. The application for such permit shall be made by the proposed tower owner and the property owner of the subject site or their agents. The following shall be required as part of the application submittal:
- (1) A scaled site plan clearly indicating the location, type and height of the proposed tower and appurtenant equipment, any proposed and existing structures, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, tower and equipment setback from property lines, and other information deemed by the building inspector to be necessary to assess compliance with this chapter;
  - (2) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned properties;
  - (3) The separation distance from other towers, antennas or sites approved for towers or antennas that are either within the jurisdiction of the city or within one mile of the border thereof, including specific information about the location, height, and design of each tower;
  - (4) Landscape plan showing the size and species of plant materials;
  - (5) Method of fencing, including location, materials and finished color and, if applicable, vegetative screening;
  - (6) Description of compliance with the general requirements described in subsection E;
  - (7) Permit fee as applicable.
- E. *General requirements.* In addition to compliance with all applicable regulations of this chapter, the following standards shall apply for the installation of any tower or antenna:
- (1) *Building codes, safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the electronic industries association, as may be applicable. If, upon inspection, the building inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower and the property owner, the owner(s) shall have 30 days to bring such tower into compliance. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the tower owner and the property owner's expense.
  - (2) *State or federal requirements.* All towers and antennas shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of a tower and antenna governed by this chapter shall bring such tower and antenna into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state

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or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the tower owner's expense.

- (3) *Co-location.* A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights.
- (4) *Height.* Antenna height shall not be restricted, provided such device is installed and maintained in accord with applicable state or local building codes, and in compliance with the current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas. Tower height shall not be restricted when such structure is a permitted land use; where a conditional use permit is required, other height limits may apply as specified in section 10-1-18.
- (5) *Setbacks.* A tower shall be located not closer than a distance equal to 100 feet or 100 percent of the height of the tower, whichever is greater, from any lot line adjacent to or abutting a residential use or a residential district so the tower's collapse would be contained on its site. However, when the tower site is adjacent to or abutting a nonresidential district, the setback distance may be reduced to 75 percent of the tower height if the applicant provides evidence from a Wisconsin-registered professional engineer which justifies the reduced setback distance. Guy wires and appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.
- (6) *Aesthetics.* Towers shall maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Where an antenna is installed on a structure other than a tower, the antenna and appurtenant equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (7) *Signs.* No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices. Any signage on the lands which are the tower or antenna site shall be regulated in accord with the city sign ordinance (see chapter 10-4, signs and awnings).
- (8) *Lighting.* Towers shall not be artificially illuminated unless required by the FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (9) *Fencing.* A tower shall be enclosed by security fencing not less than six feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area. Fencing shall not be required for an alternative tower structure.
- (10) *Landscaping.* A buffer of plant materials to effectively screen the tower facilities from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least five feet in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Landscaping may not be required for an alternative tower structure. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- (11) *Appurtenant equipment and buildings.* Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof, provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements. Antennas mounted on utility poles, light poles or towers: The equipment cabinet or structure used in association with an antenna



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shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of nonvegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

- F. *Permitted uses.* Towers or antennas listed below may be allowed as permitted uses in accord with the requirements described below, subject to the requirements of other provisions of this chapter and other sections of this Code. Towers or antennas allowable as a permitted use may be constructed after receiving a building permit from the building inspector in accord with the procedures described in section 10-1-17.D., including the application submittal requirements listed therein.
- (1) *Allowable zoning districts.* The installation of a tower or antenna, including the placement of buildings or other supporting equipment used in connection with said tower or antenna, may be permitted in the I-1 and I-2 zoning districts.
  - (2) *Municipal sites.* Antennas installed on a structure other than a new communications tower or antennas installed on an existing communication tower shall be permitted where located on property owned, leased or otherwise controlled by the city, irrespective of zoning district, provided that a lease or other agreement to authorize such antenna or tower has been approved by the city.
  - (3) *Antennas or towers on existing structures.* An antenna or tower situated on the roof of a commercial, industrial, professional, or institutional structure may be allowed, provided that such device is installed and maintained in accord with applicable state or local building codes, and complies with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.
  - (4) *Antennas on existing towers.* The attachment of a new antenna on an existing tower may be allowed to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that:
    - (a) A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same type as the existing tower, unless reconstructed as a monopole;
    - (b) An existing tower may be modified or rebuilt to accommodate the co-location of additional antenna and may be moved on site within 50 feet of its existing location, but the relocation may only occur one time per communication tower;
    - (c) After a tower is rebuilt to accommodate co-location, only one tower may remain on the site; and
    - (d) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the city council after review and recommendation by the plan commission.
  - (5) *Antennas or towers on lots containing other principal uses.* An antenna or tower may be located on a lot containing other principal uses. A lot may contain more than one antenna or tower, provided that each antenna or tower complies with all applicable dimension requirements.
  - (6) *Alternative tower structure.* The use of an alternative tower structure may be permitted, where such use would be consistent with the goals set forth in subsection A. of this section, after review and approval by the plan commission.
  - (7) *Cable microcell network.* The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
- G. *Conditional uses.* The installation of towers and antennas, including the placement of appurtenant equipment or buildings, may be allowed by a conditional use permit in all business zoning districts. An

application for a conditional use permit shall be subject to the procedures and requirements of section 10-1-12. In addition, a conditional use permit proposal shall include plans, specifications and other pertinent information and materials to demonstrate compliance with this chapter.

- H. *Removal of abandoned antennas and towers.* An antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower and/or the property owner shall remove the same within 90 days of receipt of notice from the city notifying the owner(s) of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds for the city to remove the tower or antenna at the tower owner's and/or property owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- I. *Nonconforming uses.*
  - (1) *Not expansion of nonconforming use.* Towers that are constructed and antennas that are installed in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.
  - (2) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist, subject to the requirements of other applicable laws. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.

( Ord. of 1-3-2022(1) , § 1)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

**Sec. 10-1-18. Wireless telecommunications towers and antennas as conditional use.**

- A. Separation between towers proposed as a conditional use. Separation distances between towers shall be applicable for a proposed tower and any preexisting towers where the proposed tower would be a conditional use. A separation distance is not required if a proposed tower is a permitted use. The separation distance shall be measured by a straight line between the base of an existing tower and the base of a proposed tower.

New Tower Type, if Conditional Use	Existing Tower Type			
	Lattice (feet)	Guyed (feet)	Monopole 75 Feet in Height or Greater (feet)	Monopole Less Than 75 Feet in Height (feet)
Lattice	2,500	2,500	1,500	750
Guyed	2,500	2,500	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

- B. *Tower height.* The following criteria shall apply in determining the maximum height of a tower:
  - (1) For towers engineered for a single user, up to 90 feet.

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- (2) For towers engineered for two users, up to 120 feet.
  - (3) For towers engineered for three or more users, up to 180 feet.
- C. *Availability of suitable existing towers, other structures or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the city that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to the city to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (1) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
  - (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (5) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
  - (8) The provisions of this section are declared to be severable, and if any section, paragraph, sentence, clause or phrase of this section shall for any reason be held to be invalid or unconstitutional by any court of competent jurisdiction, this shall not affect the validity of the remaining sections, sentences, clauses and phrases of this section, which shall remain in effect.

**Sec. 10-1-18.5. Reserved.**

Ord. No. 2021-240 , adopted Dec. 6, 2021, repealed § 10-1-18.5, which pertained to wireless communications facilities in the right-of-way and derived from Ord. No. 2021-222 , adopted Nov. 1, 2021; Ord. of Nov. 15, 2021. Said ordinance added similar provisions designated as § 4-1-14.

**ARTICLE C. ZONING DISTRICTS**

**Sec. 10-1-19. C-1 and C-2 conservancy districts.**

The purpose of the conservancy districts is to preserve and protect historic, natural, scenic and scientific areas.

- A. *C-1 conservancy district.*

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- (1) *Principal permitted uses.*
    - (a) Arboretum.
    - (b) Drainage, water measurement, water control facilities and pond building.
    - (c) Educational facilities.
    - (d) Farmers' market. See section 10-1-9.D. for additional locations.
    - (e) Hiking, biking and cross-country ski trails, including construction and maintenance of trails and bridges.
    - (f) Nature center.
    - (g) Public parks, park buildings, utilities and public parking.
    - (h) Special events authorized by the city council.
    - (i) Wildlife management.
    - (j) Wildlife preserves.
  - (2) *Conditional uses.*
    - (a) Solar garden, freestanding.
    - (b) Wind energy systems, small and commercial.
  - (3) *Prohibited uses.* Uses which involve dumping and filling; removing sand, mineral, soil or peat; any other use that would disturb the natural fauna, flora, watercourse, water regimen or topography. Also, no structure is permitted except those housing services accessory to the principal or conditional use.

B. *Conservancy district C-2.*

- (1) *Principal permitted uses.*
  - (a) Arboretum.
  - (b) Drainage, water measurement, water control facilities and pond building.
  - (c) Educational facilities.
  - (d) Hiking, biking and cross-country ski trails, including construction and maintenance of trails and bridges.
  - (e) Nature center.
  - (f) Public parks, park buildings, utilities and public parking.
  - (g) Wild crop harvesting.
  - (h) Wildlife management.
  - (i) Wildlife preserves.
- (2) *Conditional uses.*
  - (a) Solar garden, freestanding.
  - (b) Wind energy systems, small and commercial.
  - (c) Event facility/assembly hall.

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- (3) *Prohibited uses.* Uses which involve dumping and filling; removing sand, mineral, soil or peat; any other use that would disturb the natural fauna, flora, watercourse, water regimen or topography; also, no structure is permitted except those housing services accessory to the principal or conditional use.

(Amended 4-6-2020)

Editor's note(s)—At time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-20. R-1 single-family residence district.**

- A. *Use.* In the R-1 single-family residence district no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:
- (1) Single-family dwellings meeting the provisions of section 10-1-20.I. of this chapter, including conventionally constructed on-site dwellings, and manufactured homes, but not mobile homes.
  - (2) Churches, public libraries, public museums and public art galleries; municipal cemeteries and buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards, and penal or correctional institutions and asylums; public recreational and community center buildings and grounds; institutional uses such as private clubs and fraternal organizations on the premises and incidental to a church, all subject to approval by the city council.
  - (3) Telephone and utility buildings used to house fixed equipment, lines and transformer stations, provided there be no service garage or storage yard.
  - (4) Accessory buildings.
  - (5) Not more than three boarders or lodgers not members of the family.
  - (6) Railroad right-of-way and passenger depots, not including switching, storage, freight yards or siding.
  - (7) Uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business, including home occupations, on the premises.
  - (8) Community living arrangements and community-based residential facilities for eight or fewer persons.
  - (9) Keeping of chickens and ducks as permitted under section 6-5-22 of the Code.
  - (10) Conditional uses.
    - (a) Agriculture.
      - [1] Limited to dairy farms, horse farms, fruit and vegetable farms, greenhouses, plant nurseries, tree nurseries and the keeping of goats, ponies, rabbits, sheep or more than six chickens and ducks.
      - [2] In considering the keeping of animals and birds, the plan commission and city council shall evaluate factors, such as, but not limited to, parcel size and location, number and size of animals and birds, location of structures such as cages, coops, pens, stables and fencing, odor control, animal waste management and conflicts with deed or covenant restrictions.
    - (b) Barbershop or beauty shop.
    - (c) Community living arrangements and community-based residential facilities for nine or more persons.

- (d) Conservation subdivision.
  - (e) CPA and other accountants.
  - (f) Day-care center.
  - (g) Golf course.
  - (h) Laundromats.
  - (i) Photographic studio or camera and photographic material shops.
  - (j) Professional offices of doctors, dentists, physical therapists, massage therapists or technicians, chiropractors, chiropodists, osteopaths, optometrists, architects, attorneys, professional engineers and land surveyors.
  - (k) Public, private and parochial schools, and colleges and universities, including dormitories.
  - (l) Real estate or rental agency offices.
  - (m) Retail flower stores or shops.
  - (n) Retail grocery store and fruit and vegetable stand.
- (11) Signs complying with sections 10-4-1 through 10-4-19.
- (12) Off-street parking and loading facilities complying with section 10-1-13.
- (13) Mobile home parks, provided such parks are approved by the plan commission and the council pursuant to section 10-1-30.

B. *Height.* Principal buildings hereafter erected or structurally altered shall not exceed 35 feet in height.

C. *Side yards.* There shall be a side yard on each side of a building.

- (1) The sum of the widths of the required side yards shall be as follows:

Lot Width (feet)	Total Side Yard Width (feet)	Minimum Side Yard Width (feet)
Less than 76	15	7
76 to 80	16	8
81 to 85	17	8
86 to 90	20	8
91 to 95	23	8
More than 95	25	8

- (2) The width of a corner side yard shall be not less than 50 percent of the setback required on the lots in the rear, except that, where the frontage on a corner lot is to be reversed, no structure shall project beyond the front building line required of the lots in the rear. The buildable width of any lot in this district shall in no case be reduced to less than 24 feet.

D. *Setback.* Unless otherwise provided, there shall be a setback line of not less than 30 feet or one of the following, whichever is less:

- (1) Where more than 30 percent of the frontage on one side of a duly recorded subdivided block is occupied by dwelling structures, a majority of which structures have observed or conformed to an average setback line with a variation of no more than six feet, no building shall hereafter be erected or structurally altered so as to project beyond such average setback line.

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- (2) On corner lots less than 60 feet wide and of record on September 8, 1953, where reversed frontage exists the setback on the side street shall be not less than 50 percent of the setback required on the lot in the rear. No accessory building shall project beyond the setback line of the lots in the rear; provided, further, in no case shall the buildable width of such corner lot be reduced to less than 24 feet.
- E. *Rear yard.* There shall be provided a rear yard having a depth of 25 feet for interior lots and 15 feet for corner lots, except that when the dwelling structure is so oriented as to face the long frontage of a corner lot the rear yard may be reduced to seven feet, provided that there is no rear door in the dwelling, and further provided that an interior side yard not less than 15 feet in width is provided and made accessible by means of a side door leading thereto.
- F. *Vision clearance.* Vision clearance shall be provided on corner lots and at all driveways in accordance with section 10-1-15.
- G. *Lot area per family.*
- (1) Every building hereafter erected or structurally altered shall provide a lot area of not less than 8,400 square feet per family. No such lot shall be less than 70 feet in width, except smaller lots of record on September 8, 1953, may be occupied by one family when the building erected thereon complies with the provisions herein made for side yards, setbacks, rear yards, and vision clearance for such smaller lots.
- (2) When any building is to be erected or structurally altered on an irregular lot or on a lot entitled to a buildable width of 24 feet on which the provisions as to side yards, front yards, and rear yards cannot be complied with, the zoning administrator shall designate the location of such buildings on such lot in conformity with the spirit of this chapter and the best interests of the public and the owner.
- H. Off-street parking and loading facilities shall be provided in accordance with section 10-1-13.
- I. *Dwelling design and construction.* Dwellings, as defined and permitted by this chapter, shall conform to the following:
- (1) Shall be attached to a permanent foundation meeting the requirements of applicable building code provisions in such manner as to comply with standards for vertical loading, uplift and lateral forces and so designed and constructed that the floor elevation is reasonably compatible with other dwellings in the area.
- (2) Shall have a minimum area of 800 square feet and be not less than 20 feet in its smallest horizontal dimension exclusive of attached garage, carport or open deck.
- (3) Shall have any wheels, axles, hitches, tow bars and other equipment necessary for transporting on streets or highways removed when the structure is placed on the foundation.
- (4) Shall have a double pitched roof having a minimum of three inches of vertical rise per foot of horizontal run.
- (5) Shall have roof overhang of one-foot minimum measured from the vertical sides of the structure.
- (6) Shall have roofing material of a type customarily found on conventionally constructed dwellings, including wood shakes or shingles, asphalt composition shingles, fiberglass composition shingles, but not corrugated metal or corrugated fiberglass.
- (7) Shall have exterior siding of a type customarily found on conventionally constructed dwellings including wood clapboards, simulated clapboards such as vinyl, metal or Masonite type siding, wood shakes, wood shingles, brick, stone or other masonry-type veneer materials, but not smooth, ribbed or corrugated metal or plastic panels except when part of solar collector systems.

(Amended 3-5-2018; Ord. No. 2022-041 , § 1, 3-7-2022; Ord. No. 2022-061, § 1, 4-4-2022)

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Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

**Sec. 10-1-21. R-2 single- and double-family residence district.**

- A. *Use.* In the R-2 single- and double-family residence district no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:
- (1) Any use permitted in the R-1 single-family residence district.
  - (2) Two-family dwellings.
  - (3) Churches, public libraries, public museums and public art galleries; municipal cemeteries and buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards, and penal or correctional institutions and asylums; public recreational and community center buildings and grounds; institutional uses such as private clubs and fraternal organizations on the premises and incidental to a church, all subject to approval by the city council.
  - (4) Keeping of chickens and ducks as permitted under section 6-5-22 of the Code.
  - (5) Conditional uses.
    - (a) Agriculture.
      - [1] Limited to dairy farms, horse farms, fruit and vegetable farms, greenhouses, plant nurseries, tree nurseries and the keeping of goats, ponies, rabbits, sheep or more than six chickens and ducks.
      - [2] In considering the keeping of animals and birds, the plan commission and city council shall evaluate factors, such as, but not limited to, parcel size and location, number and size of animals and birds, location of structures such as cages, coops, pens, stables and fencing, odor control, animal waste management and conflicts with deed or covenant restrictions.
    - (b) Barbershop or beauty shop.
    - (c) Conservation subdivision.
    - (d) Day-care center.
    - (e) Professional offices of doctors, dentists, physical therapists, massage therapists or technicians, chiropractors, chiropodists, osteopaths, optometrists, architects, attorneys, professional engineers and land surveyors.
    - (f) Photographic studio or camera and photographic material shops.
    - (g) Real estate or rental agency offices.
    - (h) Retail grocery store and fruit and vegetable stand.
    - (i) Retail flower stores or shops.
    - (j) Laundromats.
    - (k) CPA and other accountants.
    - (l) Philanthropic and eleemosynary institutions.
    - (m) Community living arrangements and community-based residential facilities for nine or more persons.



- (n) Public, private and parochial schools, and colleges and universities, including dormitories.
  - (o) Conservation subdivisions meeting all provisions of section 10-1-35.
- B. *Height.* Principal buildings hereafter erected or structurally altered shall not exceed 35 feet in height.
- C. *Side yards.* There shall be a side yard on each side of a building.

(1) The sum of the widths of the required side yards shall be as follows:

Lot Width (feet)	Total Side Yard Width (feet)	Minimum Side Yard Width (feet)
Less than 67	15	6
67 to 75	16	6
More than 75	20	6

- (2) The width of a corner side yard shall be not less than 50 percent of the setback required on the lots in the rear, except that where the frontage on a corner lot is to be reversed, no structure shall project beyond the front building line required of the lots in the rear. The buildable width of any lot in this district shall in no case be reduced to less than 24 feet.
- D. *Setback.* Unless otherwise provided, there shall be a setback line of not less than 25 feet or one of the following, whichever is less:
- (1) Where more than 30 percent of the frontage on one side of a duly recorded subdivided block is occupied by dwelling structures a majority of which structures having observed or conformed to an average setback line with a variation of no more than six feet, no building shall hereafter be erected or structurally altered so as to project beyond such average setback line.
  - (2) On corner lots less than 60 feet wide and of record, where reversed frontage exists the setback on the side street shall be not less than 50 percent of the setback required on the lot in the rear, and no accessory building shall project beyond the setback line of the lots in the rear; provided, further, that in no case shall the buildable width of such corner lot be reduced to less than 24 feet.
- E. *Rear yard.* There shall be provided a rear yard having a depth of 25 feet for interior lots and 15 feet for corner lots, except that when the dwelling structure is so oriented as to face the long frontage of a corner lot the rear yard may be reduced to seven feet, provided that there is no rear door in the dwelling, and further provided that an interior side yard not less than 15 feet in width is provided and made accessible by means of a side door leading thereto.
- F. *Vision clearance.* Vision clearance shall be provided on corner lots and at all driveways in accordance with section 10-1-15.
- G. *Lot area.*
- (1) Every building hereafter erected shall provide a lot area of not less than 7,200 square feet. No such lot shall be less than 60 feet in width for a single-family home or 70 feet in width for a two-family home, except that smaller lots of record may be occupied by one family when the building erected thereon complies with the provisions herein made for side yards, setbacks, rear yards, and vision clearance for such smaller lots.
  - (2) When any building is to be erected or structurally altered on an irregular lot or on a lot entitled to a buildable width of 24 feet on which the provisions as to side yards, front yards, and rear yards cannot be complied with, the zoning administrator shall designate the location of such buildings on such lot in conformity with the spirit of this chapter and the best interests of the public and the owner.
- H. Off-street parking and loading facilities shall be provided in accordance with section 10-1-13.

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- I. Single- and two-family dwellings to be constructed or assembled in the R-2 district shall comply with the provisions of section 10-1-20.I.

(Amended 3-5-2018; Ord. No. 2022-041 , § 2, 3-7-2022; Ord. No. 2022-061, § 2, 4-4-2022)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

**Sec. 10-1-22. R-3 single- and double-family residence district.**

- A. *Use.* In the R-3 single- and double-family residence district no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:

- (1) Single- or double-family dwellings or any use permitted in the R-1 and R-2 districts.
- (2) Hospitals and clinics.
- (3) Keeping of chickens and ducks as permitted under section 6-5-22 of this Code.
- (4) Conditional uses.
  - (a) Agriculture.
    - [1] Limited to dairy farms, horse farms, fruit and vegetable farms, greenhouses, plant nurseries, tree nurseries and the keeping of goats, ponies, rabbits, sheep or more than six chickens and ducks.
    - [2] In considering the keeping of animals and birds, the plan commission and city council shall evaluate factors, such as, but not limited to, parcel size and location, number and size of animals and birds, location of structures such as cages, coops, pens, stables and fencing, odor control, animal waste management and conflicts with deed or covenant restrictions.
  - (b) Art studio.
  - (c) Barbershop and beauty parlor.
  - (d) Bed-and-breakfast establishment complying with the following:
    - [1] Definition. For the purpose of interpreting the provisions of this section, "bed-and-breakfast establishment" shall mean any place of lodging that provides eight or fewer rooms for rent for more than ten nights in a twelve-month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.
    - [2] License required. The granting of a conditional use permit for a bed-and-breakfast establishment shall be specifically conditioned upon receipt of a permit by the applicant from the Wisconsin Department of Agriculture, Trade and Consumer Protection (ATCP).
    - [3] Sign. A bed-and-breakfast establishment for which a conditional use permit has been issued shall be permitted to display only one wall sign not greater than three square feet in area displaying the owner's name and the phrase "bed-and-breakfast establishment."
    - [4] Fire protection. Fire protection as specified by the Fire Department shall be provided, tested periodically and maintained in good condition at all times.
    - [5] Records. The granting of such conditional use shall be specifically conditioned upon a requirement that the applicant keep adequate records showing the dates on which any

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rented room is occupied, the names and permanent addresses of the occupants, and rental fee amounts, together with a requirement that such records shall be available for review by the city at reasonable times upon request.

- [6] Maximum occupancy. An establishment which permits a guest to remain registered for more than 14 consecutive days, whether in one room or more than one room, shall be considered a rental establishment other than a "bed-and-breakfast establishment" and shall be considered cause for revocation of such conditional use permit.
- [7] Off-street parking. Off-street parking spaces shall be provided at the rate of one space for each rental unit in addition to two spaces for the owner's residence. Such off-street parking spaces may be sheltered or open and may be tandem behind the owner's spaces.

- (e) CPAs and other accountants.
- (f) Community living arrangements and community-based residential facilities for nine or more persons.
- (g) Day-care center.
- (h) Food preparation.
- (i) Off-street parking areas for utilization by businesses, industries or institutions located in adjacent business, industrial or institutional districts.
- (j) Photographic studio or camera and photographic material shops.
- (k) Professional offices of doctors, dentists, physical therapists, massage therapists or technicians, chiropractors, chiropodists, osteopaths, optometrists, architects, attorneys, professional engineers and land surveyors, real estate agents and information technology consultants.
- (l) Public, private and parochial schools, colleges and universities, including dormitories.
- (m) Retail grocery store and fruit and vegetable stand.

B. *Height.* Principal buildings hereafter erected or structurally altered shall not exceed 35 feet in height.

C. *Side yards.* There shall be a side yard on each side of a building.

(1) The sum of the widths of the required side yards shall be as follows:

Lot Width (feet)	Total Side Yard Width (feet)	Minimum Side Yard Width (feet)
40 to 45	10	5
46 to 70	15	6
More than 70	20	6

(2) The width of a corner side yard shall be not less than 50 percent of the setback required on the lots in the rear, except that where the frontage on a corner lot is to be reversed no structure shall project beyond the front building line of the lots in the rear. The buildable width of any lot in this district shall in no case be reduced to less than 24 feet.

D. *Setback.* Unless otherwise provided, there shall be a setback line of not less than 25 feet or one of the following, whichever is less:

(1) Where more than 30 percent of the frontage on one side of a duly recorded subdivided block is occupied by dwelling structures a majority of which structures having observed or conformed to an

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average setback line with a variation of no more than six feet, no building shall hereafter be erected or structurally altered so as to project beyond such average setback line.

- (2) On corner lots less than 60 feet wide and of record, where reversed frontage exists the setback on the side street shall be not less than 50 percent of the setback required on the lot in the rear, and no accessory building shall project beyond the setback line of the lots in the rear; provided, further, that in no case shall the buildable width of such corner lot be reduced to less than 24 feet.
- E. *Rear yard.* There shall be provided a rear yard having a depth of 25 feet for interior lots and 15 feet for corner lots except that when the dwelling structure is so oriented as to face the long frontage of a corner lot the rear yard may be reduced to seven feet, provided that there is no rear door in the dwelling, and further provided that an interior side yard not less than 15 feet in width is provided and made accessible by means of a side door leading thereto.
- F. *Vision clearance.* Vision clearance shall be provided on corner lots and at all driveways in accordance with section 10-1-15.
- G. *Lot area per family.*
- (1) Every building hereafter erected or structurally altered shall provide a lot area of not less than 6,000 square feet or as platted, whichever is greater, per family. No such lot shall be less than 40 feet or as platted, whichever is greater, except that smaller lots of record may be occupied by one family when the building erected thereon complies with the provisions herein made for side yards, setbacks, rear yards, and vision clearance for such smaller lots.
  - (2) When any building is to be erected or structurally altered on an irregular lot or on a lot entitled to a buildable width of 24 feet on which the provisions as to side yards, front yards, and rear yards cannot be complied with, the zoning administrator shall designate the location of such buildings on such lot in conformity with the spirit of this chapter and the best interests of the public and the owner.
- H. Off-street parking and loading facilities shall be provided in accordance with section 10-1-13.
- I. Single- and two-family dwellings constructed or assembled in the R-3 district shall comply with the provisions of section 10-1-20.I. of this chapter.

(Amended 3-5-2018; Ord. No. 2022-061, § 3, 4-4-2022)

Editor's note(s)—Added at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-23. R-4 multiple-family residence district.**

- A. *Use.* In the R-4 multiple-family residence district, no building or premises shall be used, and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:
- (1) Any used permitted in the R-1, R-2 and R-3 residence districts.
  - (2) Multiple-family dwellings.
  - (3) Storage garages which are necessary to the main buildings only.
  - (4) Community living arrangements and community-based residential facilities for nine to 15 persons.
  - (5) Conditional uses.
    - (a) Barbershop.

- (b) Beauty parlor.
  - (c) Bed-and-breakfast establishment meeting all provisions of section 10-1-22.A.(4)(d).
  - (d) Community living arrangements and community-based residential facilities for 16 or more persons.
  - (e) Conservation subdivisions meeting all provisions of section 10-1-35.
  - (f) Day-care center.
  - (g) Event facility/assembly yard.
  - (h) Laundromat.
  - (i) Philanthropic and eleemosynary institutions.
  - (j) Photographic studio or camera and photographic material shops.
  - (k) Professional offices of accountants, doctors, dentists, physical therapists, massage therapists or technicians, chiropractors, chiropodists, osteopaths, optometrists, architects, attorneys, professional engineers and land surveyors.
  - (l) Real estate or rental agency offices.
  - (m) Retail grocery store and fruit and vegetable stand.
  - (n) Retail flower stores or shops.
  - (o) Public, private and parochial schools, colleges and universities, including dormitories.
- B. *Height.* Buildings hereafter erected or structurally altered after April 9, 1971, shall not exceed 75 feet in height.
- C. *Side yards.* There shall be a side yard on each side of a building.
- (1) The sum of the widths of the required side yards shall be as follows:

Lot Width (feet)	Total Side Yard Width (feet)	Minimum Side Yard Width (feet)
Less than 200	30	15
200 to 400	50	15
More than 400	70	15

- (2) For any building over two stories there will be an increase in each side yard of five feet per story.
- D. *Setback.* Unless otherwise provided, there shall be a setback line of not less than 25 feet plus five feet for each additional story over two stories.
- E. *Rear yard.* There shall be a rear yard having a minimum depth of 25 feet for each building plus an additional five feet for each additional story.
- F. *Vision clearance.* Vision clearance shall be provided on corner lots and at all driveways in accordance with section 10-1-15.
- G. *Lot area per family.*
- (1) Every building hereafter erected or structurally altered shall provide a lot area of not less than 6,000 square feet for the first unit, plus 2,000 square feet per family for the next three units. For each additional unit thereafter, 1,500 square feet is required. No such lot shall be less than 80 feet in width, except that smaller lots of record may be occupied by one family when the building erected thereon

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complies with the provisions herein made for side yards, setbacks, rear yards and vision clearance for such smaller lots.

- (2) When any building is to be erected or structurally altered on an irregular lot or on a lot entitled to a buildable width of 24 feet on which the provisions as to side yards, front yards, and rear yards cannot be complied with, the zoning administrator shall designate the location of such buildings on such lot in conformity with the spirit of this chapter and the best interests of the public and the owner.

H. *Other requirements.*

- (1) Exterior equipment storage area, screened refuse storage and parking area, landscaping traffic control features, and roof-mounted equipment screening equipment shall be designed, provided and maintained in accordance with the spirit of section 10-1-38.C. through I., inclusive.

- (2) Development plans shall include graphic materials as enumerated in section 10-1-39.D.(3)(c).

I. Off-street parking and loading facilities shall be provided in accordance with section 10-1-13.

J. Single- and two-family dwellings constructed or assembled in the R-4 district shall comply with the provisions of section 10-1-20.I.

(Ord. No. 2022-061, § 4, 4-4-2022)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-24. B-1 business district.**

A. *Purpose.* The purpose of the B-1 business district is to promote and protect development in the downtown area and in existing business developments. The district is also intended to recognize existing residential uses as conforming uses and promote their continued operation.

B. *Use.* In the B-1 business district, no building or premises shall be used and no building shall hereinafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:

(1) *Principal permitted uses.*

- (a) Art shop, gift shop, jewelry store, optical store, antique store.
- (b) Animal grooming (no outdoor operations and no overnight boarding).
- (c) Bakery (retail).
- (d) Bank, savings and loan, credit union, financial institution.
- (e) Barbershop and beauty parlor.
- (f) Boardinghouses and rooming houses existing prior to December 4, 2006, may be continued. New uses of this type are prohibited.
- (g) Book and stationery store.
- (h) Bottling, distillery, microbrewery and winery with required on-premises retail sales of products produced on the premises.
- (i) Bowling alley, pool and billiard room, gymnasium, dancing school, dance hall, skating rink, theater, except drive-in theater.
- (j) Brokerage house.

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- (k) Candy, ice cream, and soft drink store.
  - (l) Car and truck parts sales (with no outdoor storage).
  - (m) Ceramics studio.
  - (n) Clinic.
  - (o) Community living arrangements and community-based residential facilities for nine to 15 persons.
  - (p) Convention and exhibition hall.
  - (q) Cleaning, dry cleaning store and laundromat.
  - (r) Dress, clothing, dry goods, shoe and/or department store, tailor shop and sporting goods store.
  - (s) Drugstore or pharmacy.
  - (t) Engraving.
  - (u) Event facility/assembly hall.
  - (v) Floor covering sales.
  - (w) Florist shop, greenhouse.
  - (x) Hardware and paint and wallpaper store.
  - (y) Household appliance and repair store, furniture store, plumbing, heating and electrical supplies.
  - (z) Hotel and motel.
  - (aa) Museum.
  - (bb) Music store, radio store, and radio broadcast studio.
  - (cc) Office: business, professional, governmental, utility, travel agent, office equipment store.
  - (dd) Parking lot.
  - (ee) Pet shop.
  - (ff) Photography studio and photography sales and supplies.
  - (gg) Printing and reproduction services.
  - (hh) Public and semipublic uses including churches, schools, library and community building.
  - (ii) Radio and television sales and repair.
  - (jj) Rental apartments or condominium dwellings above the ground-floor level. Such apartments or condominium dwellings shall have a minimum floor area of 350 square feet for an efficiency unit, 420 square feet for a one-bedroom unit, or 650 square feet for a two-bedroom unit.
  - (kk) Residential dwelling unit(s) for the owner, proprietor, commercial tenant, employees or caretaker located in the same building as the business. Such dwelling units(s) shall be located above the ground-floor level, except as follows:
    - [1] Buildings initially constructed as churches prior to January 1, 2019, may be repurposed as mixed-use buildings in accord with the following standards:
      - [a] Ground-floor uses may include commercial and residential uses in accord with section 10-1-24.

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- [b] Ground-floor residential units shall not occupy more than 60 percent of the usable ground floor area as defined in section 10-1-13.F.
  - [c] Ground-floor residential units shall have the same minimum floor area as described in section 10-1-24.B.(1) and shall comply with applicable building code requirements.
- (ll) Restaurant, cafeteria, lunchroom, refreshment stand, caterer, tavern, bar, and liquor store.
  - (mm) Retail food stores including groceries, delicatessen, meat, fish, fruit and vegetables.
  - (nn) Secondary meat processing, provided approval is granted by the plan commission and council, and further provided that there is not slaughtering or cleaning involved, e.g., the animal carcasses to be processed shall be cleaned and dressed before arriving at the premises.
  - (oo) Single- and two-family dwellings constructed prior to January 1, 2019, may be continued. Buildings originally constructed as single- or two-family dwellings where the ground floor is used for commercial purposes may be returned to its original use, except dwellings along STH 42, STH 147 and STH 310. New one- and two-family dwellings are prohibited.
  - (pp) Tanning salon.
  - (qq) Temporary structure.
  - (rr) Tobacco and pipe store.
  - (ss) Philanthropic and eleemosynary institutions.
  - (tt) Uses permitted in the R-1, R-2 and R-3 districts, but not including new single- and two-family dwellings.
  - (uu) Video product sales and rentals.
- (2) *Conditional uses.*
- (a) Animal day care (no outdoor operations and no overnight boarding).
  - (b) Auction facility, business.
  - (c) Automobile sales and service establishment, storage garage, public garage, filling station.
  - (d) Bed-and-breakfast establishments meeting all provisions of section 10-1-22.A.(4)(d).
  - (e) Boat sales and service.
  - (f) Bus depot.
  - (g) Car and truck body repair.
  - (h) Car wash.
  - (i) Community living arrangements and community-based residential facilities for 16 or more persons.
  - (j) Day-care center.
  - (k) Drive-in business establishment offering goods or services directly to customers waiting in parked motor vehicles complying with section 10-1-24.C.
  - (l) Fish farming/aquiculture.
  - (m) Flea market, excluding any special event authorized by the city council.
  - (n) Furniture sales and repair, woodworking and cabinetmaking.



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- (o) Gas stations including a convenience store.
  - (p) Grave markers and monument sales.
  - (q) Microwave radio relay structures and cable TV studio.
  - (r) One on-premises detached single-family residence for the owner, manager or caretaker of a motel or hotel, provided such residence is on the same lot as the motel or hotel.
  - (s) Pawnshop.
  - (t) Production and processing. Limited production and processing with the following development standards:
    - [1] Shall not exceed 1,200 square feet of gross floor area and include a retail component equal to at least 15 percent of the floor area of the use.
    - [2] Shall have little to no adverse external impacts and shall be found to be compatible with the surrounding downtown or commercial environment in terms of intensity, scale of the use, functional and architectural character.
  - (u) Tattoo and body piercing services.
  - (v) Taxi office.
  - (w) Undertaking establishment.
  - (x) Uses permitted in the R-4 district.
- (3) *Accessory uses.*
- (a) Those uses which are customary in connection with the permitted and conditional uses and are incidental to those uses.
  - (b) Essential services.

C. *Yard area and height.*

- (1) *Height.* Any building erected or structurally altered shall not exceed 75 feet in height.
- (2) *Lot width.* All lots shall have a minimum width of 45 feet.
- (3) *Front yard and side yard setbacks.* No front yard or side yard setback requirement for business buildings, except where a front or side yard abuts a district of a different type. The front or side yard requirement shall then be 50 percent of that required in the abutting district. Residential buildings must meet the R-3 requirements.
- (4) *Rear yard.* There shall be a rear yard having a minimum depth of 20 feet for a building of two stories or less in height. For each additional story or fractional story in height, the depth of such rear yard shall be increased by five feet.
- (5) *Vision clearance.* Vision clearance shall be provided in accordance with section 10-1-15.
- (6) *Off-street parking and loading.* Off-street parking and loading facilities shall be provided in accordance with section 10-1-13.
- (7) Single- and two-family dwellings constructed in the B-1 district shall comply with the provisions of section 10-1-20.I.

(Added 1-7-2019; 2-4-2019; 8-5-2019; 5-17-2021)

Editor's note(s)—Added at time of adoption of Code.

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State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

**Sec. 10-1-25. B-2 business district.**

A. *Purpose.* The purpose of the B-2 business district is to promote and protect development in new business areas and existing outlying business areas of the city. The district is also intended to control most new business development that will occur in the city. The district will be used to rezone land for business use that is currently not zoned for that use.

B. *Use.* In the B-2 business district no building or premises shall be used and no building shall hereinafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:

(1) *Principal permitted uses.*

- (a) All principal permitted uses in the B-1 business district, except residential uses.
- (b) Animal grooming (no outdoor operations and no overnight boarding).
- (c) Animal hospital and veterinary clinic.
- (d) Boat sales.
- (e) Bottling, distillery, microbrewery and winery with required on-premises retail sales of products produced on the premises.
- (f) Car wash.
- (g) Community living arrangements and community-based residential facilities for nine to 15 persons.
- (h) Dry-cleaning plant.
- (i) Greenhouse.
- (j) Manufactured home and mobile home sales.
- (k) Outdoor amusement such as miniature golf.
- (l) Contractor offices and shops, including sales, service and repair of related products and equipment, with no outdoor operations and no outdoor storage, excluding heavy construction and landscape contractors.
- (m) Audio, video and electronic equipment sales, service and repair.

(2) *Conditional uses.*

- (a) All conditional uses in the B-1 business district except those uses listed as permitted in this district.
- (b) Animal day care (no outdoor operations and no overnight boarding).
- (c) Reserved.
- (d) Bus terminals and service facilities.
- (e) Commercial kennel (one acre minimum lot size).
- (f) Community living arrangements and community-based residential facilities for 16 or more.
- (g) Heavy contractors' yards and equipment storage.
- (h) Landscape contractors.

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- (i) One on-premises detached single-family residence for the owner, manager or caretaker of a motel or hotel, provided such residence is on the same lot as the motel or hotel.
  - (j) Parking trucks including semitrucks.
  - (k) Petting zoo.
  - (l) Private park/picnic area.
  - (m) Recreational vehicle courts complying with the provisions of section 10-1-30.
  - (n) Recreational vehicle sales, service and storage.
  - (o) Secondary meat processing, provided approval is granted by the plan commission and council, and further provided that there is no slaughtering or cleaning involved, e.g., the animal carcasses to be processed shall be cleaned and dressed before arriving at the premises.
  - (p) Self-storage facilities.
  - (q) Telephone office.
  - (r) Utility trailer and truck rental.
  - (s) Warehouse.
  - (t) Wholesale establishment.
  - (u) Laboratories for research, development and testing.
- (3) *Accessory uses.*
- (a) Those uses which are customary in connection with the permitted and conditional uses and are incidental to those uses.
  - (b) Essential services.

C. *Yard area and height.*

- (1) *Height.* Any building erected or structurally altered shall not exceed 75 feet in height.
- (2) *Lot size.* Each lot shall have a minimum area of 7,200 square feet and a minimum width of 70 feet.
- (3) *Setback:* 25 feet.
- (4) *Minimum side yard:* 10 feet.
- (5) *Street side yard:* 25 feet.
- (6) *Rear yard:* 20 feet.
- (7) *Vision clearance:* Same as B-1 business district.
- (8) *Off-street parking and loading.* Off-street parking and loading facilities shall be provided in accordance with section 10-1-13.

(Added 8-5-2019; 11-30-2020; 6-21-2021)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

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**Sec. 10-1-26. B-3 business district.**

- A. *Purpose.* The purpose of the B-3 business district is to promote and protect development in new business areas and existing business areas along Memorial Drive. The district is also intended to control most new business development that will occur along Memorial Drive. The district will be used to rezone land for business use that is currently not zoned for that use.
- B. *Use.* In the B-3 business district no building or premises shall be used and no building shall hereinafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:
- (1) *Principal permitted uses.*
    - (a) All principal permitted uses in the B-1 business district.
    - (b) Animal grooming (no outdoor operations and no overnight boarding).
    - (c) Animal hospital and veterinary clinic.
    - (d) Boat sales, service and storage (no outdoor operations).
    - (e) Car wash.
    - (f) Community living arrangements and community-based residential facilities for nine to 15 persons.
    - (g) Outdoor amusement such as miniature golf.
    - (h) Manufactured home and mobile home sales.
    - (i) Contractor offices and shops, including sales, service and repair of related products and equipment, with no outdoor operations and no outdoor storage, excluding heavy construction and landscape contractors.
  - (2) *Conditional uses.*
    - (a) Animal day care (no outdoor operations and no overnight boarding).
    - (b) Auction facility, business.
    - (c) Boat sales, service and storage (with outdoor operations).
    - (d) Community living arrangements and community-based residential facilities for 16 or more persons.
    - (e) Day-care center.
    - (f) Drive-in business establishment offering goods or services directly to customers waiting in parked motor vehicles complying with section 10-1-26.C.
    - (g) Flea market, excluding any special event authorized by the city council.
    - (h) Production and processing. Limited production and processing with the following development standards:
      - [1] Shall not exceed 1,200 square feet of gross floor area and include a retail component equal to at least 15 percent of the floor area of the use.
      - [2] Shall have little to no adverse external impacts and shall be found to be compatible with the surrounding downtown or commercial environment in terms of intensity, scale of the use, functional and architectural character.

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- (i) Recreational vehicle sales, service and storage.
  - (j) Self-storage facilities.
  - (k) Utility trailer and truck rental.
  - (l) Warehouse.
  - (m) Wholesale establishment.
  - (n) One on-premises detached single-family residence for the owner, manager or caretaker of a motel or hotel, provided such residence is on the same lot as the motel or hotel.
  - (o) Laboratories for research, development and testing.
- (3) *Prior conditional uses are conforming.* Any use existing as of the effective date of this chapter amendment which is classified in this chapter as a conditional use in its respective zoning district shall be considered a conforming conditional use. Any proposed change to its existing operation shall be subject to the procedures and provisions of the conditional use section of this chapter as if it was being established anew.
- (4) *Accessory uses.*
- (a) Those uses which are customary in connection with the permitted and conditional uses and are incidental to those uses.
  - (b) Essential services.

C. *Yard area and height.*

- (1) *Height.* Any building erected or structurally altered shall not exceed 35 feet in height.
- (2) *Residences.* Dwellings shall meet the setback and yard requirements of the R-3 district and, also, the provisions of section 10-1-20.I.
- (3) *Lot size.* Each lot shall have a minimum area of 6,000 square feet and a minimum width of 60 feet.
- (4) *Setbacks:* 25 feet.
- (5) *Minimum side yard:* 10 feet.
- (6) *Street side yard:* 25 feet.
- (7) *Rear yards:* 20 feet.
- (8) *Vision clearance.* Same as B-1 business district.
- (9) *Off-street parking and loading facilities.* Off-street parking and loading facilities shall be provided in accordance with section 10-1-13.

(Added 8-5-2019; 11-30-2020; 5-17-2021; 6-7-2021)

**Sec. 10-1-27. WFB waterfront business district.**

A. *Use.* In the WFB waterfront business district no building or premises shall be used and no building shall hereinafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:

- (1) *Principal permitted uses.*
  - (a) Animal day care (no outdoor operations and no overnight boarding).

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- (b) Antiques, crafts, jewelry and floral sales.
  - (c) Appliance and video sales and repair.
  - (d) Barbershop or beauty salon.
  - (e) Boat sales, service, storage and rentals existing prior to July 21, 2008.
  - (f) Bookstore.
  - (g) Contractor offices and shops, including sales, service and repair of related products and equipment, with no outdoor operations and no outdoor storage, excluding heavy construction and landscape contractors.
  - (h) Drapery and interior decorating shop.
  - (i) Dwellings, single- and two-family, meeting the provisions of section 10-1-22.
  - (j) Dwellings, multi-family, meeting the provisions of section 10-1-23.
  - (k) Furniture sales, and repair, woodworking, cabinetmaking, not to include fabrication of stone countertops.
  - (l) Hotel or motel.
  - (m) Marinas existing prior to July 21, 2008.
  - (n) Music, dance, art and photography studios and galleries.
  - (o) Net making and repair.
  - (p) Fish processing, including smoking of fish.
  - (q) Office: business, professional, governmental and utility.
  - (r) Pet shop.
  - (s) Restaurant.
  - (t) Retail clothing, shoe, housewares and dry goods store.
  - (u) Retail food store.
  - (v) Sporting goods store.
  - (w) Tailor shop.
  - (x) Taverns and cocktail lounge.
- (2) *Conditional uses.*
- (a) Auction facility, business.
  - (b) Bed-and-breakfast establishment meeting all provisions of section 10-1-22.
  - (c) Boat sales and related uses: expansions of boat sales, service, storage and rentals existing prior to July 21, 2008, and new facilities established after July 21, 2008.
  - (d) Community living arrangements and community-based residential facilities for any number of persons.
  - (e) Day-care facilities.
  - (f) Fish farming/aquiculture.
  - (g) Flea market, excluding any special event authorized by the city council.

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- (h) Marinas: expansions of marinas existing prior to July 21, 2008, and new marinas established after July 21, 2008.
  - (i) Museum.
  - (j) One on-premises detached single-family residence for the owner, manager or caretaker of a motel, hotel or marina, provided such residence is on the same lot as the motel or hotel or marina.
  - (k) One recreational vehicle for either the owner or caretaker of a marina, provided the recreational vehicle is on the same lot as the marina.
  - (l) Recreational vehicle court complying with the provisions of section 10-1-30.
  - (m) Sales and service of all-terrain vehicles, mopeds and snowmobiles complying with section 10-1-24.C.
- (3) *Accessory uses.*
- (a) Those uses which are customarily in connection with the permitted and conditional uses and are incidental to those uses.
  - (b) Essential services.
- B. *Dimensional requirements for lots platted prior to July 21, 2008.*
- (1) *Minimum lot area:* none.
  - (2) *Minimum lot width:* as platted.
  - (3) *Minimum setbacks.* Setbacks, side yards, rear yards and shore yards for existing buildings and structures on WFB district lots may be continued to avoid nonconforming circumstances. However, any additions or new structures on such lots shall meet the minimum dimensional requirements listed below in subsection C.
  - (4) *Shoreyards.* Areas in the city prior to May 7, 1982, shall comply with applicable floodplain zoning requirements.
  - (5) *Maximum building height:* 35 feet.
  - (6) *Maximum lot coverage.* A maximum of 80 percent of the lot area may be covered by buildings, parking and drive areas, and a minimum of 20 percent of the lot area shall be landscaped open space. Any drive areas required for fire access lanes may be located in the 20 percent open space.
  - (7) Accessory buildings and structures shall meet the dimensional requirements in section 10-1-15.
  - (8) *Existing boathouses.* Boathouses existing prior to July 21, 2008, may be continued in accord with applicable Wisconsin Statutes.
  - (9) New boathouses shall be located at or above the ordinary high-water line, with a minimum ten-foot side yard setback, and a maximum height of 20 feet or the height of the principal building, whichever is less.
- C. *Dimensional requirements for lots platted after July 21, 2008.*
- (1) *Minimum lot area:* 15,000 square feet.
  - (2) *Minimum lot width:* 100 feet.
  - (3) *Minimum setbacks:*
    - (a) Principal building.

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- [1] Front yard: 25 feet.
  - [2] Street side yard: 25 feet.
  - [3] Total side yard: 20 feet or 25 percent of the lot width, whichever is greater, ten-foot minimum side yard width.
  - [4] Rear yard: 25 feet.
  - [5] Shore yard. In areas annexed to the city after May 7, 1982, shore yard requirement shall be in accord with Manitowoc County Shoreland Zoning provisions.
- (b) Accessory buildings and structures.
- [1] Front yard: not permitted.
  - [2] Street side yard: not permitted.
  - [3] Interior side yard: ten feet.
  - [4] Rear yard: ten feet.
  - [5] Shore yard: In areas annexed to the city after May 7, 1982, shore yard requirement shall be in accord with Manitowoc County Shoreland Zoning provisions.
- D. *Vision clearance.* Vision clearance shall be provided in accordance with section 10-1-15 of this chapter.
- E. *Signs.* Signs complying with chapter 10-4.
- F. *Off-street parking and loading.* Facilities for off-street loading and parking shall be provided in accordance with section 10-1-13.
- G. *Site plan and architectural approval required.* No building, structure or improvement shall be constructed or placed on any lot, nor shall any building structure or improvement be remodeled or altered until site and architectural plans for such improvements have been approved by the plan commission in accord with the requirements of section 11-1-11 related to such site and architectural approvals.
- H. *Stormwater management requirements.* See the city's stormwater management ordinance(s).
- (Amended 10-21-2019; 9-8-2020; 11-30-2020)

### **Sec. 10-1-28. I-1 industrial district.**

- A. *Use.* In the I-1 Industrial district, no building or premises shall be used and no building shall be hereinafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses.
- (1) *Principal permitted uses.*
- (a) Business, professional or clerical offices.
  - (b) Communication towers and antennas.
  - (c) Contractor offices and shops including sales, service and repair of related products and equipment with no outdoor operations and no outdoor storage, excluding heaving construction and landscape contractors.
  - (d) Laboratory.
  - (e) Manufacturing, processing, repairing, warehouse or assembly of previously prepared materials.
  - (f) Municipal facilities.



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- (g) Recycling of scrap and waste materials with no outdoor storage.
  - (h) Wholesale establishment.
- (2) *Accessory uses.*
- (a) Accessory buildings for the storage of vehicles, materials or equipment related to a permitted use.
  - (b) Dock facility.
  - (c) Essential services.
  - (d) Off-street parking and loading facilities.
  - (e) Rail tracks and spur lines.
  - (f) Retail sales of products manufactured on the premises or products which are sold wholesale from the premises. Retail sales shall be incidental to the principal permitted use, and shall be limited to 25 percent of the gross floor area of the principal building and all accessory buildings.
  - (g) Signs in accord with chapter 10-4.
  - (h) Shipping containers used for storage in accord with section 10-1-15.J.(5).
- (3) *Conditional uses.*
- (a) Animal hospital and kennel.
  - (b) Auction facility, business.
  - (c) Auction facility, industrial.
  - (d) Commercial boat dock.
  - (e) Day-care center.
  - (f) Flea market, excluding any special event authorized by the city council.
  - (g) Heavy contractor's yards and equipment storage.
  - (h) Private utilities.
  - (i) Recreational facility, indoor or outdoor.
  - (j) Recreational vehicle sales, service and storage.
  - (k) Self-storage facility.
  - (l) Utility trailer and truck rental.
  - (m) Wind energy systems.
- (4) *Prohibited uses.* Any use not specifically permitted in subsection A.(1), (2) and (3).
- B. *Open storage.* Open storage permitted if it is out of public view or contained within an opaque fence or wall eight feet high or a visual screen consisting of evergreen or evergreen-type hedges or shrubs, spaced at intervals of not more than six feet, which grow uniformly to a height of eight feet or more after one full growing season and which will eventually grow to a height of not less than 16 feet. They shall be located and maintained in good condition within 15 feet of the property line.
- C. *Minimum area dimensions.*
- (1) *Total area:* 7,500 square feet.

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- (2) *Setback*: none.
  - (3) *Side yard*: none, except where adjacent to a residential zone, in which case the side yard shall be not less than 25 feet.
  - D. *Height*. Buildings hereafter erected or structurally altered shall exceed neither 75 feet nor six stories in height.
  - E. *Off-street parking and loading*. In the district off-street parking and loading facilities shall be provided in accordance with section 10-1-13 of this chapter.
  - F. *Vision clearance*. Vision clearance shall be provided at all street intersections and at all alley and driveway intersections in accordance with section 10-1-15.

(Amended 1-6-2020)

### **Sec. 10-1-29. I-2 industrial district.**

- A. *Use*. In the I-2 industrial district, no building or premises shall be used and no building shall be hereinafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses.
  - (1) *Principal permitted uses*.
    - (a) Agricultural and farming, but not including fur farms, poultry farms or farms operated for the disposal of garbage, rubbish or offal.
    - (b) Business, professional and clerical offices.
    - (c) Communication towers and antennas.
    - (d) Contractor offices and shops including sales, service and repair of related products and equipment with no outdoor operations and no outdoor storage, excluding heaving construction and landscape contractors.
    - (e) Laboratory.
    - (f) Manufacturing, processing, repairing, warehouse or assembly of previously prepared material.
    - (g) Municipal facilities.
    - (h) Wholesale establishment.
  - (2) *Accessory uses*.
    - (a) Accessory buildings for the storage of vehicles, materials or equipment related to a permitted use.
    - (b) Dock facility.
    - (c) Essential services.
    - (d) Off-street parking and loading facilities.
    - (e) Rail tracks and spur lines.
    - (f) Retail sales of products manufactured on the premises or products which are sold wholesale from the premises. Retail sales shall be incidental to the principal permitted use and shall be limited to 25 percent of the gross floor area of the principal building and all accessory buildings.
    - (g) Shipping containers used for storage in accord with Sec. 10-1-15J(5).

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- (h) Signs in accord with chapter 10-4.
- (3) *Conditional uses.*
- (a) Animal hospital and kennel.
  - (b) Auction facility, business.
  - (c) Auction facility, industrial.
  - (d) Day-care center.
  - (e) Flea market, excluding any special event authorized by the city council.
  - (f) Heavy contractor's yards and equipment storage.
  - (g) Junkyard.
  - (h) Private utilities.
  - (i) Ready-mix concrete plant and related facilities including material storage, processing and roadway material recycling operations.
  - (j) Recreational facility, indoor or outdoor.
  - (k) Recreational vehicle, sales, service and storage.
  - (l) Recycling of scrap and waste materials with outdoor storage.
  - (m) Sanitary landfill.
  - (n) Self-storage.
  - (o) Truck terminals and related service facilities.
  - (p) Utility trailer and truck rental.
  - (q) Wind energy systems.
- (4) *Prohibited uses.* Any use not specifically permitted is subsection A(1), (2) and (3).
- B. *Open storage.* Open storage permitted if it is out of public view or contained within an opaque fence or wall eight feet high or a visual screen consisting of evergreen or evergreen-type hedges or shrubs, spaced at intervals of not more than six feet, which grow uniformly to a height of eight feet or more after one full growing season and which will eventually grow to a height of not less than 16 feet. They shall be located and maintained in good condition within 15 feet of the property line.
- C. *Minimum yard dimensions.*
- (1) *Total area:* 7,500 square feet minimum.
  - (2) *Setback:* 25 feet minimum.
  - (3) *Side yard:* ten feet excluding rail track or public alley, except where adjacent to a residential zone, in which case the side yard shall be not less than 25 feet.
- D. *Height.* Buildings hereafter erected or structurally altered shall exceed neither 75 feet nor six stories in height.
- E. *Off-street parking and loading.* Facilities for off-street parking and loading shall be provided in accord with section 10-1-13.
- F. *Vision clearance.* Vision clearance shall be provided at all street intersections and at all alley and driveway intersections in accordance with section 10-1-15.

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(Amended 1-6-2020)

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-30. Recreational vehicle courts.**

A. *Definitions.* As used in this section, the following terms shall have the meanings indicated:

*Recreational vehicle court.* Any plot or plots of ground upon which two or more recreation vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

*Recreational vehicle site.* A plot of ground within a recreational vehicle park intended for the accommodation of a recreational vehicle as defined herein.

*Tent.* A portable lodge of canvas, strong cloth, or other similar material stretched and sustained by poles. In this section, one tent shall be considered the equivalent of one recreational vehicle.

B. *Area of applicability.*

- (1) Recreational vehicle courts shall be located only in waterfront business districts, Industrial districts or in the B-2 business district.

C. *Recreational vehicle court plan.* For recreational vehicle courts at such locations as may be approved by the city council upon review by the plan commission according to the minimum standards as hereinafter specified:

- (1) The site of a recreational vehicle (RV) court/campground must consist of one or more contiguous parcels of one-half acre or more. A site can consist of land owned or leased by the applicant. A recreational vehicle court may be a principal use or a subordinate use in conjunction with a marina, tavern, hotel, motel or industry. Land leased by the applicant cannot be occupied by a building nor be required yard area or parking area for such building and must be devoted for use by occupants of the recreational vehicles. The site cannot be separated by a waterway or public way. Parcels contiguous only at a point do not constitute contiguous parcels.
- (2) *Plan review.* Any person making application for a recreational vehicle court conditional use permit shall submit with his written application a proposed plan in triplicate, which shall be subject to the review process set forth in section 10-1-39, concerning review of planned unit development applications.
- (3) *Area of court.* No permit shall be issued for the establishment of a recreational vehicle court unless such court contains not less than one-half acre of land to provide a minimum of six recreational vehicle sites. An additional 1,200 square feet shall be provided for each additional recreational vehicle site over six to a maximum of 100 sites; however, nothing herein contained shall prevent the location of a recreational vehicle court on land upon which is located another commercial establishment, providing the provisions of this subsection C.(3) are met.
- (4) *Multiple usage.* In the event that a recreational vehicle court is to be used for other commercial uses, such other uses shall be clearly stated in the application for a conditional use permit shown on the court plan. They shall be of a type compatible with the proposed court as well as with the adjacent areas. The number, size and type of such other uses shall be subject to the approval of the city council upon the recommendation of the plan commission, and no new uses shall be instituted nor existing uses expanded without such approval. If the other use is a marina or is otherwise related to fishing, it shall be required that the operator of the recreational vehicle court shall provide a suitable means for

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the disposal of fish entrails and other wastes that are likely to be generated. It shall be the responsibility of the operator to maintain the court in a neat, orderly, sanitary and safe condition.

- (5) *Landscaping required.* Along each boundary line of a recreational vehicle court there shall be a landscape planting which shall be so designed and maintained as to be 50 percent or more opaque between two feet and eight feet above average ground level at maturity to effectively screen the facility from view. A planting plan shall be submitted as part of the initial recreational vehicle court plan. Not more than two openings for access shall be provided in such planting, the sizes and locations of which shall be subject to review and approval by the plan commission and city council. Such planting shall be completely installed in the first growing season following the issuance of the permit. The city council, upon the recommendation of the plan commission, may authorize other suitable means of screening a recreational vehicle court, such as a fence of such design and construction as to effectively present a 90 percent opaque vision barrier from grade to a height of six feet. Any fence authorized in lieu of the aforementioned planting shall be maintained in good condition at all times, and the operator shall prevent any handbills, posters, signs or advertising from being placed on or over same.
- (6) *Construction standards.* In addition to the standards set forth in this chapter, recreational vehicle courts shall be constructed in compliance with the pertinent rules of the Department of Agriculture, Trade and Consumer Protection as set forth in Ch. ATCP 79, Wis. Adm. Code.

D. *Recreational vehicle court conditional use permit.*

- (1) *Maximum number.* The maximum number of recreational vehicle courts in the city shall be ten.
- (2) *Application to contain.* Application for conditional use permit for recreational vehicle court shall be in writing signed by the applicant and shall contain the following:
  - (a) The name and address of the applicant.
  - (b) The name and address of the owner of the property if different from that of the applicant.
  - (c) The location and legal description of the proposed recreational vehicle court.
  - (d) The complete plan of the court.

E. *Use for dwelling purpose and occupancy period.* No person shall place a mobile home or shall place a recreational vehicle within the city for dwelling purposes, either temporary or permanent, on any land located outside a recreational vehicle court. Occupancy within an authorized recreational vehicle court is permitted from April 1 to November 30. Such occupancy period in recreational vehicle courts may be extended by special permit as approved by the city manager.

F. *Use for nonresident purposes.* No person shall hereafter place or use a mobile home or a recreational vehicle for the conduct of any business, profession, occupation, or trade as a selling or advertising device on any land within the city except for the following:

- (1) A mobile home or recreational vehicle shall not be considered to be permissible as an accessory building.
- (2) A mobile home or recreational vehicle may be used as a temporary office or shelter incidental to construction on or development of the premises on which it is located only during the time construction or development is underway.
- (3) Mobile homes and recreational vehicles occupied as temporary living quarters by persons involved in special events or which are equipped to perform a public service function and operated or sponsored by governmental, civic or other like organizations shall be allowed within the city by special permit at such locations and for such durations as shall be approved by the city manager.

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- (4) Recreational vehicles may be occupied for temporary dwelling purposes on private property in residential districts by special permit at such locations and for such durations as approved by the city manager.
  - G. *Nonconforming uses.* A mobile home located within the city and occupied as a permanent residence at the time of the passage of this section shall hereafter be deemed a nonconforming use and may continue as such but shall be treated in the same manner and under the same rules as any other nonconforming use.
  - H. *Storage.*
    - (1) *Mobile homes.* Except as provided in this chapter, no person shall store a mobile home on any land within the city.
    - (2) *Recreational vehicles.*
      - (a) The storage of one recreational vehicle in an accessory private garage building, in the rear yard or in an interior side yard of any occupied dwelling is permitted, provided that no living quarters shall be maintained nor any business practiced in such recreational vehicle while the same is so parked or stored.
      - (b) Within an authorized recreational vehicle court, a recreational vehicle may be stored unoccupied during the four-month winter season from December 1 to March 31.
  - I. *Parking on streets.* Emergency or temporary parking of a mobile home or recreational vehicle on the city streets is permitted for not longer than 24 hours, provided such mobile home and recreational vehicle shall be subject to all other traffic and parking regulations of the city.
  - J. *Repair.* Mobile homes and recreational vehicles when unoccupied may be left a reasonable time for repairs at any place where such repairs are ordinarily made.
  - K. *Sales lots.* Unoccupied mobile homes and recreational vehicles may be stored for the purpose of inspection and sale upon any manufactured home, mobile home, manufactured dwelling or recreational vehicle sales lot.

### **Sec. 10-1-31. OSB office/service business district.**

- A. *Intent.* The office/service business district (OSB) is intended to provide for office and service business uses consistent with the city's comprehensive plan. This type of district is intended to be located in areas served by high-traffic arterials and should include amenities such as ample off-street parking areas, landscape screening from adjacent nonbusiness uses, and high-quality architectural appearance. It is intended that the office uses predominate in this district and that service businesses be allowed only as conditional uses and must be compatible with office uses and not exhibit noxious or unattractive characteristics. This district has been established to encourage and promote office uses in an environment that is of the high quality and character to result in attractive building groupings at appropriate locations along major roadways.
- B. *Permitted principal uses.*
  - (1) Banks and financial institutions.
  - (2) General headquarters offices.
  - (3) Medical and dental clinics and offices.
  - (4) Office services including copying services, blueprinting, and similar functions.
  - (5) Other professional, administrative and public service offices.
  - (6) Real estate, insurance, financial or tax consultant offices.

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- (7) Research establishments and laboratories.
  - (8) Travel agencies.
- C. *Permitted accessory uses.*
- (1) Garages for storage of vehicles or equipment used in conjunction with the principal use.
  - (2) Ground-mounted and building-mounted dish antennas.
  - (3) Off-street parking and loading areas.
  - (4) Outdoor storage of materials and/or vehicles and/or equipment accessory to that principal use. All such outdoor storage areas shall be screened or fenced from view from nearby public streets and from nearby residential areas in accord with a site plan depicting such screening or fencing.
  - (5) Service buildings or structures accessory to the principal use.
  - (6) Signs in accord with the city sign code (see chapter 10-4).
- D. *Conditional uses.*
- (1) Barbershops, beauty shop, hair salons.
  - (2) Day-care facilities.
  - (3) Drive-in facilities to serve permitted uses.
  - (4) Funeral parlors.
  - (5) Health clubs.
  - (6) Hotels or motels.
  - (7) Studios for photography, painting, music, sculpture or dance.
- E. *Prohibited uses.* The following uses shall be prohibited.
- (1) Any wholesale or retail business, commercial enterprise, trade or industry that is, in the opinion of the plan commission, obnoxious or offensive by reason of dust, smoke, odor, gas or noise or which is hazardous, harmful, offensive or adverse to the environment or to the property values of the neighborhood or the community.
  - (2) Drive-in or fast food establishments where food, drink or refreshments are served or sold and the nature of the business operations is such, or the facilities are designed, to in any way encourage the consumption of the same on any part of the premises used for automobile parking.
- F. *Dimensional requirements.*
- (1) *Minimum lot area:* 20,000 square feet.
  - (2) *Minimum lot width:* 100 feet.
  - (3) *Minimum setbacks.*
    - (a) Principal building.
      - [1] Front yard: 25 feet.
      - [2] Corner side yard: 25 feet.
      - [3] Interior side yard: 10 feet.
      - [4] Rear yard: 25 feet.

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- (b) Accessory buildings and structures.
    - [1] Front yard: not permitted.
    - [2] Corner side yard: not permitted.
    - [3] Interior side yard: 10 feet.
    - [4] Rear yard: 10 feet.
  - (4) *Maximum building height:* 35 feet.
  - (5) *Maximum lot coverage.* A maximum of 80 percent of the lot area may be covered by buildings, parking and drive areas, and a minimum of 20 percent of the lot area shall be landscaped open space. Any drive areas required for fire access lanes may be located within the 20 percent open space.
  - G. *Parking requirements.* The requirements of section 10-1-13.C. of this chapter of the Code shall apply to this district.
  - H. *Site plan requirements.* The requirements of section 11-1-11.C. of this Code shall apply to this district.

### **Sec. 10-1-32 IPF institutional/public facilities district.**

- A. *Intent.*
  - (1) The institutional/public facilities district (IPF) is intended to regulate areas where public, quasi-public or institutional uses are located. Because uses in the IPF district are diverse and include a wide range of activities, their operational characteristics may require special regulations and site improvements to enhance their compatibility with nearby areas.
  - (2) Such uses may include areas where existing or proposed government or public service activities are conducted, including schools, religious and other nonprofit activities. The IPF district may also include privately owned and for-profit institutional uses which are quasi-public in nature.
- B. *Permitted principal uses.*
  - (1) Armories.
  - (2) Art galleries.
  - (3) Cemeteries and mausoleums.
  - (4) Churches, synagogues, temples and similar places of religious worship.
  - (5) Community and public buildings.
  - (6) Convention centers.
  - (7) Day-care facilities.
  - (8) Essential services.
  - (9) Fire stations.
  - (10) Golf courses.
  - (11) Gymnasiums.
  - (12) Hospitals.
  - (13) Libraries.
  - (14) Lodges, private clubs, labor and civic or fraternal organizations.



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- (15) Medical clinics.
  - (16) Municipal building and facilities, including storage facilities.
  - (17) Museums.
  - (18) Nursing homes.
  - (19) Police stations.
  - (20) Public administrative offices.
  - (21) Public service buildings.
  - (22) Public utility offices.
  - (23) Public parks.
  - (24) Sanatoriums.
  - (25) Schools, colleges, universities (public or private).
  - (26) Swimming pools.
  - (27) Visitor centers.
  - (28) Wastewater pumping and treatment facilities (publicly owned).
  - (29) Water storage facilities.
  - (30) Water pumping and treatment facilities (publicly owned).
  - (31) Waysides.

C. *Conditional uses.*

- (1) Assisted living facilities for the elderly.
- (2) Bars accessory to a permitted use.
- (3) Community-based residential facilities.
- (4) Community living arrangements.
- (5) Communications towers and antennas.
- (6) Congregate housing for the elderly.
- (7) Country clubs and private golf courses.
- (8) Food service accessory to a permitted use.
- (9) Funeral homes and crematories.
- (10) Pedestrian walkways connecting adjacent institutional uses. Such walkways may be located in required side yard or rear yard setbacks.
- (11) Private parks and other private recreational facilities both indoor and outdoor.
- (12) Recycling facilities (publicly owned).
- (13) Residential care facilities for the elderly.
- (14) Residential uses accessory to churches or other similar places of religious worship.
- (15) Small wind energy systems in accord with section 10-1-16.

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- (16) Telecommunications towers and antennas.
  - (17) Wildlife sanctuaries.
  - (18) Zoos.
- D. *Permitted accessory uses.*
- (1) Off-street parking and loading areas.
  - (2) Garages for storage of vehicles or equipment used in conjunction with the principal use.
  - (3) Ground-mounted and building-mounted dish antennas.
  - (4) Outdoor storage of materials and/or vehicles and/or equipment accessory to the principal use. All such outdoor storage areas shall be screened or fenced from view from nearby public streets and from nearby residential areas in accord with a site plan depicting such screening or fencing.
  - (5) Service buildings or structures accessory to the principal use.
  - (6) Signs in accord with the city sign code, chapter 10-4.
- E. *Prohibited uses.* Any business, commercial enterprise, trade, industry or use that is, in the opinion of the plan commission, obnoxious or offensive by reason of dust, smoke, odor, gas or noise, or which is hazardous, harmful, offensive or adverse to the environment or to the property values of the neighborhood or the community.
- F. *Dimensional requirements for lots platted after August 6, 2001.*
- (1) *Minimum lot area:* 20,000 square feet.
  - (2) *Minimum lot width:* 100 feet.
  - (3) *Minimum setbacks:*
    - (a) Principal building.
      - [1] Front yard: 30 feet.
      - [2] Corner side yard: 30 feet.
      - [3] Total side yard: 20 feet or 25 percent of lot width, whichever is greater, ten-foot minimum side yard width.
      - [4] Rear yard: 25 feet.
      - [5] Shore yard. In areas annexed to the city after May 7, 1982, shore yard requirements shall be in accord with Manitowoc County Shoreland Zoning provisions.
    - (b) Accessory buildings and structures.
      - [1] Front yard: not permitted.
      - [2] Corner side yard: not permitted.
      - [3] Interior side yard: 10 feet.
      - [4] Rear yard: 10 feet.
      - [5] Shore yard. In areas annexed to the city after May 7, 1982, shore yard requirements shall be in accord with Manitowoc County Shoreland Zoning provisions.
  - (4) *Maximum building height:* 35 feet.

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- (5) *Maximum lot coverage.* A maximum of 80 percent of the lot area may be covered by buildings, parking and drive areas, and a minimum of 20 percent of the lot area shall be landscaped open space. Any drive areas required for fire access lanes may be located within the 20 percent open space.
- G. *Dimensional requirements for lots platted prior to August 6, 2001.* Dimensional requirements for existing buildings and structures on IPF lots platted prior to August 6, 2001, shall be as follows to minimize possible nonconforming circumstances:
- (1) *Minimum lot area:* none.
- (2) *Minimum lot width:* as platted.
- (3) *Minimum setbacks.* Setbacks, side yards, rear yards and shore yards for existing buildings and structures on IPF district lots existing prior to August 6, 2001, may be continued to avoid nonconforming circumstances. However, any additions or new structures on such lots shall meet the minimum dimensional requirements listed above in subsection F.
- (4) *Maximum building height:* none.
- (5) *Maximum lot coverage:* none.
- H. *Redevelopment sites.* Dimensional requirements for existing lots where redevelopment with new buildings and structures is proposed shall meet the minimum dimensional requirements listed above in subsection F.
- I. *Number of structures on a lot.* More than one principal structure may be permitted on a lot with plan commission approval.
- J. *Parking requirements.* The requirements of section 10-1-13 of this chapter of the Code shall apply to this district.
- K. *Site plan requirements.* The requirement of section 11-1-11.C. of the Code shall apply to this district.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-33. I-3 business park district.**

- A. *Purpose.* The I-3 business park district is intended to provide for the development of compatible manufacturing, warehouse, service business and office uses. The physical and operational characteristics of uses in this district are based on performance standards which would not be detrimental to the public health, safety or welfare or detrimental to the surrounding area as a result of noise, vibration, external lighting, odor, particulate emissions, other visible emissions, hazardous pollutants, traffic, physical appearance, or other similar factors. All uses in this district must comply with applicable local, state and federal codes and standards. Uses in the district are also intended to provide ample off-street parking and loading areas, and landscaped planting screens in those areas adjacent to or abutting residential areas or other noncommercial uses, to prevent adverse effects upon the adjoining areas.
- B. *Permitted uses.*
- (1) Business, professional, clerical or general offices.
- (2) Research laboratories.
- (3) Uses involving the manufacture and fabrication of goods within the confines of a building and in which any noise, vibration, heat or flash produced in any process is confined within the building at all times. Any odors produced or emitted in any process must meet applicable federal and state regulations for air emissions. See the performance standards in section 10-1-34.

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- (4) Uses providing a service in which noise, vibration, heat, or flash produced on the premises by such service uses is confined within a building. Any odors produced or emitted must meet applicable federal and state regulations for air emissions.

C. *Accessory uses.*

- (1) Food service areas or cafeterias incidental to a permitted use, but not restaurants.
- (2) Garages or buildings used for the storage of vehicles or equipment used in conjunction with the operation of a permitted use.
- (3) Ground-mounted and building-mounted dish antennas.
- (4) Off-street parking and loading areas.
- (5) Outdoor storage of materials or manufactured products, trucks, trailers and equipment accessory to the principal use. All such outdoor storage areas shall be screened from view from nearby public streets and from nearby residential areas in accord with an approved site plan.
- (6) Retail sales of products integral with and incidental to a service or manufacturing business located on the same premises.
- (7) Shipping containers used for storage in accord with section 10-1-15.J.(5).

D. *Conditional uses.*

- (1) Banks, credit unions and similar financial institutions.
- (2) Billboards.
- (3) Buildings for the storage of goods and materials, which such goods or materials are stored inside a building, provided such building is not a mini warehouse building, subdivided into more than three multiple warehouse, and storage facilities containing less than 1,500 square feet each and available for sublease.
- (4) Bulk mail receiving, forwarding and storage.
- (5) Communication towers, antennas, structures and facilities.
- (6) Day-care facilities.
- (7) Flea market, excluding any special event authorized by the city council.
- (8) Incineration in conjunction with and incidental to a service or manufacturing business.
- (9) Indoor athletic facilities.
- (10) Medical clinics.
- (11) Public or municipal buildings.
- (12) Public utility structures.
- (13) Veterinary clinic/animal hospital.

E. *Prohibited uses.* In addition to other uses not expressly permitted in this district, the following uses are specifically prohibited and are listed by way of example but not limitation:

- (1) All types of residential uses, except guard quarters.
- (2) Automobile storage, salvage, recycling yards, or similar uses.
- (3) Churches, synagogues, schools or similar institutional uses or places of religious worship.

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- (4) Contractors' yards and the outdoor storage of construction equipment.
  - (5) Drop forges, ferrous and brass foundries, grain elevators, refineries or tanneries.
  - (6) Fertilizer storage or packaging.
  - (7) Self-storage facilities.
  - (8) New and used car and truck sales.
  - (9) Planing mills and sawmills.
  - (10) Principal uses involving the storage, utilization or manufacture of hazardous materials or products which decompose by detonation.
  - (11) Restaurants, but not prohibiting food service areas or cafeterias incidental to a permitted use.
  - (12) Retail uses and wholesale buying clubs unrelated to products manufactured on the premises.
  - (13) Solid and liquid waste disposal, dumping, medical waste storage or disposal, or similar waste management uses.
  - (14) Stockyards, slaughterhouses, rendering plants, asphalt and concrete plants.
  - (15) Storage and dispensing of fuels and petroleum products.
  - (16) Truck terminals.
- F. *Performance standards.* Uses in the I-3 business park district shall comply with the provisions and performance standards set forth in section 10-1-34.
- G. *Number of buildings per lot.* Each lot shall contain a maximum of one principal building. There shall be no limit on the number of accessory buildings, provided that the lot coverage/open space requirement described in subsection I. are complied with.
- H. *Lot area and width.*
- (1) Lots shall be a minimum of 40,000 square feet in area.
  - (2) Lots shall not be less than 200 feet in width.
- I. *Lot coverage and open space.* To achieve an attractive appearance and to provide green areas for stormwater management and sedimentation control, lot coverage by buildings, accessory structures, and surface parking and driveway shall occupy a maximum of 75 percent of the lot area. Landscaped open space not covered by buildings, accessory structures, and surface parking and driveways shall occupy a minimum of 25 percent of the lot area. The open space may include stormwater retention/detention areas.
- J. *Setback and yards.*
- (1) A minimum street yard (setback) of 50 feet from any existing or planned public street right-of-way shall be required. There shall be a minimum interior side yard of not less than 25 feet on a side.
  - (2) There shall be a minimum rear yard of not less than 25 feet.
  - (3) Accessory uses, accessory buildings or accessory structures shall be located in side or rear yards only, and shall be set back a minimum of ten feet from a side or rear lot line.
  - (4) Outdoor storage areas shall be located in side or rear yards only and shall be set back a minimum of ten feet from a side or rear lot line. This includes parking lots in corner lot side yards.
  - (5) Parking lots located in side or rear yards shall be set back a minimum of ten feet from a side or rear lot line. This includes parking lots in corner lot side yards.

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- (6) Parking lots located in side or rear yards shall be set back a minimum of 25 feet from the street right-of-way line.
  - (7) Setbacks and buffer yards adjacent to residential districts or residential uses. On Business Park district lots adjacent to a residential district, all outdoor storage areas, accessory buildings, or accessory uses, including parking lots, shall provide a greater setback to provide a buffer yard. Any such uses shall be set back a minimum of 25 feet from a property line adjacent to or abutting a residential district. The buffer yard area shall be landscaped or fenced, or a combination thereof, to screen such uses in accord with a site plan requiring such screening or fencing.
- K. *Building height.* No building or parts of a building shall exceed 45 feet in height. Accessory buildings or structures shall not exceed 20 feet in height.
- L. *Parking facilities, driveways, loading and storage areas.* Parking facilities, driveways, loading and storage areas shall be paved with either asphaltic concrete or portland cement concrete prior to the occupancy of the building. Peripheral edge landscaping shall be installed around the edges of parking areas visible from public street or residential areas.
- M. *Loading areas and docks, garbage and trash areas.* Loading areas or docks shall be located in side or rear yards. Outdoor garbage and trash areas shall be enclosed with a fence or wall of solid decorative materials compatible with the principal building.
- N. *Signs.* Signs in the I-3 business park district shall be erected and maintained in conformity with the following:
- (1) Signs shall be restricted to displaying only the person, firm, company or corporation operating a business on the premises.
  - (2) One freestanding, two-sided ground sign, with the name of the business and address, not exceeding 300 square feet in area per side, shall be erected. plan commission approval is required for all freestanding signs.
  - (3) A wall sign containing the company name and logo may be installed on one building facade, provided the sign does not exceed five percent of the area of the building facade to which it is attached, excluding doors and windows, or 100 square feet in area, whichever is less. Wall signs shall be approved by the plan commission.
  - (4) Signs shall be permanently affixed to the face of the building or to the ground and shall not flash, pulsate, rotate or be affixed with moving appurtenances. Rooftop signs are prohibited.
  - (5) Signs attached to buildings shall not extend more than two feet above the higher of the ceiling line of the top floor or the top of a parapet wall.
  - (6) Smaller signs adjacent to individual tenant entrances and identifying individual tenants or directing traffic may also be allowed by the plan commission.
  - (7) All signs must be architecturally compatible with other improvements.
  - (8) Temporary signs may be allowed for a period not to exceed 60 consecutive days within a calendar year.
  - (9) Off-premises signs oriented along high-speed FAP highways shall abide by the provisions in section 10-4-18.D.
- O. *Exterior lighting:*
- (1) Exterior lighting shall be located, oriented and shielded and of an intensity so as to illuminate only the building or lot without adversely affecting activity on adjacent buildings, lots or traffic on street and highways.
  - (2) The emission of exterior light shall be directed away from nearby residential areas.

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- (3) Exterior lights shall not flash, pulsate, nor impair or hinder vision on public street rights-of-way or adjacent properties.
  - (4) Exterior lighting shall meet the standards promulgated by the Illuminating Engineering Society of North America.
  - P. *Site plan and architectural approval required.* No building, structure or improvement shall be constructed or placed on any lot, nor shall any building structure or improvements be remodeled or altered until site and architectural plans for such improvements have been approved by the plan commission in accord with the requirements of section 11-1-10 of this Code relating to such site and architectural approvals.
  - Q. *Compliance with business park covenants.* The uses in the I-3 business park district are required to comply with other additional requirements contained in covenants applicable to the business park.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-34. Performance standards for I-3 business park district.**

- A. *Intent and compliance.* It is the intent of this section to describe performance standards for the regulation of industrial and commercial uses in the I-3 business park district to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or outside the business park zoning district. In addition, these performance standards are intended to comply with other applicable, local, state and federal codes and standards. All uses, structures, land, air and water in the I-3 business park district shall hereafter comply with the following performance standards.
- B. *Control of hazardous air pollutants and emissions.* Operation or activities which emit into the ambient air from any direct or portable source any matter that will affect air quality shall perform in accord with the limitations and procedures established in Ch. NR 400 through Ch. NR 449, Wis. Adm. Code, or other applicable laws or regulations. Hazardous pollutants are specifically controlled in accord with Ch. NR 445, Wis. Adm. Code.
- C. *Control of particulate emissions and dust.*
  - (1) Operations of activities which emit into the ambient air from any direct or portable source any particulate emissions shall perform in accord with the limitations and procedures established in Ch. NR 415, Wis. Adm. Code, or in other applicable laws or regulations which regulate particulate emissions.
  - (2) Fugitive dust and other types of emissions and air pollution from sources such as storage areas, outdoor operation yards, and roads or parking lots shall be kept to a minimum by appropriate paving, spraying/watering, application of suitable chemicals, landscaping, or other acceptable and environmentally safe methods in accord with § NR 415.04, Wis. Adm. Code, or other applicable laws or regulations.
- D. *Control of odors.* No operation of activities shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Ch. NR 429, Wis. Adm. Code, or other applicable laws or regulations.
- E. *Control of fire and explosive hazards.*
  - (1) All uses 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

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with adequate firefighting and fire suppression equipment and devices as may be required by the fire code and/or fire department.

- (2) All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire-extinguishing system.
- (3) The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the fire department and in accord with its requirements to minimize fire and explosive hazards.

F. *Glare, heat and external lighting.*

- (1) No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the I-3 business park district. Operations producing light, glare or heat shall be conducted entirely within an enclosed building.
- (2) External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

G. *Water quality standards.*

- (1) No activity shall locate, store or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant or aquatic life.
- (2) No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards set forth in Ch. NR 102, Wis. Adm. Code, or in other applicable laws or regulations which regulate water quality.
- (3) Operations in the I-3 business park district which may discharge wastewater other than toilet wastewater to the Two Rivers Wastewater Treatment Plant shall install a sampling manhole to allow monitoring of wastewater discharges.

H. *Noise.* No operations or activity shall transmit any noise beyond the boundaries of the I-3 business park district so that it becomes a nuisance.

I. *Vibration.*

- (1) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. "Vibration perception threshold" means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- (2) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

**Sec. 10-1-35. CSD conservation subdivision district.**

A. *Purpose:*

- (1) To preserve environmentally sensitive lands through permanent preservation of open space and natural resources with housing concentrated on portions of the site that have lower quality natural features.



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- (2) To provide open space areas that are commonly owned for passive and/or active recreational use by residents of the development, and where specifically established, for use by the general public.
  - (3) To minimize disturbance to environmentally sensitive areas, protect biological diversity, and maintain environmental corridors in their natural state to the extent practical.
  - (4) To preserve scenic views by minimizing views of new development from existing roads.
  - (5) To provide buffering between residential development and nonresidential uses.
- B. *Definition of conservation subdivision.* As used in this section, the following term shall have the meaning indicated:
- Conservation subdivision.* A housing development characterized by extensive open space, where natural features of the land are maintained in their natural state to the extent practical. Residential dwellings in such subdivision are located on portions of the site with lower quality natural features and should be adjacent to or overlook open space.
- C. *Platting methods and applicability of other records.* Conservation subdivisions may be created by platting methods including certified survey maps, subdivision plats, or condominium plats. All of the city's land development regulations applying to each of the platting methods shall be applicable to a conservation subdivision, except as noted in this section.
- D. *Density and lot size standards.* The density and lot size standards of a conservation subdivision shall be as required in the underlying zoning district.
- E. *Setback and yards.* The minimum setback and yard requirements in the underlying zoning district may be modified in a conservation subdivision to provide flexibility in the siting of homes relative to the attributes of the individual lots or site in the development.
- F. *Common open space.* A conservation subdivision shall provide common open space as follows:
- (1) A minimum of 25 percent of the subject parcel shall be common open space. The city may require a greater percentage of common open space where the attributes of the subject site warrant more open space.
  - (2) Prior to any final approval action on a conservation subdivision, the city shall review the proposed common open space to determine if any public parklands or any other public land dedication is necessary in conjunction with the conservation subdivision.
  - (3) The ownership, maintenance, and stewardship of common open space, if privately held, shall be accomplished by a homeowners' association and/or condominium association in accord with Ch. 703, Wis. Stats., unless the city permits public ownership of such areas as described in subsection F.(6). The subdivision applicant shall provide the city a description of the bylaws of the proposed association and all documents governing the ownership, maintenance, and use restrictions for common facilities. The association shall be established by the owner of the subdivision developer prior to the sale of any lots or dwelling units in the development. All documents to establish such associations shall be approved by the city attorney prior to their use by the developer.
  - (4) No such owners' association shall be allowed to default and result in the common open space being owned and maintained by the public.
  - (5) Any amendments to the common open space documents after their initial approval shall be reviewed and approved by the city attorney prior to such amendments taking effect.
  - (6) Common open space may be owned and maintained by the public, provided the purposes described above in subsection A. are satisfied.
  - (7) The following uses are permitted in common open space land areas:

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- (a) Conservation of open land in its natural state (for example, woodland, wetlands, fallow field or managed meadow).
  - (b) Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
  - (c) Neighborhood open space uses such as common areas, picnic areas, community gardens, trails and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the plan commission.
  - (d) Active noncommercial recreation areas, such as playing fields, playgrounds, courts and bikeways, provided such areas do not encroach on environmentally sensitive areas. Playing fields, playgrounds, and courts shall not be located within 50 feet of abutting properties. Parking facilities for the same shall also be permitted.
  - (e) Golf courses may comprise the open space land. Their parking areas and any associated structures shall not count toward the minimum open space requirements; their parking and accessways may be paved and lighted.
  - (f) Water supply and sewage disposal systems, and stormwater detention areas, designed, landscaped, and available for use as an integral part of the open space.
  - (g) Easement for drainage, access, sewer or water lines, or other public purposes.
  - (h) Underground utility rights-of-way and street rights-of-way may traverse conservation areas but shall not count toward the minimum required open space land.
  - (i) Public use of common open space may be allowed if agreed to by the developer and the city.
- G. *Required improvements and design standards.* Required improvements and design standards related to conservation subdivisions may be reduced to create a lower impact on the natural environment and provide a greater degree of environmental protection. Infrastructure requirements and modifications shall be reviewed on an individual development basis to determine the appropriate infrastructure based on each site's unique attributes. Modifications to infrastructure design standards may include, but are not limited to, the following:
- (1) Reduced street pavement width.
  - (2) Asphalt street surfacing in lieu of concrete.
  - (3) Elimination of vertical-faced concrete curb and gutter.
  - (4) Elimination of concrete sidewalks and substitution with a trail system.
  - (5) Utilizing natural open drainageways in place of storm sewers.
  - (6) Installing lower intensity streetlighting with greater spacing between fixtures and lower wattage fixtures.
  - (7) Different landscape treatments in lieu of planting conventional street trees.
- H. *Financial guarantees and impact fees.* Financial guarantees, including those required as part of a conventional subdivision development agreement, and impact fees shall be applied to a conservation subdivision.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

**ARTICLE D. PLANNED UNIT DEVELOPMENTS**

**Sec. 10-1-36. PUD purpose.**

This article of the zoning ordinance of the City of Two Rivers is hereby adopted to facilitate the construction of planned unit developments. The planned unit development district and uses created herein are intended to provide opportunity for the construction of quality developments by providing flexible guidelines where strict adherence to zoning codes preclude the use of innovative but sound development principles.

**Sec. 10-1-37. PUD area of applicability.**

A planned unit development shall be a separate residential district that is identifiable as a distinct neighborhood and may contain one-, two- or multi-family dwellings. A day-care facility may be a conditional use in accordance with section 10-1-12 of this chapter.

**Sec. 10-1-38. PUD development controls.**

A. *Yards.*

- (1) A landscaped yard shall be provided and maintained along all streets and traveled rights-of-way. The yard shall be at least 25 feet in depth along all streets as measured from the street right-of-way. The yard shall extend along the entire frontage(s) of the lot except for driveways and shall be kept clear of all storage, structures and off-street parking.
- (2) *Exceptions.* Any landowner intending to propose a yard of less than the required 25-foot depth must first apply for and receive a variance to that requirement. The plan commission may approve the variance if, in its judgment, the alternative plan is in conformity with the intent and purpose of this section and reasonably related to the established pattern of the neighborhood. Before any such alternative plan shall be approved it shall contain as a minimum a buffer area on both sides of driveways and curb cuts a minimum of 25 feet in depth as measured from street right-of-way and not less than eight feet in width as measured parallel to the driveway.

B. *Interior side yard.* An interior side yard shall be provided for those parcels in a planned unit development district which border upon other districts; such side yard shall abut the adjacent district and shall be not less than eight feet in width except that, for accessory buildings not exceeding 500 square feet in area, the minimum width of such interior side yard shall be three feet.

C. *Exterior storage.*

- (1) All materials, machinery and equipment shall be stored within a building or fully screened so as not to be visible from adjoining or adjacent lands, except for the following: laundry drying lines and recreational equipment; construction materials, machinery and equipment currently being used on the premises during the course of construction; landscaping equipment and machinery currently being used or intended for use on the premises.
- (2) Major recreational equipment, defined for the purposes of this section as travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, less than eight feet in height above the ground, may be stored in any rear yard except when such yard is adjacent to a street. In addition to the general eight-foot height permitted, minor portions of such equipment not exceeding four square feet in vertical cross-section as viewed from the adjacent lot line is permitted. No such equipment shall be stored out of doors unless it is in condition for safe and effective

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performance of the function for which it is intended or can be made so at a cost not exceeding the value of the equipment in its existing state; in no event shall any such equipment be so stored for a period of more than 60 days if not in condition for safe and efficient performance of its intended function.

- D. *Refuse.* In all areas all waste material, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. Trash and garbage receptacles must be screened from view from off the site and are prohibited in front yards and in the setback area of rear and side yards.
- E. *Landscaping.* Landscaping shall be provided and maintained for all yard areas except those utilized for driveways and off-street parking and shall consist of grass, shrubs and trees suitable for the climatic and soil conditions of the site area.
- F. *Off-street parking.* Off-street parking and loading facilities shall be provided with a site plan recommended by the plan commission and approved by the city council. Such facilities may vary from the requirements in Sec. 10-1-13.
- G. *Screening.* Screening shall be required where any off-street parking area contains more than four parking spaces. Such screening shall conform to the spirit of Sec. 10-1-13.
- H. *Traffic control.* The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure a safe and orderly flow.
- I. *Screening of roof-mounted equipment.*
  - (1) Roof-mounted mechanical equipment installed on buildings constructed within the planned unit development district shall be screened from view. This requirement shall be deemed satisfied when all parts of the roof-mounted equipment are not visible from ground-level observation or at any point on the property, adjacent property, or from adjacent streets.
  - (2) *Screening required by this section shall comply with the following:*
    - (a) The screening shall be permanently attached to the building and shall be capable of withstanding all load requirements as outlined in applicable codes.
    - (b) The screening shall be constructed with materials that are architecturally compatible with the building. The use of wood, in whole or in part, as a screening material shall not be considered as being architecturally compatible unless the building is constructed with a wood exterior.
    - (c) A parapet wall of sufficient height and as an integral part of the building shall be considered as approved screening.
    - (d) All rooftop screening shall be kept in repair or in a proper state of preservation.
    - (e) Existing screening which requires major alteration or replacement shall meet the requirements of this section.

### **Sec. 10-1-39. PUD application review.**

- A. *Review scope.* An application to construct a planned unit development must be reviewed in a manner which is consistent with the procedures set forth in this section and those procedures required by state statute.
- B. *Constitution of review authority.* Planned unit development applications shall be subject to review by the city council based on plan commission recommendations and a public hearing.
- C. *Preapplication conference.*

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- (1) A developer desiring to construct a planned unit development may request a preapplication conference with the plan commission prior to submitting an application.
  - (2) The purpose of this preapplication conference shall be to familiarize both the developer and the plan commission with each other's intentions with respect to the planned unit development. Although a preapplication conference shall not be required, this preliminary meeting between the plan commission and the developer is desirable since it should help clarify many procedural and policy issues.
  - (3) The developer shall not be required to present any written or graphic materials at the preapplication conference. The plan commission cannot approve a PUD at the preapplication conference.

D. *Development proposal.*

- (1) The written and graphic information specified in this section must be submitted for the entire proposed project. A copy of the development proposal shall remain open to the public during the application process and shall be located in the zoning administrator's office.
- (2) The purpose of the development proposal shall be to provide the plan commission with an opportunity for in-depth substantive review of the planned unit development before final designs are developed.
- (3) The development proposal shall include written and graphic materials.
  - (a) Written materials shall include, but not be limited to, the following:
    - [1] Legal description of the total development parcel proposed for development including exact location and a statement of present and proposed ownership.
    - [2] Statement of development concept, including the planning objectives and the character of the development to be achieved through the planned unit development.
    - [3] Development schedule indicating the appropriate date when construction of the planned unit development can be expected to begin and to be completed, including initiation and completion dates of separate stages of a phased development.
    - [4] Statement of intentions regarding the future selling or leasing of all or portions of the planned unit development, such as land area, dwelling units, and public facilities.
    - [5] The impact of the development on existing city services outside the development.
  - (b) Quantitative data, including:
    - [1] Parcel size.
    - [2] Proposed lot coverage of structures.
    - [3] Total amount of usable open space, both private and public.
    - [4] Total number and type of dwelling units by number of bedrooms.
    - [5] Approximate gross residential densities.
    - [6] Number of parking spaces to be provided.
    - [7] Total length of streets to be conveyed to the city government.
    - [8] Total length of streets to be held as private ways within the development.
    - [9] Description of type of other public works to be conveyed to the city government.
    - [10] Number and types of public facilities.
  - (c) Graphic materials shall include, but not be limited to, the following:

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- [1] Map of existing site conditions, including contours, watercourses, floodplains, unique natural features, existing vegetation, existing buildings.
  - [2] Existing and proposed lot lines.
  - [3] Location and size of gross floor area of all existing and proposed buildings, structures, and other improvements including maximum heights and types of dwelling units.
  - [4] Location and size in square feet of all usable open space and areas to be conveyed, dedicated or reserved as common open spaces and recreation areas.
  - [5] The existing and proposed circulation, including off-street parking areas, service areas, loading areas, and all points of access to existing public rights-of-way.
  - [6] Proposed pedestrian circulation system.
  - [7] Existing and proposed utility systems, including sanitary sewers, storm sewers, water and gas lines, and utility easements.
  - [8] Landscape plan indicating the treatment of materials used for private and common open spaces.
  - [9] Location of trash and garbage receptacles and type of screening.
  - [10] Proposed treatment of the perimeter of the development, including materials and techniques used, such as screens, fences, and walls.
- (d) Approval of the development proposal shall be granted by the city council upon the recommendation of the plan commission and following a public hearing where the development proposal:
- [1] Conforms with the general development controls set forth in this section.
  - [2] Conforms with adopted policy plans or development guidelines for the portion of the city in which the planned unit development district is located.
  - [3] Provides benefits to the city which outweigh its adverse effects; in making this determination, the plan commission shall consider the following:
    - [a] Quality of site design, including integration of a variety of land uses; building types, and densities; preservation of natural features, compatibility with adjacent land uses, provision and type of open space, provision of other amenities designed to benefit the general public.
    - [b] Traffic flow and safety.
    - [c] Adequacy of utilities and other public works facilities.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-1-40. PUD final development plan.**

- A. The final development plan shall be submitted to the zoning administrator. It shall include all of the previously specified data and, in addition, any changes approved by the city council.
- B. In lieu of completing all of the elements in the development proposal, the city manager may accept a bond in an amount equal to the estimated costs for completing the project.

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### **Sec. 10-1-41. Subsequent change or addition to approved PUD plan.**

Any subsequent change or addition to an approved plan shall first be submitted for recommendation to the plan commission. The plan commission shall make its recommendation to the city council. If in the city council's opinion the change or addition is substantial, keeping in mind how substantial is defined below, the city council shall call for a public hearing on such proposed change or addition. Without limitation to the city council's right to determine any other substantial change, a change may be construed to be "substantial" if it results in any of the following:

- A. An increase in density.
- B. An increase in traffic congestion.
- C. Creation of service problems.
- D. Change in project design, architecture, or aesthetics.

### **Sec. 10-1-42. Planned Development district (PDD).**

- A. *Intent.*
  - (1) Planned development district regulations are intended to permit greater flexibility and, consequently, more creative and imaginative design for the development of a site than is possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of land while providing a harmonious variety of housing choices, adequate buffering between adjacent uses, and preservation of the natural qualities of open spaces.
  - (2) The procedure described herein is designed to give the developer general plan approval before completing all detailed design work while providing the city with assurances that the project will retain the character envisioned at the time of approval.
- B. *General provisions.* The plan commission may recommend and the city council may, upon the request of the owners, establish planned development districts which will, over a period of time, tend to promote the maximum benefit from coordinated area site planning by permitting the diversified location of structures and mixed dwelling types and mixed compatible uses. Adequate buffering and preservation of open spaces shall also be provided in a PDD.
- C. *Permitted uses.* Permitted and accessory uses in a planned development district shall be the same as those permitted in the underlying existing zoning district in which the PDD is located. If a developer desires uses different than those permitted by the existing zoning, the developer must simultaneously petition for rezoning of the underlying existing zoning to a zoning district which allows the desired use(s).
- D. *Mixed uses.* A mix of different uses within a planned development district may be permitted if the plan commission and the city council determine that the mix of uses is compatible and necessary to achieve the objectives of the PDD.
- E. *Number of buildings on a lot.* The PDD may allow more than one building on a lot.
- F. *Density.* The PDD may permit the transfer of density (dwelling units) from one portion of the subject site to another and will permit the clustering of dwelling units in one or more locations within the total site. However, the density of use shall not exceed the density permitted in the underlying existing zoning district.
- G. *Minimum area for a PDD.* Planned development districts are intended to provide flexibility to encourage more creative design for all sizes of sites than would be allowed under conventional zoning. To achieve this goal, there is no minimum area for a PDD.

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- H. *Application of the subdivision and platting code.* To the extent applicable, any PDD shall be subject to the procedures and regulations of the subdivision and platting code. However, the design standards and required improvements established in the subdivision and platting code (see chapter 12-1 of this Code) may be modified or waived upon recommendation by the plan commission and approval by the city council where strict compliance would not result in achievement of the design flexibility necessary to accomplish the objectives of the planned development.
  - I. *Preliminary consultation.* An applicant may meet with the plan commission and appropriate city staff members for a preliminary consultation prior to formally submitting a rezoning petition for planned development zoning. The purpose of this preliminary consultation is to discuss the proposed request and review the local regulations and policies applicable to the project and discuss the land use implications of the proposal. The preliminary consultation shall not constitute approval of any planned development petition.
  - J. *Rezoning petition and general development plan.* The applicant shall submit a re-zoning petition in accordance with the application procedure described in section 10-1-53 of this chapter. In addition to the required information noted in section 10-1-53, a general development plan shall be submitted to the plan commission for its review prior to any rezoning hearing. The general development plan shall show the locations of buildings, common open space, parking and drive areas, principal landscaping features, buffer yards, and other major components of the proposed project. Density calculations and lot coverage percentages shall be noted on the general development plan.
  - K. *Other information.* In addition, other documents or related information or plans showing the architectural concepts of buildings may be required by the plan commission. This information shall also be submitted to the plan commission for its review prior to any rezoning hearing. Other related information may include, but is not limited to, maintenance standards, plans of operations, and economic impact and market feasibility.
  - L. *Public inspection.* The general development plan and related information shall be available for public inspection prior to any re-zoning hearing on the proposed project.

**Sec. 10-1-43. PDD conditions and restrictions; nonapplicability to preexisting planned unit developments.**

- A. The plan commission may recommend and the city council may adopt by ordinance conditions and restrictions for planned developments that specify permitted uses, density standards for lot coverage, and dwelling unit size and yard setbacks.
- B. Conditions and restrictions adopted to govern any planned development may include nonstandard or nonuniform requirements, regulations, and provisions recommended by the plan commission and approved by the city council. Such nonstandard requirements, regulations, and provisions shall be designed to insure proper development and appropriate operation and maintenance of specific sites.
- C. The developer(s) shall enter into a development agreement with the city to comply with all applicable laws and regulations, including any conditions and restrictions adopted to regulate a specific planned development, and to assure the construction of all facilities and infrastructure associated with the project. A financial guarantee satisfactory to the city Engineer may be required as part of such a development agreement.
- D. The provisions of this PDD article are not applicable nor retroactive to planned unit developments which existed prior to February 7, 2000. The preexisting planned unit developments shall continue to be regulated in accord with the provisions of the planned unit development district and any applicable development agreements.



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**Sec. 10-1-44. PDD detailed plans and information.**

- A. After PDD zoning has been granted, and the general development plan, together with conditions and restrictions, have been approved, detailed site plans and information covering that portion of the total project which is intended for construction shall be submitted to the plan commission for approval prior to the issuance of building permits. The detailed plans and information shall conform substantially to the general development plan and to the resolution of conditions and restrictions which were approved at the time of rezoning. The detailed site plans and information shall comply with the requirements and procedures in section 11-1-11.C. Approval of a separate development agreement may be required for each phase prior to the start of construction.
- B. Building plans complying with the requirements of section 11-1-11.C., or other applicable requirements of the building inspector, shall also be submitted to the plan commission for its review and approval prior to the issuance of a building permit.

**Sec. 10-1-45. Commencement of PDD project; maintenance of project; changes and revisions.**

- A. *Commencement of project.* After the plan commission has approved the detailed site plans, construction of private and public facilities may commence in accord with the following:
  - (1) No building permit shall be issued until all applicable fees and assessments have been paid and either all public and private utility and roadway construction has been completed and approved or a developer's agreement has been approved. For staged development, such developers' agreements may provide for the construction of improvements and the use of common areas outside of the subject stage.
  - (2) After the plan commission has approved the detailed plans, application for a building permit and construction of the project shall commence within one year of the approval date unless the time is extended in writing by the commission. In the event that construction has not commenced within one year of the approval date, the approval of the detailed plans shall lapse. Resubmittal and reapproval would be required for subsequent construction.
- B. *Maintenance of project.*
  - (1) Should the owner(s) of a planned development fail to properly operate or maintain the business or premises to the extent that a public nuisance is caused to occupants or neighbors, or constitutes a public nuisance to nearby residents, the plan commission may refuse to approve subsequent stages of development until such time as it determines that the situation and/or the method of operation has been corrected. A public "nuisance" shall be as defined in section 9-6-2 of the Municipal Code.
  - (2) Should the owner(s) of a planned development fail to adequately perform maintenance functions, such as snow and ice removal, weed cutting, or trash disposal, the city shall have the right to issue citations and fines to accomplish the maintenance functions. As an alternative, the city may perform such functions or contract for their accomplishment at the property owner's expense.
- C. *Changes or revisions.*
  - (1) *Submission.* All proposed changes, revisions, and additions to any aspect of an approved planned development project shall be submitted to the plan commission for its review. The plan commission shall determine if the change, revision or addition is minor or if it materially affects the intended design of the project and the impact of the project on neighboring uses.
  - (2) *Minor changes.* If the change is determined to be minor, the plan commission shall review the request and may approve the change without a public hearing. The plan commission's decision on minor

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changes shall be rendered at a meeting subsequent to the meeting at which the requested change was initially presented to the plan commission.

- (3) *Substantial changes.* If the requested change is determined by the plan commission to be substantial because of its effect on the intended design of the project or on neighboring uses, a public hearing shall be held by the city council. Prior to any final approval of the requested change by the city council, the plan commission shall review the requested change and forward a recommendation to the council.
- (4) Without limitation to the plan commission's right to determine any other substantial change, a change may be construed to be substantial if it results in any of the following:
  - (a) An increase in density.
  - (b) An increase in traffic congestion.
  - (c) Creation of service problems.
  - (d) Change in project design, architecture or aesthetics.

D. *Traditional neighborhood development/planned development district (TND/PDD).*

- (1) This district is intended to permit developments that incorporate design standards described as a "Traditional Neighborhood Development" (TND) Wis. Stats. § 66.1027(1)(c). TND developments may be considered for approval at locations determined appropriate by the city after processing such petitions in accord with procedures described in sections 10-1-42 through 10-1-45.C., pertaining to planned development district (PDD).
- (2) The document entitled "A Model Ordinance for Traditional Neighborhood Development," dated April 2001, published by the UW-Extension pursuant to Wis. Stats. § 66.1027(2), shall serve as a guidebook to describe the design standards and features of a TND/PDD project. The provisions of the planned development district shall be used to establish the procedures and other requirements to regulate a TND/PDD project.

## *ARTICLE E. DRIVE-IN BUSINESSES*

### **Sec. 10-1-46. Intent and purpose.**

The purpose of this article is to establish minimum standards and requirements governing location, operation, maintenance and regulation of drive-in businesses, such as those that offer goods or services directly to customers waiting in parked motor vehicles, including but not necessarily limited to deposit or receiving stations, establishments offering prepared foods and/or other products, and motor vehicle fuel-dispensing stations.

### **Sec. 10-1-47. Administrative provisions.**

A. *New drive-in business establishment.*

- (1) Any person intending to build a drive-in business establishment shall file a written application for conditional use permit as provided in this chapter and as follows. The applicant shall submit a written application accompanied by plans showing the building elevations, display of merchandise, storage of supplies, storage of refuse, and a plot plan of the site showing dimensions, driveways, sign locations, sign details and off-street parking and loading facilities.
- (2) In order to determine if the application is in the public interest, the city council, after holding a public hearing, may deny such conditional use permit to construct a new drive-in business establishment if any one or combination of any of the following conditions is found to exist.

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- (a) The use of the site for a drive-in business establishment would impair, endanger, inhibit or in some manner impede the proper flow of vehicular or pedestrian traffic in, about or on the street or streets upon which such establishment fronts.
  - (b) The auxiliary service units, such as bulk tank trucks, semitrailers and other serving units, would be inherently dangerous in the geographical location due to population or traffic density or pattern.
  - (c) The use of the geographical location would be aesthetically unreasonable and would not be compatible with surrounding structures, green areas or land uses.
  - (d) The proposed establishment does not comply with all applicable standards presented herein or with other applicable laws or codes.
- (3) In determining its findings, the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings, and traffic conditions in the vicinity shall be taken into account.
- B. *Abandoned, vacant or inoperative drive-in business establishment.* Where the applicant for approval to construct a new establishment, or the person whose products it is intended that the establishment will dispense, owns, formerly owned (within the past 36 months), or controls any abandoned, vacant or inoperative establishment or establishments within the city, the application for the new drive-in business establishment shall be accompanied by an additional and complete plan for the future of the abandoned, vacant or inoperative drive-in business establishment. Such plan shall be approved by the city council before or as part of the approval of application for the new establishment, and the city council shall establish a reasonable time limit within which such plan must be carried out. For the purpose of this subsection, any drive-in business establishment which has been abandoned, vacant or inoperative for any seven consecutive days in the 60-day period prior to the application for the new establishment, or which has been used for other than a drive-in business establishment for any seven consecutive days, excluding Saturdays, Sundays, and holidays, in said 60-day period, shall be considered to be an abandoned, vacant or inoperative drive-in business establishment.
- C. *Existing drive-in business establishment.*
- (1) All existing drive-in business establishments at the time of adoption of this subsection (January 3, 1972) which have been in continual operation for at least 30 days prior to the effective date of this subsection, shall comply with the provisions of: a) section 10-1-49.A. (regarding activities within building); and b) section 10-1-49.B. (regarding merchandise storage), within two years of the effective date of this subsection.
  - (2) All drive-in business establishments in existence or under construction, but not in operation, at the time of adoption of this subsection (January 3, 1972) and establishments which have not been in continual operation for at least 30 days prior to the adoption of this subsection shall comply with the provisions of sections 10-1-47.B. and 10-1-49.A. and B. before resuming or continuing operations.
  - (3) All drive-in business establishments which are in existence at the effective date of this subsection (January 3, 1972) which do not conform to the provisions of section 10-1-48.A. and B. (regarding minimum lot area and width); section 10-1-48.D. (driveway opening); section 10-1-48.E. (aesthetic treatment); section 10-1-47.A.(2)(a), (b) and (c) (regarding prescribed standards) may continue as a nonconforming use if all other provisions are met as described above.

## **Sec. 10-1-48. Standards.**

All drive-in business establishments shall comply with the following minimum standards unless specifically excluded elsewhere in this section.

A. *Minimum lot area.*

Use	Area
Deposit/receiving station	6,000 square feet per depository or window
Restaurant or food products outlet	9,000 square feet
Filling station (attendant or self-service)	9,000 square feet
Service and filling stations	9,000 square feet and 1,000 square feet per bay

B. *Minimum lot width.*

Use	Area
Deposit/receiving station	60 feet
Restaurant or food products outlet	100 feet
Filling station (attendant or self-service)	100 feet
Service and filling stations	120 feet

C. *Off-street parking and loading.* Facilities for off-street parking and loading shall be provided in accordance with section 10-1-13.

D. *Driveway openings.*

- (1) Measured along the curblines, no driveway approach shall be nearer than five feet to a property line nor nearer than 25 feet from the intersection of the street right-of-way lines on a corner lot or 35 feet from the point of intersection of the face of the curbs, whichever is greater.
- (2) The opening at the curb shall not be greater than 30 feet and at the sidewalk shall in no case be greater than 24 feet.
- (3) The minimum distance between driveways measured at the property line shall be 30 feet.
- (4) The maximum number of driveways allowed shall be based on a ratio of one driveway per 60 feet of frontage measured at the street right-of-way; however, the total number of driveways shall be reduced if it is found that certain of the driveways would impair, endanger, inhibit or in some manner impede the proper flow of vehicular or pedestrian traffic in, about or on the street or streets upon which the property fronts.

E. *Aesthetic treatment.*

- (1) At least ten percent of the lot shall be permanently set aside, planted and maintained in grass, flowers, shrubs, trees, or devoted to other aesthetic treatment.
- (2) The area between the sidewalk and the curb may be counted as part of the ten percent required, but in no case counted as more than five percent, although it is not part of the area of the lot upon which the said ten percent is computed.
- (3) Decorative fencing, impervious to sight, not less than four feet nor more than eight feet in height shall be required along the interior boundaries of the proposed station property to a point 15 feet from the street right-of-way.

**Sec. 10-1-49. General provisions.**

A. All activities necessary for or incidental to the operation of the drive-in business shall be conducted entirely within the building, with the following exceptions:

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- (1) Minor service functions which are customarily performed while dispensing or receiving products incidental to the business.
  - (2) Emergency services, such as minor repairs under unusual circumstances preventing their performance within the building.
- B. All materials, goods, merchandise, parts or supplies, both new and used, except those necessary for the permitted outside uses outlined in section 10-1-49.A.(1) and (2), shall be kept, stored or displayed entirely within the building, regardless of whether such materials, goods, merchandise, parts or supplies are intended for sale, use, dispensation or disposal. The following shall be permitted, provided they conform with all setback and yard area requirements:
- (1) Outside display storage cabinets of the totally enclosed type.
  - (2) Coin-operated machines for vending of soft drinks, cigarettes and similar items will be permitted outside the building, provided that such machines are located in an orderly manner.
  - (3) Trash or refuse storage areas will be permitted outside the building, provided that such storage areas are completely screened from view from any point on the perimeter of the site by an enclosure located immediately adjacent to and attached to the main building. Such enclosure shall extend from ground level to a minimum height of five feet.
- C. Either decorative fencing, impervious to sight, not less than four feet nor more than eight feet in height, shall be provided along the interior boundaries of the property, or a densely planted compact hedge which will reach a minimum height of four feet within two years after planting may be provided in lieu of such fence.
- D. Any lighting or signs shall be directed away from residential properties and public streets so as not to create a nuisance. However, in no case shall such lighting exceed three footcandles measured at the lot line.

## **Sec. 10-1-50. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

*Aesthetic treatment.* Areas provided for planting for grass, shrubs, trees, flowers, or other natural treatment.

*Automobile laundry.* A structure or portion thereof, containing facilities for washing motor vehicles, using mechanical devices, steam cleaners, blowers, etc.

*Bay.* An area sufficient to accommodate one motor vehicle for the purpose of servicing, loading, repairing, assembling or laundering such motor vehicle.

*Drive-in business establishment.* A business establishment which accommodates the patrons' motor vehicles from which the occupants may purchase services or goods, watch a presentation, etc.

*Emergency services.* A service rendered to a customer that is unusual due to some type of urgent situation. This service, due to unusual circumstances, requires services performed outside the building, but in no case takes more than 24 hours to complete.

*Filling and service station.* A station which, in addition to dispensing motor vehicle fuel and related automotive products, provides servicing and repairs of motor vehicles in one or more service bays.

*Filling station.* A motor vehicle fuel and related automotive products dispensing station either staffed with attendants or of the self-service type.

*Lot area.* The area of the horizontal plane bounded by the front, side and rear lot lines.

*Lot frontage.* The width of that portion of a lot which fronts on a street measured horizontally between the side lot lines along the street right-of-way.

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*Lot width.* The width of that portion of a lot which fronts on a street measured horizontally between the side lot lines along the street right-of-way.

*Off-street parking.* Section 10-1-13.F.

## **ARTICLE F. ADMINISTRATION; ENFORCEMENT**

### **Sec. 10-1-51. Board of appeals.**

Appeals from the decision of the zoning administrator relating to zoning matters may be filed in accordance with section 2-5-2 of this Code for consideration by the board of appeals. Before considering such zoning matters, the board shall fix a reasonable time for hearing the appeal and give public notice thereof by publishing in the official newspaper a notice as prescribed in Wis. Stats. §§ 62.23(7)(e)6 and 985.07(3)(b).

### **Sec. 10-1-52. City plan commission.**

The city plan commission shall discharge the following duties relative to this title 10:

- A. Review all applications for conditional uses, planned unit developments, and amendments to title 10 and report its findings and recommendations to the city council.
- B. Receive from the zoning administrator his recommendations as related to the effectiveness of this title and report its conclusions and recommendations to the city council.
- C. Hear and decide all matters upon which it is required to pass under this title.

### **Sec. 10-1-53. Changes and amendments.**

The council may from time to time, on its own motion or on petition or request in the manner provided by applicable law or ordinance, change the district boundaries or the regulations within the zoning code, after first submitting the proposal to the plan commission and holding a public hearing upon notice as required by Wis. Stats. § 62.23(7)(d), as it currently provides or as it may be amended to provide in the future. In addition to the notice required by statute, written notice of the public hearing shall be given by ordinary mail at least ten calendar days prior to the hearing to the owners of record of all properties situated wholly or partially within 200 feet of the boundaries of any property which is proposed to be rezoned or regarding which a conditional use permit, street/alley vacation or zoning variance is requested. Such written notice shall be mailed to the last known address of the owner as indicated in the records of the city.

### **Sec. 10-1-54. Enforcement.**

- A. The zoning administrator, with the aid of the police department, shall enforce this title.
- B. No building shall hereafter be erected, moved or structurally altered until a building permit therefor shall have been applied for and issued.
- C. All applications for a building permit shall be accompanied by plans in duplicate drawn to scale showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing and intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this title.

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- D. All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

**Sec. 10-1-55. Violations and penalties.**

Any person who shall violate any provisions of this title or any order, rule or regulation made hereunder shall be subject to a penalty as provided in section 1-1-5 of this Code. Wis. Stats. § 62.23(8)., shall also apply.

**Sec. 10-1-56. Administrative provisions related to facilities for handicapped.**

The zoning administrator shall have the following duties and powers:

- A. Advise applicant(s) as to the provisions of this chapter and assist them in preparing permit applications and appeal forms.
- B. Issue permits and certificates of compliance and inspect properties for compliance with this chapter.
- C. Determine whether or not specific ordinance requirements shall be waived and a permit should be issued in situations where the applicant(s) alleges that he or she is handicapped or disabled and is entitled to "reasonable accommodations" under the Federal Fair Housing Act, 42 U.S.C. Sec. Sec. 3601 to 3631, or the Wisconsin Open Housing Law, Wis. Stats. § 106.50, and the Americans with Disabilities Act, or where the owner of a place of public accommodations alleges that certain zoning restrictions must be waived in order to make the public accommodations accessible to the disabled.
- D. In situations where the applicant(s) is requesting that certain zoning restrictions be waived in order to provide equal housing opportunities, or access to public accommodations, for handicapped or disabled persons, the applicant(s) shall provide the following information to the zoning administrator:
  - (1) The nature of the handicap or disability.
  - (2) An explanation of the need for a waiver of specified zoning restrictions.
  - (3) A discussion of alternative solutions that have been considered, if any.
- E. Issue permits that authorize "reasonable accommodations" for handicapped persons as follows:
  - (1) The zoning administrator may issue a building permit that waives specified zoning ordinance requirements if the zoning administrator determines that both of the following conditions have been met:
    - (a) The accommodation (i.e., the waiver of zoning restrictions) that has been requested, or another less extensive accommodation, is necessary to afford equal housing opportunity or equal access to public accommodations for disabled or handicapped persons, and is the minimum accommodation that will give the handicapped or disabled persons adequate relief.
    - (b) The accommodations will not unreasonably undermine the basic purposes that the zoning ordinance seeks to achieve.
  - (2) If the zoning administrator issues a building permit to handicapped or disabled persons, or to the owner of a place of public accommodation, that waives certain specified zoning requirements, the permit shall state that:
    - (a) Issuance of the permit is required by the Federal Fair Housing Act, and the Wisconsin Open Housing Law, or the Americans with Disabilities Act.

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- (b) Where appropriate, the zoning administrator shall attach to the permit the condition that the building addition or other structure (such as entrance ramps) that is authorized by the permit must be constructed in such a way that it can easily be removed when the handicapped or disabled person no longer occupies the property. If such a condition is attached to the permit, the property owner is required by this chapter to notify the zoning administrator no later than 30 days after the handicapped or disabled persons vacates the property.

### **Sec. 10-1-57. Home occupations.**

The zoning administrator shall have the following duties and powers:

- A. *Purpose.* The regulations of this section are intended to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities may be carried on in the home. This section recognizes that when properly limited and regulated, such activities can take place in a residential dwelling without adversely affecting the character of the neighborhood or the dwelling.
- B. *Authorization.* A home occupation that is accessory to the principal use of a dwelling may be permitted in a dwelling unit as described in this section. Any question of whether a particular use is permitted as a home occupation by the provisions of this section shall be determined by the zoning administrator or plan commission pursuant to their authority to interpret the provisions of this section.
- C. *Definition.* A "home occupation" is a business, profession, occupation or trade conducted for compensation entirely inside a residential dwelling or a structure accessory thereto, which is accessory to the use of the dwelling as a residence and which does not change the residential character of the building.
- D. *Types of home occupations.*
  - (1) *Type A/no-impact.* A home occupation when residents use their dwelling as a workplace with absolutely no external impacts from the use. "No external impacts" means there shall be no signage, no customer or client visits to the site, no parking, no traffic, no noise, no employees other than resident family members, and no outdoor equipment storage or display. No permit is required. Such uses shall comply with the performance standards of this section.
  - (2) *Type B/low-impact.*
    - (a) A home occupation when residents use their dwelling as a workplace with low impact(s) to the neighborhood. Such impacts include, but are not limited to signage, low volume of customer or client visits to the home, delivery of materials, low volumes of business vehicular traffic or parking, limited parking of business vehicles or equipment and employing only resident family members.
    - (b) A home occupation permit (HOP) is required. Such uses shall comply with the performance standards of this section and/or as required in the HOP.
  - (3) *Type C/potential high-impact.*
    - (a) A home occupation when residents use their dwelling as a workplace with potential high impacts to the neighborhood. Such impacts may include signage, equipment used, client visits to the dwelling, deliveries or pickups, vehicular traffic and parking, and employees other than family members. All such impacts may be higher in volume or more intense than normally expected in a residential neighborhood.



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- (b) A conditional use permit (CUP) is required. A sign permit may also be required. Such uses shall comply with the performance standards of this section and/or as required in the CUP.
- (4) *Type D/prohibited.* The following home occupations are prohibited because of potential adverse impacts to the character of residential neighborhoods: sales, service, painting or repair, recycling or salvage of appliances, vehicles, recreational vehicles, engines, boats and firearms; computer sales and repair; animal boarding and commercial kennels; tattooing, adult entertainment activities/businesses; uses which involve medical procedures; uses that require the handling of any hazardous (including biologically hazardous) or toxic materials, substances or wastes; uses that require explosives or highly combustible materials; welding, machine shop operations or metal fabricating; other uses that the zoning administrator determines to be similar in impact to those listed above.
- E. *Determination of type of home occupation.*
- (1) The zoning administrator shall make a determination on the type of home occupation based on written factual information submitted by the applicant. If necessary, the zoning administrator may refer the matter to the plan commission, which shall determine the type of home occupation.
- (2) If the applicant disagrees with the determination of the zoning administrator or the plan commission, the applicant may appeal to the board of appeals as set forth in section 10-1-51 of this chapter.
- F. *Performance standards.* In addition to all of the standards applicable to the zoning district in which it is located, all home occupations shall comply with the following standards:
- (1) No alteration of the principal building shall be made which changes the exterior appearance or the character thereof as a residential dwelling.
- (2) The home occupation shall be conducted entirely within the principal residential dwelling or in a permitted accessory building.
- (3) No more than 20 percent of the gross floor area of any dwelling unit, including area in any accessory building, shall be used for the home occupation.
- (4) No extensive mechanical or electrical equipment other than normal domestic or household equipment shall be used.
- (5) There shall be no outside storage or display of any materials or equipment which are part of the home occupation, unless outdoor parking of vehicles or equipment is permitted in conjunction with a CUP.
- (6) No home occupation shall create a public nuisance such as any offensive noise, vibration, smoke, dust, electronic interference, odors, heat or glare affecting nearby areas.
- (7) Any home occupation proposed in a rental dwelling unit shall require evidence provided to the city of written consent by the property owner or the owner's agent prior to commencing any operation.
- (8) Any home occupation shall comply with fire code requirements and shall be subject to inspections by the fire department.
- (9) Signage. If permitted in conjunction with a CUP, signage shall be in accord with Chapter 10-4, the city's sign code regulations, for home occupations.

## **CHAPTER 10-2. FLOODPLAIN ZONING<sup>2</sup>**

### **Sec. 10-2-1. Authority; finding of fact; purpose; title; general provisions.**

- A. *Statutory authorization.* This chapter is adopted pursuant to the authorization in Wis. Stats. § 62.23, and the requirements in Wis. Stats. § 87.30.
- B. *Finding of fact.* Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.
- C. *Statement of purpose.* This chapter is intended to regulate floodplain development to:
- (1) Protect life, health and property;
  - (2) Minimize expenditures of public funds for flood-control projects;
  - (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
  - (4) Minimize business interruptions and other economic disruptions;
  - (5) Minimize damage to public facilities in the floodplain;
  - (6) Minimize the occurrence of future flood blight areas in the floodplain;
  - (7) Discourage the victimization of unwary land and home buyers;
  - (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
  - (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- D. *Title.* This chapter shall be known as the "Floodplain Zoning Ordinance for the City of Two Rivers, Wisconsin."
- E. *General provisions.*
- (1) *Areas to be regulated.* This chapter regulates all areas that would be covered by the regional flood or base flood. (NOTE: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.)
  - (2) *Official maps.* The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Two Rivers Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the zoning administrator, City of Two Rivers. If more than one map or revision is referenced, the most restrictive approved information shall apply.
    - (a) Flood insurance rate map (FIRM), panel numbers 55071C0211D, 55071C0212D, 55071C0213D, 55071C0214D, 55071C0216D, 55071C0218D and 55071C0326D, dated August 2, 2011, with

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<sup>2</sup>Editor's note(s)—Adopted by the city council of the City of Two Rivers (Title 10, Ch. 2, Sec. Sec. 10-2-1 through 10-2-10, of the 1981 Code). Amendments noted where applicable.

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corresponding profiles that are based on the Flood Insurance Study (FIS) dated August 2, 2011, 55071CV000A.

- (3) *Establishment of districts.* The regional floodplain areas are divided into three districts as follows:
  - (a) The floodway district (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
  - (b) The flood-fringe district (FF) is that portion of the floodplain between the regional flood limits and the floodway.
  - (c) The general floodplain district (GFP) is those areas that have been or may be covered by floodwater during the regional flood.
- (4) *Locating floodplain boundaries.* Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsection E.(4)(a) or (b) below. If a significant difference exists, the map shall be amended according to section 10-2-8. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual predevelopment field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to section 10-2-7C(3) and the criteria in subsection E.(4)(a) and (b) below.
  - (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
  - (b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the department. [NOTE: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to section 10-2-8A(6).]
- (5) *Removal of lands from floodplain.* Compliance with the provisions of this chapter shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to section 10-2-8. [NOTE: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a letter of map change (LOMC).]
- (6) *Compliance.* Any development or use within the areas regulated by this chapter shall be in compliance with the terms of this chapter, and other applicable local, state and federal regulations.
- (7) *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13), applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stats. § 30.2022, applies.
- (8) *Abrogation and greater restrictions.*
  - (a) This chapter supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. §§ 62.23 or 87.30, which relate to floodplains. If another ordinance is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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- (b) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
  - (9) *Interpretation.* In their interpretation and application, the provisions of this chapter are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this chapter required by Ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.
  - (10) *Warning and disclaimer of liability.* The flood protection standards in this chapter are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This chapter does not imply or guarantee that nonfloodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this chapter create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this chapter.
  - (11) *Severability.* Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.
  - (12) *Annexed areas for cities and villages.* The Manitowoc County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of Ch. NR 116, Wis. Adm. Code, and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the Municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-2-2. General standards applicable to all floodplain districts.**

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

A. *Hydraulic and hydrologic analyses.*

- (1) Except as allowed in subsection A.(3) below, no floodplain development shall:
  - (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

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- (b) Increase regional flood height, due to floodplain storage area lost, which equals or exceeds 0.01 feet.
  - (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of subsection A(3) are met.
  - (3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this chapter, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 10-2-8. (NOTE: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.)
- B. *Watercourse alterations.* No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified, in writing, all adjacent municipalities, the department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood-carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.
- C. *Wis. Stats. Chs. 30 and 31, development.* Development which requires a permit from the department under Wis. Stats. Chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFEs established in the FIS, or other data from the officially adopted FIRM or other floodplain zoning maps or this chapter are made according to section 10-2-8.
- D. *Public or private campgrounds.* Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
- (1) The campground is approved by the department of health services.
  - (2) A land use permit for the campground is issued by the zoning administrator.
  - (3) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
  - (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
  - (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated, by the officials identified in subsection D.(4), to remain in compliance with all applicable regulations, including those of the state department of health services and all other applicable regulations.
  - (6) Only camping units are allowed.
  - (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.

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- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
  - (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
  - (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either sections 10-2-3 or 10-2-4 for the floodplain district in which the structure is located.
  - (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
  - (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells, shall be properly anchored and placed at or floodproofed to the flood protection elevation.

### **Sec. 10-2-3. Floodway district (FW).**

- A. *Applicability.* This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 10-2-5.D.
- B. *Permitted uses.* The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district if they are not prohibited by any other ordinance, they meet the standards in subsections C. and D. and all permits or certificates have been issued according to section 10-2-7.A.:
  - (1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of subsection C.(4).
  - (4) Uses or structures accessory to open space uses or classified as historic structures that comply with subsections C. and D.
  - (5) Extraction of sand, gravel or other materials that comply with subsection C.(4).
  - (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. Chs. 30 and 31.
  - (7) Public utilities, streets and bridges that comply with subsection C.(3).
- C. *Standards for developments in floodway areas.*
  - (1) *General.*
    - (a) Any development in floodway areas shall comply with section 10-2-2 and have a low flood damage potential.
    - (b) Applicants shall provide the following data to determine the effects of the proposal according to section 10-2-2.A.:

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- [1] A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed developments will obstruct flow; or
  - [2] An analysis calculating the effects of this proposal on regional flood height.
- (c) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection C.(1)(b) above.
- (2) *Structures.* Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
- (a) The structures are not designed for human habitation and do not have a high flood damage potential;
  - (b) They must be anchored to resist flotation, collapse and lateral movement;
  - (c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation;
  - (d) They must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.
- (3) *Public utilities, streets and bridges.* Public utilities, streets and bridges may be allowed by permit, if:
- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
  - (b) Construction meets the development standards of section 10-2-2.A.
- (4) *Fills or deposition of materials.* Fills or deposition of materials may be allowed by permit, if:
- (a) The requirements of section 10-2-2.A. are met;
  - (b) No material is deposited in the navigable channel unless a permit is issued by the department pursuant to Wis. Stats. Ch. 30, and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. Sec. 1344 has been issued, if applicable, and the other requirements of this section are met;
  - (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
  - (d) The fill is not classified as a solid or hazardous material.
- D. *Prohibited uses.* All uses not listed as permitted uses in subsection B. are prohibited, including the following uses:
- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;
  - (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
  - (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
  - (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and department-approved campgrounds that meet the applicable provisions of local ordinances and Ch. SPS 383, Wis. Adm. Code.
  - (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Chs. NR 811 and NR 812, Wis. Adm. Code;
  - (6) Any solid or hazardous waste disposal sites;

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- (7) Any wastewater treatment ponds or facilities, except those permitted under § NR 110.15(3)(b), Wis. Adm. Code;
  - (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

**Sec. 10-2-4. Flood-fringe district (FF).**

- A. *Applicability.* This section applies to all flood-fringe areas shown on the floodplain zoning maps and those identified pursuant to section 10-2-5.D.
- B. *Permitted uses.* Any structure, land use, or development is allowed in the flood-fringe district if the standards in subsection C. are met, the use is not prohibited by this chapter or any other ordinance or regulation and all permits or certificates specified in section 10-2-7.A. have been issued.
- C. *Standards for development in flood-fringe areas.* Section 10-2-2.A. shall apply in addition to the following requirements according to the use requested.
  - (1) *Residential uses.* Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the flood-fringe area shall meet or exceed the following standards:
    - (a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical.
    - (b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.
    - (c) Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in subsection C.(1)(d).
    - (d) In development where existing street or sewer line elevations make compliance with subsection C.(1)(c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
      - [1] The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
      - [2] The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the department.
  - (2) *Accessory structures or uses.*
    - (a) Except as provided in subsection C.(2)(b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
    - (b) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000.00 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of section 10-2-3.C.(2)(a), (b), (c) and (d) and section 10-2-4.C.(5) below.



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- (3) *Commercial uses.* Any commercial structure which is erected, altered or moved into the flood-fringe area shall meet the requirements of subsection C.(1). Subject to the requirements of subsection C.(6), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
  - (4) *Manufacturing and industrial uses.* Any manufacturing or industrial structure which is erected, altered or moved into the flood-fringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other floodproofing measures in section 10-2-7.E. Subject to the requirements of subsection C.(6) storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
  - (5) *Storage of materials.* Materials that are buoyant, flammable, explosive or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with section 10-2-7.E. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
  - (6) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans, and:
    - (a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with section 10-2-7.E. to the flood protection elevation;
    - (b) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
  - (7) *Sewage systems.* All on-site sewage disposal systems shall be floodproofed, pursuant to section 10-2-7.E. to the flood protection elevation and shall meet the provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.
  - (8) *Wells.* All wells shall be floodproofed, pursuant to section 10-2-7.E., to the flood protection elevation and shall meet the provisions of Chs. NR 811 and NR 812, Wis. Adm. Code.
  - (9) *Solid waste disposal sites.* Disposal of solid or hazardous waste is prohibited in flood-fringe areas.
  - (10) *Deposition of materials.* Any deposited material must meet all the provisions of this chapter.
  - (11) *Manufactured homes.*
    - (a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
    - (b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
      - [1] Have the lowest floor elevated to the flood protection elevation; and
      - [2] Be anchored so they do not float, collapse or move laterally during a flood.
    - (c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the flood fringe in subsection C.(1).
  - (12) *Mobile recreational vehicles.* All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring

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requirements in subsection C.(11)(b) and (c). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices, and has no permanently attached additions.

### **Sec. 10-2-5. General floodplain district (GFP).**

- A. *Applicability.* The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and flood-fringe districts shall be delineated when adequate data is available.
- B. *Permitted uses.*
- (1) Pursuant to subsection D., it shall be determined whether the proposed use is located within a floodway or flood-fringe area.
  - (2) Those uses permitted in floodway (section 10-2-3.B.) and flood-fringe areas (section 10-2-4.B.) are allowed within the general floodplain district, according to the standards of section 10-2-5.C., provided that all permits or certificates required under section 10-2-7.A. have been issued.
- C. *Standards for development in the general floodplain district.* Section 10-2-3 applies to floodway areas, section 10-2-4 applies to flood-fringe areas. The rest of this chapter applies to either district.
- D. *Determining floodway and flood-fringe limits.* Upon receiving an application for development within the general floodplain district, the zoning administrator shall:
- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures;
  - (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
    - (a) A typical valley cross section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high-water information;
    - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
    - (c) Profile showing the slope of the bottom of the channel or flow line of the stream;
    - (d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
  - (3) Transmit one copy of the information described in subsection D.(1) and (2) to the department regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of section 10-2-7.A.(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

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## Sec. 10-2-6. Nonconforming uses.

### A. General.

- (1) *Applicability.* If these standards conform with Wis. Stats. § 62.33(7)(h), they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this chapter or any amendment thereto.
- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this chapter may continue subject to the following conditions:
  - (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this chapter. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
  - (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted, and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this chapter.
  - (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
  - (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use which over the life of the structure would equal or exceed 50 percent of its present equalized assessed value shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 10-2-4.C.(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this subsection;
  - (e) Except as provided in subsection A.(2)(f), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current chapter requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.
  - (f) For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or under the regulations promulgated thereunder.

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- (g) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with section 10-2-3.C.(1), flood-resistant materials are used, and construction practices and floodproofing methods that comply with section 10-2-7.E. are used.

B. *Floodway areas.*

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
  - (a) Has been granted a permit or variance which meets all chapter requirements;
  - (b) Meets the requirements of section 10-2-6.A.;
  - (c) Will not increase the obstruction to flood flows or regional flood height; and
  - (d) Any addition to the existing structure shall be floodproofed, pursuant to section 10-2-7.E., by means other than the use of fill, to the flood protection elevation.
  - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - [1] The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    - [2] The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    - [3] Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    - [4] The use must be limited to parking or limited storage.
- (2) No new on-site sewage disposal system or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and Ch. SPS 383, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and Chs. NR 811 and NR 812, Wis. Adm. Code.

C. *Flood-fringe areas.*

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in section 10-2-4.C., except where section 10-2-6.C.(2) is applicable.
- (2) Where compliance with the provisions of subsection C.(1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of appeals, using the procedures established in section 10-2-7.C., may grant a variance from those provisions of subsection C.(1) for modifications or additions using the

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criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (b) Human lives are not endangered;
  - (c) Public facilities, such as water or sewer, will not be installed;
  - (d) Flood depths will not exceed two feet;
  - (e) Flood velocities will not exceed two feet per second; and
  - (f) The structure will not be used for storage of materials as described in section 10-2-4.C.(5).
- (3) If neither the provision of subsection C.(1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe, if the addition:
- (a) Meets all other regulations and will be granted by permit or variance;
  - (b) Does not exceed 60 square feet in area; and
  - (c) In combination with other previous modifications or additions to the building, does not exceed 50 percent of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or additions to, replacement, repair or maintenance of a private sewage disposal system, shall meet all the applicable provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.
- (5) All new wells, or additions to, replacement, repair or maintenance of a well, shall meet the applicable provisions of this chapter and Chs. NR 811 and NR 812, Wis. Adm. Code.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-2-7. Administration.**

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

A. *Zoning administrator.*

- (1) The zoning administrator is authorized to administer this chapter and shall have the following duties and powers:
  - (a) Advise applicants of the chapter provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
  - (b) Issue permits and inspect properties for compliance with provisions of this chapter and issue certificates of compliance where appropriate.
  - (c) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
  - (d) Keep records of all official actions such as:

[1] All permits issued, inspections made, and work approved;

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- [2] Documentation of certified lowest floor and regional flood elevations for floodplain development;
  - [3] Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
  - [4] All substantial damage assessment reports for floodplain structures.
- (e) Submit copies of the following items to the department regional office:
- [1] Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  - [2] Copies of any case-by-case analyses, and any other information required by the department, including an annual summary of the number and types of floodplain zoning actions taken.
  - [3] Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (f) Investigate, prepare reports, and report violations of this chapter to the city plan commission and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.
- (g) Submit copies of text and map amendments and biennial reports to the FEMA regional office.
- (2) *Land use permit.* A land use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
- (a) General information.
    - [1] Name and address of the applicant, property owner and contractor;
    - [2] Legal description, proposed use, and whether it is new construction or a modification.
  - (b) Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
    - [1] Location, dimensions, area and elevation of the lot;
    - [2] Location of the ordinary high-water mark of any abutting navigable waterways;
    - [3] Location of any structures with distances measured from the lot lines and street center lines;
    - [4] Location of any existing or proposed on-site sewage systems or private water supply systems;
    - [5] Location and elevation of existing or future access roads;
    - [6] Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
    - [7] The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

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- [8] Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sections 10-2-3 or 10-2-4 are met; and
  - [9] Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 10-2-2.A. This may include any of the information noted in section 10-2-3.C.(1).
- (c) Data requirements to analyze developments.
- [1] The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage for all subdivision proposals, as "subdivision" is defined in Wis. Stats. Ch. 236, and other proposed developments exceeding five acres in area or where the estimated cost exceeds \$125,000.00. The applicant shall provide:
    - [a] An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
    - [b] A map showing location and details of vehicular access to lands outside the floodplain; and
    - [c] A surface drainage plan showing how flood damage will be minimized.
  - [2] The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities and other pertinent items, but need not include land costs.
- (d) Expiration. All permits issued under the authority of this chapter shall expire 365 days after issuance.
- (3) *Certificate of compliance.* No land shall be occupied or used and no building which is hereafter constructed, altered, added to, modified, prepared, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this chapter;
  - (b) Application for such certificate shall be concurrent with the application for a permit;
  - (c) If all chapter provisions are met, the certificate of compliance shall be issued within ten days after written notification that the permitted work is completed;
  - (d) The applicant shall submit a certification signed by a registered professional engineer or architect or licensed land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of section 10-2-7.E.
- (4) *Other permits.* The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. Sec. 1344.
- B. *Plan commission.*
- (1) *The plan commission shall:*
    - (a) Oversee the functions of the office of the zoning administrator; and

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- (b) Review and advise the governing body on all proposed amendments to this chapter, maps and text.
  - (2) *The plan commission shall not:*
    - (a) Grant variances to the terms of this chapter in place of action by the board of appeals; or
    - (b) Amend the text or zoning maps in place of official action by the governing body.
  - C. *Board of appeals.* The board of appeals, created under Wis. Stats. § 62.23(7)(e), is hereby authorized or shall be appointed to act for the purposes of this chapter. The board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the board.
    - (1) *Powers and duties.* The board of appeals shall:
      - (a) Appeals: hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter.
      - (b) Boundary disputes: hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
      - (c) Variances: hear and decide, upon appeal, variances from the chapter standards.
    - (2) *Appeals to the board.*
      - (a) Appeals to the board may be taken by any person aggrieved or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days, unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
      - (b) Notice and hearing for appeals including variances.
        - [1] Notice. The Board shall:
          - [a] Fix a reasonable time for the hearing;
          - [b] Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
          - [c] Assure that notice shall be mailed to the parties in interest and the department regional office at least ten days in advance of the hearing.
        - [2] Hearing. Any party may appear in person or by agent. The board shall:
          - [a] Resolve boundary disputes according to section 10-2-7.C.(3).
          - [b] Decide variance applications according to section 10-2-7.C.(4).
          - [c] Decide appeals of permit denials according to section 10-2-7.D.
      - (c) Decision. The final decision regarding the appeal or variance application shall:
        - [1] Be made within a reasonable time;
        - [2] Be sent to the department regional office within ten days of the decision;
        - [3] Be a written determination signed by the chairperson or secretary of the board;
        - [4] State the specific facts which are the basis for the board's decision;



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- [5] Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
  - [6] Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.
- (3) *Boundary disputes.* The following procedures shall be used by the board in hearing disputes concerning floodplain district boundaries:
- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
  - (b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board.
  - (c) If the boundary is incorrectly mapped, the board should inform the plan commission or the person contesting the boundary location to petition the governing body for a map amendment according to section 10-2-8.
- (4) *Variance.*
- (a) The board may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that:
    - [1] Literal enforcement of the chapter provisions will cause unnecessary hardship;
    - [2] The hardship is due to adoption of this chapter and unique property conditions, not common to adjacent lots or premises. In such case, the chapter or map must be amended;
    - [3] The variance is not contrary to the public interest; and
    - [4] The variance is consistent with the purpose of this chapter in section 10-2-1.C.
  - (b) In addition to the criteria in subsection C.(4)(a), to qualify for a variance under FEMA regulations the following criteria must be met:
    - [1] The variance may not cause any increase in the regional flood elevation;
    - [2] Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
    - [3] Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this chapter.
  - (c) A variance shall not:
    - [1] Grant, extend or increase any use prohibited in the zoning district.
    - [2] Be granted for a hardship based solely on an economic gain or loss.
    - [3] Be granted for a hardship which is self-created.
    - [4] Damage the rights or property values of other persons in the area.
    - [5] Allow actions without the amendments to this chapter or map(s) required in section 10-2-8.A.

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[6] Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

- (d) When a floodplain variance is granted, the board shall notify the applicant, in writing, that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

D. *Review appeals of permit denial.*

- (1) The plan commission(subsection B.) shall review all data related to the appeal. This may include:
- (a) Permit application data listed in subsection A.(2).
  - (b) Floodway/flood-fringe determination data in section 10-2-5.D.
  - (c) Data listed in section 10-2-3.C.(1)(b)(2), where the applicant has not submitted this information to the zoning administrator.
  - (d) Other data submitted with the application or submitted to the board with the appeal.
- (2) For appeals of all denied permits, the board shall:
- (a) Follow the procedures of subsection C.;
  - (b) Consider plan commission recommendations; and
  - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation, the board shall:
- (a) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
  - (b) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot, provided no other reasons for denial exist.

E. *Floodproofing.*

- (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
- (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (b) Protect structures to the flood protection elevation;
  - (c) Anchor structures to foundations to resist flotation and lateral movement; and
  - (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
- (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
  - (b) Adding mass or weight to prevent flotation.

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- (c) Placing essential utilities above the flood protection elevation.
  - (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
  - (e) Constructing water supply wells and waste treatment systems to prevent the entry of floodwaters.
  - (f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

F. *Public information.*

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) All real estate transfers should show what floodplain zoning district any real property is in.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-2-8. Amendments.**

A. The governing body may change or supplement the floodplain zoning district boundaries and this chapter in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by § NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the flood fringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA. (NOTE: Consult the FEMA website at [www.fema.gov](http://www.fema.gov) for the map change fee schedule.

B. *Procedures.* Chapter amendments may be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23. Such petitions shall include all necessary data required by sections 10-2-5.D. and 10-2-7.A.(2).

- (1) The proposed amendment shall be referred to the plan commission for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23.
- (2) No amendments shall become effective until reviewed and approved by the department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all

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adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

- (4) For amendments in areas with no water surface profiles, the plan commission shall consider data submitted by the department, the zoning administrator's visual on-site inspections and other available information. (See section 10-2-1.E.(4))

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-2-9. Violations and penalties.**

Any violation of the provisions of this chapter by any person shall be unlawful and shall be referred to the municipal attorney, who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$5.00 and not more than \$50.00, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30.

### **Sec. 10-2-10. Word usage; definitions.**

Unless specifically defined, words and phrases in this chapter shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

*A-zones.* Those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A-Zones. The A-Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

*Accessory structure or use.* A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

*Base flood.* The flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

*Basement.* Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

*Building.* See "structure."

*Bulkhead line.* A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to Wis. Stats. § 30.11, and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this chapter.

*Campground.* Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is advertised or represented as a camping area.

*Camping unit.* Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck, tent or other mobile recreational vehicle.

*Certificate of compliance.* A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this chapter.

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*Channel.* A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

*Crawlways or crawl space.* An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

*Deck.* An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

*Department.* The Wisconsin Department of Natural Resources.

*Development.* Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

*Dry land access.* A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation, and wide enough for wheeled rescue and relief vehicles.

*Encroachment.* Any fill, structure, equipment, building, use or development in the floodway.

*Existing manufactured home park or subdivision.* A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this chapter. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

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

*Federal emergency management agency (FEMA).* The federal agency that administers the National Flood Insurance Program.

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

*Flood fringe.* That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

*Flood hazard boundary map.* A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

*Flood insurance rate map (FIRM).* A map of a community in which the federal insurance administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

*Flood insurance study.* A technical engineering examination, evaluation and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood insurance rate maps, that accompany the flood

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insurance study, form the basis for both the regulatory and the insurance aspects of the national flood insurance program.

*Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- A. The overflow or rise of inland waters;
- B. The rapid accumulation or runoff of surface waters from any source;
- C. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- D. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

*Flood profile.* A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

*Flood protection elevation.* An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see "freeboard.")

*Flood storage.* Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

*Floodplain.* Land which has been or may be covered by floodwater during the regional flood. It includes the flood fringe, and may include other designated floodplain areas for regulatory purposes.

*Floodplain island.* A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

*Floodplain management.* Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

*Floodproofing.* Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

*Floodway.* The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

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

*Habitable structure.* Any structure or portion thereof used or designed for human habitation.

*Hearing notice.* Publication or posting meeting the requirements of Wis. Stats. Ch. 985. For appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice exceeding these minimums.

*High flood damage potential.* Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

*Historic structure.* Any structure that is either:

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- A. Listed individually in the National Register of Historic Places or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;
  - B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district preliminarily determined by the secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or
  - D. Individually listed on a local inventory of historic places in communities with historic reservation programs that have been certified either by an approved state program, as determined by the secretary of the interior, or by the secretary of the interior in states without approval programs.

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

*Land use.* Any nonstructural use made of unimproved or improved real estate. (Also see "development.")

*Manufactured home.* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a mobile recreational vehicle.

*Mobile recreational vehicle.* A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

*Municipality or municipal.* The City of Two Rivers, enacting, administering and enforcing this chapter.

*NAVD or North American Vertical Datum.* Elevations referenced to mean sea level datum, 1988 adjustment.

*New construction.* For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

*NGVD or National Geodetic Vertical Datum.* Elevations referenced to mean sea level datum, 1929 adjustment.

*Nonconforming structure.* An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the flood-fringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

*Nonconforming use.* An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies (such as a residence in the floodway).

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

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*Official floodplain zoning map.* That map, adopted and made part of this chapter, as described in section 10-2-1.E.(2), which has been approved by the department and FEMA.

*Open space use.* Those uses having a relatively low flood damage potential and not involving structures.

*Ordinary high-water mark.* The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

*Person.* An individual or group of individuals, corporation, partnership, association, municipality or state agency.

*Private sewage system.* A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the department of safety and professional services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

*Public utilities.* Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

*Reasonably safe from flooding.* Means base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

*Regional flood.* A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

*Start of construction.* The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or shed not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure.* Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, streambed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

*Subdivision.* Has the meaning given in Wis. Stats. § 236.02(12).

*Substantial damage.* Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

*Unnecessary hardship.* Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.



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*Variance.* An authorization by the board of appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in this chapter.

*Violation.* The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

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

*Watershed.* The entire region contributing runoff or surface water to a watercourse or body of water.

*Well.* An excavation opening in the ground made by digging, boring, drilling, driving or other methods to obtain groundwater, regardless of its intended use.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **CHAPTER 10-3. SHORELAND-WETLAND ZONING<sup>3</sup>**

#### **Sec. 10-3-1. Purpose.**

- A. *Purpose.* Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:
- (1) Promote the public health, safety, convenience and general welfare;
  - (2) Maintain the stormwater and floodwater storage capacity of wetlands;
  - (3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
  - (4) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
  - (5) Prohibit certain uses detrimental to the shoreland-wetland area; and
  - (6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earthmoving activities.
- B. Such legislative delegation of authority is found in Wis. Stats. §§ 62.23, 62.231, 87.30 and 281.31.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

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<sup>3</sup>Editor's note(s)—Adopted by the city council of the City of Two Rivers (Title 10, Ch. 2, §§ 10-2-30 through 10-2-46, of the 1981 Code). Amendments noted where applicable.

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### **Sec. 10-3-2. General provisions.**

- A. *Compliance.* The use of wetlands and the alteration of wetlands within the shoreland area of the municipality shall be in full compliance with the terms of this chapter and other applicable local, state or federal regulations. (However, see section 10-3-4 of this chapter for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this chapter.
- B. *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13), applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stats. § 30.2022(4), applies.
- C. *Abrogation and greater restrictions.* This chapter supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. § 61.35, 62.23 or 87.30, which relate to floodplain and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
  - (1) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- D. *Interpretation.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Ch. NR 117, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Ch. NR 117 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.
- E. *Severability.* Should any portion of this chapter be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

### **Sec. 10-3-3. Shoreland-wetland zoning district.**

- A. *Shoreland-wetland zoning maps.* The following maps are hereby adopted and made part of this chapter and are on file in the office of the municipal clerk:
  - (1) Wisconsin Wetland Inventory Maps stamped FINAL on February 26, 1992.
  - (2) United States Geological Survey Maps dated 1978.
- B. *District boundaries.*
  - (1) The shoreland-wetland zoning district includes all wetlands in the municipality which are five acres or more and are shown on the final wetland inventory map that has been adopted and made a part of this chapter and which are:
    - (a) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowage. Lakes, ponds or flowage in the municipality shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this chapter.
    - (b) Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be

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presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this chapter. Floodplain zoning maps adopted in section 10-2-1.E.(2) shall be used to determine the extent of floodplain areas.

- (2) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the department for a final determination of navigability or ordinary high-water mark.
  - (3) When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the department to determine if the shoreland-wetland district boundary as mapped is in error. If department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in subsection B.(4) and (5) below, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period.
  - (4) Filled wetlands. Wetlands which are filled prior to February 26, 1992, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland are not subject to this chapter.
  - (5) Wetlands landward of a bulkhead line. Wetlands located between the original ordinary high-water mark and a bulkhead line established prior to May 7, 1982, under Wis. Stats. § 30.11, are not subject to this chapter.
- C. *Permitted uses.* The following uses are permitted subject to the provisions of Wis. Stats. Chs. 30 and 31, and the provisions of other local, state and federal laws, if applicable:
- (1) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
    - (a) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
    - (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
    - (c) The practice of silviculture, including the planting, thinning, and harvesting of timber;
    - (d) The pasturing of livestock;
    - (e) The cultivation of agricultural crops; and
    - (f) The construction and maintenance of duck blinds.
  - (2) Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
    - (a) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
    - (b) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
    - (c) The maintenance and repair of existing drainage systems to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil,

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- provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;
- (d) The construction and maintenance offenses for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  - (e) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
  - (f) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district, provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in section 10-3-14.D. of this chapter; and
  - (g) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement and reconstruction.
- (3) Uses which are allowed upon the issuance of a permit and which may include wetland alterations only to the extent specifically provided below:
- (a) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under section 10-3-3.C. of this chapter, provided that:
    - [1] The road cannot, as a practical matter, be located outside the wetland;
    - [2] The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in section 10-3-14.D. of this chapter.
    - [3] The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
    - [4] Road construction activities are carried out in the immediate area of the roadbed only; and
    - [5] Any wetland alteration must be necessary for the construction or maintenance of the road.
  - (b) The construction and maintenance of nonresidential buildings, provided that:
    - [1] The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
    - [2] Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
    - [3] The construction and maintenance of roads necessary for the uses permitted under this subsection are allowed only where such construction and maintenance meets the criteria in section 10-3-13.C.(3)(a) of this chapter; and
    - [4] Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (4) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines, provided that:

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- (a) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
  - (b) Only limited filling or excavating necessary for such construction maintenance is allowed; and
  - (c) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in section 10-3-14.D. of this chapter.

D. *Prohibited uses.*

- (1) Any use not listed in section 10-3-3.C. of this chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with section 10-3-14 of this chapter.
- (2) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

**Sec. 10-3-4. Nonconforming structures and uses.**

- A. The lawful use of a building, structure or property which existed at the time this chapter, or an applicable amendment to this chapter, took effect and which is not in conformity with the provisions of this chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions.
- B. The shoreland-wetland provisions of this chapter authorized by Wis. Stats. § 62.231, shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of the shoreland-wetland provisions, or of any environmental control facility in existence on May 7, 1982, related to such a structure. All other modifications to nonconforming structures are subject to Wis. Stats. § 62.23(7)(h), which limits total lifetime structural repairs and alterations to 50 percent of current fair market value.
- C. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to this chapter.
- D. Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this chapter adopted under Wis. Stats. §§ 61.351 or 62.231, may be continued although such use does not conform with the provisions of this chapter. However, such nonconforming use may not be extended.
- E. The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Wis. Stats. § 30.121.
- F. Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

**Sec. 10-3-5. Administration and enforcement.**

The procedure for administering and enforcing this chapter is the same as for the underlying or existing zoning code regulating uses in the city. All applications for permits shall be reviewed by the zoning administrator to determine whether construction or development is proposed within shoreland-wetland areas. If it is, the application and permit shall be processed in the same manner as provided in section 10-3-6.A.

**Sec. 10-3-6. Permit.**

- A. Unless another section of this chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any new development,

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as defined in section 10-3-16.B. of this chapter, or any change in the use of an existing building or structure is initiated. Application for permit shall be made on forms furnished by the zoning administrator.

- B. No permit for any construction or development within the shoreland-wetland shall be issued until the zoning administrator ascertains that all applicable provisions of this chapter and of the underlying zoning code will be met.

### **Sec. 10-3-7. Site development plan.**

A site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

- A. Dimensions and area of the lot;
- B. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
- C. Description of any existing or proposed on-site sewage systems or private water supply systems;
- D. Location of the ordinary high-water mark of any abutting navigable waterways;
- E. Boundaries of all wetlands;
- F. Existing and proposed topographic and drainage features and vegetative cover;
- G. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;
- H. Location of existing or future access roads; and
- I. Specifications and dimensions for areas of proposed wetland alteration.

### **Sec. 10-3-8. Permit expiration.**

All permits issued under the authority of this chapter shall expire 12 months from the date of issuance.

### **Sec. 10-3-9. Certificates of compliance.**

Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator subject to the following provisions:

- A. The certificates of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this chapter.
- B. Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
- C. The certificate of compliance shall be issued within ten days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform with all the provisions of this chapter.
- D. The zoning administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the municipal governing body.
- E. Upon written request from the owner, the zoning administrator may issue a certificate of compliance for any building or premises existing at the time of chapter adoption, certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this chapter.

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### **Sec. 10-3-10. Conditional use permits.**

- A. *Application.* Any use listed as a conditional use in this chapter shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the board of appeals following the procedures in section 2-5-2 of this Code.
- B. *Conditions.* Upon consideration of the permit application and the standards applicable to the conditional uses designated in section 10-3-3.C.(3) of this chapter, the board of appeals shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this chapter, as are necessary to further the purpose of this chapter as listed in section 10-3-1. Such conditions may include specifications for, without limitation because of specific enumeration, type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the board of appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this chapter.

### **Sec. 10-3-11. Permit fees.**

Fees for permits issued under this chapter shall be as specified in section 1-2-1 of this Code.

### **Sec. 10-3-12. Revocation.**

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the zoning administrator or the board of appeals.

### **Sec. 10-3-13. Appeals.**

Appeals from the decision of the zoning administrator relating to zoning matters may be filed in accordance with section 2-5-2 of this Code for consideration by the board of appeals. Before considering such zoning matters, the board shall fix a reasonable time for hearing the appeal and give public notice thereof by publishing in the official newspaper a notice as prescribed in Wis. Stats. §§ 62.23(7)(e)6 and 985.07(3)(b).

### **Sec. 10-3-14. Amending shoreland-wetland zoning regulations.**

- A. The municipal governing body may alter, supplement or change the district boundaries and the regulations contained in this chapter in accordance with the requirements of Wis. Stats. § 62.23(7)(d)2, Sec. NR 117, Wis. Adm. Code, and the following.
- B. A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the department within five days of the submission of the proposed amendment to the municipal planning agency.
- C. All proposed text and map amendments to this chapter shall be referred to the municipal planning agency, and a public hearing shall be held after Class 2 notice as required by Wis. Stats. § 62.23(7)(d)2. The appropriate district office of the department shall be provided with written notice of the public hearing at least ten days prior to such hearing.
- D. In order to insure that this chapter will remain consistent with the shoreland protection objectives of Wis. Stats. § 281.31, the municipal governing body may not rezone a wetland in a shoreland-wetland zoning

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district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:

- (1) Stormwater and floodwater storage capacity;
- (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
- (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Shoreline protection against erosion;
- (5) Fish spawning, breeding, nursery or feeding grounds;
- (6) Wildlife habitat; or
- (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

- E. Where the district office of the department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in subsection D. of this chapter, the department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.
- F. The appropriate district office of the department shall be provided with:
- (1) A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment within ten days after the submission of those recommendations to the municipal governing body.
  - (2) Written notice of the action on the proposed text or map amendment within ten days after the action is taken.
- G. If the department notifies the municipal planning agency, in writing, that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subsection D. of this section, that proposed amendment, if approved by the municipal governing body, shall not become effective until more than 30 days have elapsed since written notice of the municipal approval was mailed to the department, as required by subsection F. of this section. If within the 30-day period the department notifies the municipality that the department intends to adopt a superseding shoreland-wetland zoning ordinance for the municipality, as provided by Wis. Stats. §§ 62.231(6) or 61.351(6), the proposed amendment shall not become effective until the ordinance adoption procedure under Wis. Stats. §§ 62.231(6) or 61.351(6), is completed or otherwise terminated.

### **Sec. 10-3-15. Violations and penalties.**

Any person who shall violate any provisions of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in section 1-1-5 of this Code. Wis. Stats. § 62.23(8), shall also apply.

### **Sec. 10-3-16. Word usage; definitions.**

- A. For the purpose of administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows: words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.
- B. The following terms, as used in this chapter, shall have the following meanings:



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*Accessory structure or use.* A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lots that of the principal structure or use.

*Boathouse.* As defined in Wis. Stats. § 30.01(1d), means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.

*Class 2 public notice.* Publication of a public hearing notice under Wis. Stats. Ch. 985, in a newspaper of circulation in the affected area. Publication is required on two consecutive weeks, the last at least seven days prior to the hearing.

*Conditional use.* A use which is permitted by this chapter, provided that certain conditions specified in this chapter are met and that a permit is granted by the board of appeals or, where appropriate, the planning agency designated by the municipal governing body.

*Department.* The Wisconsin Department of Natural Resources.

*Development.* Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagoon, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

*Drainage system.* One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

*Environmental control facility.* Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property, or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

*Fixed houseboat.* As defined in Wis. Stats. § 30.01(1r), means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or studpoles attached to the bed of the waterway.

*Navigable waters.*

- (1) Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowage and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the law of this state. Under Wis. Stats. § 281.31(2)(d), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stats. § 61.351 or 62.231, and Ch. NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches, if:
  - (a) Such lands are not adjacent to a natural navigable stream or river;
  - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
  - (c) Such lands are maintained in nonstructural agricultural use.
- (2) Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons.

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

*Planning agency.* The municipal plan commission created under Wis. Stats. § 62.23(1), a board of public land commissioners or a committee of the municipality's governing body which acts on matters pertaining to planning and zoning.

*Shoreland-wetland district.* The zoning district, created in this chapter, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this chapter.

*Shorelands.* Lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

*Unnecessary hardship.* That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

*Variance.* An authorization granted by the board of appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this chapter.

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

*Wetlands.* Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

## **Sec. 10-3-17. Shoreland regulation in annexed areas.**

### **A. Statutory authorization, findings of fact, statement of purpose and title.**

- (1) *Statutory authorization.* This section is adopted pursuant to the authorization in Wis. Stats. §§ 62.23 and 62.233..
- (2) *Findings of fact and purpose.* Uncontrolled use of shorelands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:
  - (a) Promote the public health, safety, convenience and general welfare;
  - (b) Limit certain land use activities detrimental to shorelands; and
  - (c) Preserve shore cover and natural beauty by controlling the location of structure in shoreland areas and restricting the removal of natural shoreland vegetation.

### **B. General provisions.**

- (1) *Compliance.* The use of shoreland within the shoreland area of the municipality shall be in full compliance with the terms of this chapter and other applicable local, state or federal regulations. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this chapter.
- (2) *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13), applies.
- (3) *Abrogation and greater restrictions.*

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- (a) This chapter supersedes all the provisions of any other applicable municipal ordinance except that, where another municipal ordinance is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
  - (b) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- (4) *Interpretation.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes or Wisconsin Constitution.
- (5) *Severability.* Should any portion of this chapter be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter shall not be affected.
- (6) *Applicability of shoreland district regulations.* The shoreland zoning district regulations apply only to a shoreland that was annexed by the City of Two Rivers after May 7, 1982, and that prior to annexation was subject to a county shoreland zoning ordinance under Wis. Stats. § 59.692.
- (7) *District boundaries.* The Shoreland district areas regulated by this chapter shall include all the lands (referred to herein as shorelands) in the City of Two Rivers that are:
- (a) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources (DNR) Surface Water Data Viewer available on the DNR website, or are shown on United States Geological Survey quadrangle maps or other zoning base maps.
  - (b) Within 300 feet of the ordinary high-water mark of navigable rivers or streams or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.
  - (c) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Wisconsin Department of Natural Resources for a final determination of navigability or ordinary high-water mark.
  - (d) Pursuant to Wis. Stats. § 62.233, the shoreland zoning district does not include lands adjacent to an artificially constructed drainage ditch, pond, or retention basin if the drainage ditch, pond or retention basin is not hydrologically connected to a natural navigable water body.
- (8) *Effect of existing land division, sanitary, zoning and other regulations.* The lands within the shoreland zoning district are subject to all applicable provisions of the City of Two Rivers Municipal Code. Where the provisions of this chapter are more restrictive than other regulations in the Municipal Code, the provisions of this chapter shall apply.

C. *Setbacks from the water.*

- (1) *Principal building setbacks.*
  - (a) All principal buildings shall be set back at least 50 feet from the ordinary high-water mark.
  - (b) Adjustment of shore yards. A setback less than that required by subsection C.(1)(a) may be allowed if all of the following apply:

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- [1] The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building; and
  - [2] The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.
- (2) *Accessory building setbacks and requirements.*
- (a) Within the viewing/access corridor, accessory buildings shall in be accord with the underlying zoning district, except for the following:
    - [1] Maximum of one per viewing/access corridor.
    - [2] Maximum of two per premises.
    - [3] Maximum size of 100 square feet.
    - [4] Maximum height of 12 feet.
    - [5] Minimum setback of ten feet from the ordinary high-water mark.
    - [6] Shall not be used for human habitation or animal shelter.
    - [7] Shall not include boathouses.
  - (b) All other accessory buildings shall be in accord with the underlying zoning district, except for the following:
    - [1] Shall not be closer than 35 feet to the ordinary high-water mark.
    - [2] Shall not be used for human habitation or animal shelter.
    - [3] Shall not include boathouses.
- D. *Vegetative buffer zone.* Pursuant to Wis. Stats. § 62.233, a landowner must maintain a vegetative buffer zone as follows:
- (1) A person who owns shoreland property that contains vegetation must maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending 35 feet inland from the ordinary high-water mark of the navigable water, except as provided in subsection D.(2).
  - (2) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove the vegetation, except that, if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.
  - (3) A person who is required to maintain or establish a vegetative buffer zone under subsection D.(1) may remove all of the vegetation in a part of that zone in order to establish a viewing/access corridor that is no greater than 30 feet wide for every 100 feet of shore frontage and extends no more than 35 feet inland from the ordinary high-water mark. Vegetation buffer for properties with less than 100 feet of shore frontage shall be calculated at 30 percent of shore frontage.
- E. *Definitions.* As used in this section, the following terms shall have the meanings indicated:
- Principal building.* The main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.
- Shoreland setback area.* As given in Wis. Stats. § 59.692(1)(bn).
- Shorelands.* As given in Wis. Stats. § 59.692(1)(b).

## **CHAPTER 10-4. SIGNS AND AWNINGS<sup>4</sup>**

### **Sec. 10-4-1. Purpose.**

- A. The purpose of this chapter is to create the legal framework to administer and enforce outdoor sign and awning regulations within the City of Two Rivers. This chapter recognizes the need to protect the safety and welfare of the public; the need for well-maintained and attractive sign displays within the community, and the need for adequate business identification, advertising, and communication.
- B. This chapter authorizes the use of signs visible from public right-of-way, provided the signs are:
  - (1) Compatible with zoning regulations.
  - (2) Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety.
  - (3) Legible, readable, and visible in the circumstances in which they are used.
  - (4) Respectful of the reasonable rights of other advertisers whose messages are displayed.
- C. Notwithstanding any other provision contained herein to the contrary, noncommercial messages may be contained on any authorized sign.

### **Sec. 10-4-2. Definitions.**

For the purpose of this chapter, certain words and terms are hereby defined as follows:

*Abandoned sign.* A sign which no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, product, activity conducted or product available.

*Animated, moving or revolving sign.* Any sign which includes action or motion by means of flashing, scintillating, blinking or traveling lights or by means of moving components. This term does not include changing signs which are separately defined.

*Area of copy.* The entire area within a single continuous perimeter composed of squares or rectangles which encloses the extreme limits of the advertising message, announcement, or decoration of a sign.

*Area of sign.* The area of the largest single face of the sign within a perimeter which forms the outside shape, including any frame that forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled. Any irregular-shaped sign area shall be computed using the actual sign-face surface. In the case of signs, the area of copy will be used.

*Awning.* A retractable, roof-like cover, temporary in nature, which projects from the wall of a building and is intended to provide shade and shelter from the weather. An awning may have an on-premises sign as part of the fabric, which shall be considered either a projecting or wall sign.

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<sup>4</sup>Editor's note(s)—Adopted by the city council of the City of Two Rivers (Title 10, Ch. 3, of the 1981 Code).  
Amendments noted where applicable.

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*Banner.* Any sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered banners.

*Building facade.* That portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation. Parallel portions of a building facing the same direction shall be considered one building facade.

*Business identification sign.* Any sign which promotes the name and type of business only on the premises where it is located.

*Canopy or marquee.* A roof-like structure projecting from a wall and erected to provide shelter from the weather and/or architectural enhancement.

*Changing sign.* A sign, such as an electronic- or an electric-controlled time-and-temperature sign, message center or reader board, whether electronic, electric or manual, where different copy changes.

*Directional off-premises sign.* Signs which provide direction or instruction to a location not on the property upon which the sign is located.

*Directional sign.* A sign which provides direction or instruction and is located entirely on the property to which it pertains and which does not in any way advertise a business.

*Electric sign.* Any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source.

*FAP (Federal Aid Primary) highway.* That portion of a state or county highway which extends into or through the city and is designated as "Federal Aid Primary Highway" according to maps on file in the offices of the city engineer and of the Wisconsin Department of Transportation.

*Flag.* Any fabric containing distinctive patterns or symbols, used as a symbol of a nation, political subdivision, or corporate entity, mounted on a pole. Also see "flag, business."

*Flag, business.* A flag used for the purpose of promoting an on-premises business or other nonresidential use which may display a business emblem, identify a product sold, or state a business is open.

*Frontage.* The length of the property line of any one premises parallel to and along each public right-of-way it borders. Said public right-of-way may be known as a "frontage street." All signs, the areas of which are calculated on the basis of the dimension of a street frontage, shall be so placed and oriented for primary reading from such street.

*Ground sign.* A sign erected on a freestanding frame, mast or pole, or more than one such mast or pole, not attached to any building; the area of double-faced ground signs shall be calculated on one face only, which shall be the largest face.

*Height of sign.* The vertical distance measured from the grade at the street right-of-way line where the sign is located to the highest point of such sign, including its structure.

*Marquee.* See "canopy."

*Movable sign.* Any sign not permanently attached to the ground or a building.

*Off-premises sign.* A sign which advertises goods, products, facilities or services not necessarily on the premises where the sign is located, or directs persons to a different location from where the sign is located.

*On-premises sign.* Any sign identifying or advertising a business, person, activity, goods, products or services located on a premises where the sign is installed and maintained.

*Pennant.* Any plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wiring or string, usually in series, designed to move in the wind.

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*Projecting sign.* A sign, normally double-faced, which projects at a lateral angle of 15° or more in relation to the facade of a building and may be attached to a structure, building facade, canopy or marquee. The area of projecting signs is calculated on one face only, which shall be the largest face.

*Reflective sign.* A sign containing a material designed to reflect light directed to it for the purpose of night-time visibility without self-illumination.

*Roof sign.* A sign erected upon a roof or above a parapet wall of a building and which is wholly or partially supported by said building.

*Sandwich sign.* A double-faced advertising device not permanently attached to the ground and intended to be displayed for a limited period of time.

*Sign.* Any identification, description, illustration or device, illuminated or nonilluminated, which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business, or solicitation, including permanently installed or situated merchandise; or any emblem, painting, banner, placard or temporary sign designed to advertise, identify, or convey information, with the exception of window displays, pennants and flags. For the purpose of removal, "sign" shall also include all sign structures and restoration of the site to its original condition.

*Sign structure.* Any structure or material which supports, has supported, or is capable of supporting or helping maintain a sign in a stationary position, including decorative covers.

*Swinging sign.* A sign installed on an arm, mast, or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.

*Vehicle-mounted electronic changing message (ECM) mobile sign.* An ECM sign mounted on a vehicle or trailer advertising any product, service or business activity or directing people to property on which a business activity is located, which may be moved between locations and temporarily parked and which is visible from the public right-of-way.

*Wall sign.* A sign attached to or erected against the wall of a building or on a canopy or marquee with the face at a lateral angle of less than 15° to the plane of the building wall. For purposes of wall signage, a roof pitch less than 25° shall be considered an extension of the wall below.

*Window sign.* A sign installed inside a window for purposes of viewing from outside the premises.

Editor's note(s)—Amended at time of adoption of Code.

State law reference(s)—See title 1, general provisions, Ch. 1-1, Art. III.

### **Sec. 10-4-3. Permits required.**

Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, construct, enlarge or structurally modify any sign or awning in the city, or cause the same to be done, without first obtaining a permit for each such sign or awning from the zoning administrator as required by this chapter. Permits shall not be required for a change of copy on any sign or for the repainting, cleaning and other normal maintenance or repair of signs, sign structures or awnings. Permits shall become null and void if installation is not completed within one year from date issued.

### **Sec. 10-4-4. Application for permit.**

A. *Application.* Application for a permit shall be filed with the zoning administrator upon forms provided by the zoning administrator and shall contain or have attached thereto the following information:

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- (1) The name, address, and telephone number of the owner, the property owner where a sign is or will be located, and the contractor.
  - (2) Clear and legible scale drawings with description and nominal dimensions of the proposed sign or awning, the construction size and dimensions, kind of materials to be used in such structure. The site plan shall show the buildings on the premises upon which the structure is to erected and maintained, together with location, size, and types of existing signs, canopies and awnings on the premises where the proposed sign or awning is to be located.
  - (3) If required by the zoning administrator, calculations showing that the structure and design meet the requirements of this chapter for wind pressure load and such other information as may be required to show full compliance with this chapter and all other applicable ordinances or regulations.
  - (4) Signature of the applicant.
- B. *Permit fees.* Application for the permit shall be filed with the zoning administrator together with a permit fee for each sign or awning. The fee for a permit, exclusive of any other required permit, shall be as specified in section 1-2-1 of this Code.

#### **Sec. 10-4-5. Awnings and signs requiring annual special permits.**

- A. Any awning, sign or advertising device extending into or over the right-of-way of any public street or alley shall require a special permit therefor from the zoning administrator, which shall be renewed annually upon payment of a permit fee as specified in section 1-2-1 for each device. Annual permits shall expired on March 30. No fee shall be prorated.
- B. The zoning administrator shall keep accurate and current records of all canopies and signs or advertising devices specified above, and he or his assistants shall annually inspect and inventory all such canopies, signs and advertising devices to determine that they are in such condition as to be structurally sound and not present a hazard to vehicular or pedestrian traffic.
- C. The zoning administrator annually shall submit a report to the city manager concerning his activities in performing the duties herein specified, together with such other statistical data as may be pertinent and in keeping with the spirit of this section.
- D. Until such time as this chapter shall be certified by the Wisconsin Department of Transportation, no permit shall be issued by the zoning administrator for any off-premises sign or advertising device to be located within the jurisdictional limits of such department of transportation along any FAP highway until a permit therefor has been issued by said department.

#### **Sec. 10-4-6. Permit issuance and denial.**

The zoning administrator shall issue a permit for the erection, structural alteration, enlargement or relocation of a sign or awning within the city when the permit application is properly made, all appropriate fees have been paid, and the sign or awning complies with the appropriate ordinances of the city. If the permit is denied by the zoning administrator, he shall give written notice of the denial to the applicant, together with a brief written statement of the reasons for the denial.

#### **Sec. 10-4-7. Appeal from decision of zoning administrator.**

- A. There is hereby created the sign board of appeals, the membership of which shall consist of those members appointed to the zoning board of appeals. It shall be the duty of such board to review and interpret the provisions of this chapter in such manner as to carry out the intent and purpose thereof.



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- B. The zoning administrator shall act as secretary to the sign board of appeals and he shall transmit to the board all petitions, plans, and other materials constituting the record in the matter of the appeal.
  - C. The zoning administrator shall comply with and enforce the decision of the sign board of appeals.
  - D. The failure of the zoning administrator to either formally grant or deny a permit within ten days of the date of an application is filed shall be cause for appeal to the sign board of appeals.
  - E. In cases of extraordinary hardship to an appellant, the board may either grant or deny the appeal or grant the appeal with modification.

**Sec. 10-4-8. Indemnification for sign installation and maintenance; insurance.**

- A. *Indemnification.* All persons engaged in the business of installing or maintaining signs which involves in whole or in part the erection, alteration, relocation, maintenance of a sign or other sign work in, over, or immediately adjacent to a public right-of-way or public property so that a portion of the public right-of-way or public property is used or encroached upon by the sign contractor shall agree to hold harmless and indemnify the city, its officers, agents and employees from any and all claims resulting from the erection, alteration, relocation or maintenance of any sign or any sign work insofar as this chapter has not specifically directed the placement of the sign.
- B. *Insurance.* Every sign contractor shall file with the zoning administrator a certificate of insurance indicating the applicant holds a public liability insurance policy, including workman's compensation, public liability and property damage specifically to include the hold harmless with bodily injury limits of at least \$300,000.00 per occurrence, and \$300,000.00 aggregate, and property damage insurance of at least \$100,000.00 per occurrence and \$100,000.00 aggregate. Such insurance shall not be canceled or reduced without the insured first giving 30 days' notice in writing to the city of such cancellation or reduction.

**Sec. 10-4-9. Remedies upon violation.**

- A. Failure to comply with the provisions of this chapter shall be and hereby is declared to be unlawful.
- B. Any ground, roof, projecting or wall sign or awning erected, altered, moved or structurally modified without a permit or altered with a permit but in violation of the provisions of this chapter shall be removed at the owner's expense or brought into compliance within 30 days of written notification by the zoning administrator. All other signs and business flags in violation of this chapter shall be brought into compliance within five days from the date of written notice. If the violation is failure to obtain a permit, a permit shall be required, and the permit fee shall be doubled; in the event that the owner does not remove or bring into compliance, the zoning administrator may order removal, the expenses of which will be assessed against the property on which the noncomplying sign is located.
- C. This section shall not preclude the city from maintaining any appropriate action to prevent or remove a violation of this chapter.

**Sec. 10-4-10. Notification of nonconformance.**

- A. After enactment of this chapter, the zoning administrator shall, as soon as practical, survey the city for signs which do not conform to the requirements of this chapter. Upon determination that a sign is nonconforming, the zoning administrator shall use reasonable efforts to so notify, either personally or in writing, the user or owner of the property on which the sign is located of the following:
  - (1) The reason for the sign's nonconformity.
  - (2) The procedure for appeal of the status of a sign.

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- B. *Signs eligible for characterization as legal nonconforming.* Any sign located within the city limits on the date of adoption of this chapter, or located in an area annexed to the city hereafter, which does not conform with the provisions of this chapter is eligible for characterization as a legal nonconforming sign and is permitted, providing it also meets the following requirements:
- (1) The sign was covered by a sign permit or variance immediately prior to the date of adoption of this chapter, if one was required under applicable law.
  - (2) If no permit was required under applicable law for the sign in question and the sign was in all respects in compliance with applicable law immediately prior to the date of adoption of this chapter.
- C. *Loss of legal nonconforming status.* A sign loses its nonconforming status if one or more of the following occurs:
- (1) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this chapter than it was before alteration.
  - (2) The sign is relocated.
  - (3) The sign is replaced.
  - (4) The sign fails to conform to this chapter regarding maintenance and repair, abandonment or dangerous or defective signs.
  - (5) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this chapter with a new permit secured therefor or shall be removed.
    - (a) Exception: A legal nonconforming sign that is partially or completely destroyed by an act of God or some other person beyond the control of the owner may be restored to its state before such destruction; provided, however, that this does not apply to situations where the owner's negligence or neglect significantly contributed to the destruction of the sign.
- D. *Legal nonconforming sign maintenance and repair.* Nothing in this chapter shall relieve the owner or user of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this chapter regarding safety, maintenance and repair of signs.

## **Sec. 10-4-11. Maintenance and repair; abandoned, deteriorated or dilapidated signs.**

- A. *Maintenance and repair.*
- (1) Every sign, including but not limited to those signs for which permits are required, shall be maintained in a safe, presentable, and good structural condition at all times, including replacement of defective parts, painting, except when a weathered or natural surface is intended, repainting, cleaning and other acts required for the maintenance of said sign.
  - (2) The zoning administrator shall require compliance with all standards of this chapter. If the sign is not maintained to comply with safety standards outlined in this chapter, the zoning administrator shall require its removal in accordance with this section.
- B. *Abandoned signs.*
- (1) Except as otherwise herein provided, all signs and/or sign messages shall be removed by the owner or lessee of the premises upon which an on-premises sign is located when the business it advertised is no longer conducted there. If the owner or lessee fails to remove the sign, the zoning administrator shall give the owner 50 days' written notice to remove said sign, and thereafter upon the owner's or lessee's failure to comply may remove such sign, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the zoning administrator may take any other appropriate legal action necessary to attain compliance.

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- (2) Upon receipt of a written request from the owner of record, his heirs or agent, of the real property involved, the zoning administrator may at his discretion grant a ten-month extension of time within which on-premises signs meeting all of the following conditions are to be removed:
    - (a) Such signs conform to the provisions of this chapter.
    - (b) Permits have been issued for such signs.
    - (c) Such signs are in good physical repair.
    - (d) Such signs are located upon a vacant premises within or upon which a use can be reestablished in accordance with the Code similar to the former use.
    - (e) Such signs are so constructed as to readily permit their reuse by means of replacing message copy or lettered faces.

### **Sec. 10-4-12. Prohibited signs.**

The following signs shall be prohibited within the City of Two Rivers:

- A. Signs painted directly on the building walls, except water towers which may display the name or symbol of the owner or operator and wall signs for on-premises advertising up to 100 square feet.
- B. Sandwich and movable signs, except for those described below:
  - (1) Permitted in B-1, B-2, B-3, waterfront business and office/service business districts.
  - (2) Movable signs shall comply with the following:
    - (a) Be limited to one on-premises sign.
    - (b) Not to exceed 36 square feet.
    - (c) Be located on private property and set back at least five feet from all property lines.
    - (d) Be located outside of vision clearance triangles as set forth in title 10.
  - (3) Sandwich signs shall comply with the following:
    - (a) Be limited to one sign per business. A business located on a corner shall be limited to two signs, no more than one sign shall be located on each frontage street.
    - (b) Shall advertise only merchandise or services provided at the subject business.
    - (c) Not to exceed six square feet per side for copy area and eight square feet for entire sign structure.
    - (d) Signs in the B-2, B-3 and office/service districts shall be located on private property and set back at least five feet from all property lines and be located outside of vision clearance triangles as set forth in title 10.
    - (e) Signs in the B-1 and waterfront business districts may:
      - [1] Be located in the terrace area (between the sidewalk and the curb) to allow a minimum 60-inch-wide paved pedestrian corridor between the sign and any adjacent street appurtenance, landscaping feature or other structure.
      - [2] Be located outside of vision clearance triangles as set forth in title 10.
      - [3] Not be attached by any means to a public appurtenance or sidewalk (signs must be portable).

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- [4] Be displayed only during the period a business is open to the public and shall be removed at close of business each day.
  - [5] Not have moving parts or be electrically powered.
  - [6] Not be painted traffic yellow, construction zone orange or fluorescent yellow-green, nor shall it be reflective, animated, fluorescent or illuminated.
  - [7] Be fabricated of quality sign-grade wood, metal or fiberglass and be freestanding and self-supporting and be designed and weighted to prevent overturning.
  - [8] Be maintained in a high quality state of repair, with no peeling, broken, cracked or faded paint components.
  - [9] Have all fittings be set flush with the surface of the sign. The sign shall be free of splinters, slivers, sharp projections or sharp edges.
- (4) Notwithstanding section 10-4-12.D. and E. to the contrary, the zoning administrator may issue a special permit for a vehicle-mounted electronic changing message (ECM) mobile sign subject to the following requirements:
- (a) Such sign may be permitted in the B-1, B-2, B-3 business districts, waterfront business (WFB) district, office/service business (OSB) district, institutional/public facilities (IPF) district, I-1 and I-2 Industrial districts and I-3 business park district and on publicly owned property, but not within public roadway rights-of-way, unless expressly so provided in the permit.
  - (b) Any vehicle-mounted ECM mobile sign for which a permit is issued shall comply with the following:
    - [1] Any such sign permit shall expire ten consecutive calendar days after the date on which it is issued.
    - [2] Such sign may be located only on a parcel or series of contiguous parcels under a single ownership.
    - [3] No such sign may be displayed at any one location a cumulative total of 60 days in any one calendar year.
    - [4] No such sign may exceed a total area of 150 square feet per vehicle.
    - [5] Any such sign shall be set back at least five feet from all property lines and outside of vision clearance triangles as set forth in title 10.
    - [6] No permit may be issued for any such sign which will adversely affect public safety by distracting or confusing motorists because of placement or operational characteristics of the sign relative to nearby traffic signals and signs.
    - [7] No such sign may create a public nuisance because of operational characteristics or visibility from nearby residential uses.
    - [8] No permit may be issued for a sign using a flashing message or other device or logo.
    - [9] Such sign may display on-premises and/or off-premises advertising messages, subject to other provisions of this chapter which may be applicable.
    - [10] Such sign may be located on a closed public street in accord with street closure requirements approved by the city council.
    - [11] Applicant shall provide property owners written authorization for placement of the sign during the permit period in conjunction with the sign permit application process.

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[12] Such sign shall comply with requirements in section 10-4-8 regarding indemnification, property damage and insurance requirements.

C. *Abandoned signs.*

D. *Parking of advertising vehicles prohibited.*

- (1) No persons shall park any vehicle on a public right-of-way or public property or on private properties so as to be seen from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business activity located on the same or nearby property or any other premises.
- (2) This section shall not prohibit "for sale" signs on vehicles for sale, provided the vehicle is not parked on a public right-of-way.

E. *Animated or moving signs.* No sign shall be permitted which is animated by means of flashing, scintillating, blinking, or traveling lights of over 15 watts per lamp. Public service information signs and other electronic message or mechanical message centers are classified as changing signs and may be permitted as described in section 10-4-17B. Barber pole signs which revolve around a vertical axis at speeds less than seven revolutions per minute also may be permitted without plan commission approval.

F. *Swinging signs.*

G. *Banners and portable signs.* Banners, searchlights, balloons or other gas- or air-filled figures shall not be used on a permanent basis. They may be permitted as a special promotion in a commercial or industrial establishment for a total period not to exceed 30 days and will be allowed in residential districts in conjunction with an open house or model home demonstration for a period not to exceed a total of 16 days bimonthly.

H. *Unshielded illuminated signs.*

- (1) No sign shall be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device or signal.
- (2) No sign shall be illuminated in such manner or intensity as to cause glare or impair the vision of or otherwise interfere with any driver's operation of a motor vehicle.

I. *Reflection illuminated signs.* Reflection illuminated signs whose light source is positioned so that 25 percent or more of its light intensity is visible from a public right-of-way by vehicular traffic or whose light source is visible from residential property are prohibited.

J. *Unclassified signs.* All signs are prohibited which:

- (1) Purport to be or are an imitation of, or resemble, an official traffic sign or signal, or which bear the words "stop," "caution," "warning," or similar words that are displayed in the colors normally associated with them as official signs.
- (2) Interfere with official traffic signs, signals or devices. No awning, sign or advertising device shall be located or installed in such manner as to obscure or otherwise physically interfere with the effectiveness of any official traffic sign, signal or device, obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic.
- (3) Bear or contain statements, words or pictures of obscene, pornographic, immoral character or contain advertising matter which is untruthful.

### **Sec. 10-4-13. Signs not requiring permit.**

All the following signs must otherwise comply with all other provisions of this chapter:

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- A. *Construction and alteration signs.*
- (1) *At residential construction and alteration project sites.* With the property owners' permission, at sites where a building permit has been issued for construction of a new dwelling or a new accessory building or for additions or alterations to the exterior of an existing dwelling or accessory building, four nonilluminated contractor's signs not more than four feet in height and six square feet in area may be displayed in the front yard or street side yard of the property during the actual time of construction but not more than 60 days in a 12-month period, whichever is less. This provision, however, shall not apply to premises occupied by the contractor. Such signs as are herein permitted shall conform to all other applicable provisions of this Code.
  - (2) *At other than residential construction and alteration sites.* Four nonilluminated construction signs per business, institutional or industrial construction site not exceeding 100 square feet in area and 15 feet in height, which shall be confined to the site of construction, but no closer than 15 feet to the street line except where there is no building setback required, and shall be removed within 30 days after completion of construction or prior to occupancy after construction, whichever is sooner.
- B. Directional and instructional signs which provide instruction or direction and are located entirely on a property to which they pertain and do not exceed six square feet each in area and do not in any way advertise a business. This includes but is not limited to such signs as those identifying restrooms, telephones, parking areas, entrances and exits. Signs identifying berths for charter fishing vessels and containing such pertinent data as the name of the captain, address, and telephone number, not to exceed one sign for each vessel or berth not exceeding six square feet in area nor eight feet in height, shall be included in this category.
- C. *Directional off-premises signs.* Directional off-premises signs for public and private schools, places of worship and museums. The director of public works is authorized to grant authority to public and private schools, places of worship and museums, at their expense only, to have the department of public works install off-premises directional signs in the terrace along city-maintained connecting state highways (STH 42, STH 147 and STH 310), CTH VV and CTH O at such locations and subject to such other conditions as may be established by the director of public works.
- D. *Government signs.* Government signs to direct or regulate pedestrian or vehicular traffic and for other regulatory purposes, danger signs, railroad crossing signs, and signs of public utilities indicating danger, and aids to service or safety which are erected by or on the order of a public officer in the performance of his public duty. Government signs may be located in public rights-of-way.
- E. *Home occupation signs.*
- (1) One sign associated with an on-premises home occupation, as defined in section 10-1-7, provided such sign is a nonilluminated wall sign that does not exceed two square feet in area.
  - (2) One sign displaying the hours of operation, provided such sign is a nonilluminated wall or ground sign not to exceed two square feet in area. Such sign shall not be combined with any other sign on the premises and shall be located within the subject parcel.
- F. *House numbers and nameplates.* House numbers and nameplates not exceeding two square feet in area for each residential, business or industrial building.
- G. *Interior signs.* Signs located within the interior of any building.
- H. *Memorial signs and plaques.* Memorial sign or tablets, names of buildings and date of erection, which are cut into masonry surface or inlaid so as to be part of a building or when constructed of bronze or other noncombustible material not more than four square feet in area.
- I. *"No trespassing" or "no dumping" signs.* "No trespassing" and "no dumping" signs not to exceed one and one-half square feet in area per sign.

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- J. *Public notices.* Official notices posted by public officers or employees in the performance of their duties.
- K. *Public signs.* Signs required as specifically authorized for a public purpose by a law, statute or ordinance.
- L. *Political and campaign signs.*
- (1) No sign shall exceed 11 square feet in area unless the sign is affixed to a permanent structure and does not extend beyond the perimeter of the structure and does not obstruct a window, door, fire escape, ventilation shaft or other area which is required by an applicable building code to remain unobstructed.
  - (2) No sign shall obstruct, impede or in any other form interfere with traffic or pedestrian safety.
  - (3) Any sign having any electrical, mechanical or audio auxiliary shall comply with all general provisions of this chapter of this Code.
  - (4) This section does not apply to signs prohibited from being erected under Wis. Stats. § 84.30.
- M. *Real estate signs.* One real estate sales sign on any lot or parcel; two real estate sales signs on a corner lot or parcel, and two real estate signs on a through-lot or parcel, provided no more than one sign shall be located on each frontage street. A real estate sign shall be located entirely within the property to which the sign applies and is not to be directly illuminated.
- (1) In residential districts such signs shall not exceed four feet in height and six square feet in area and shall be removed within 15 days after the sale, rental or lease has been accomplished.
  - (2) In all other districts such signs shall not exceed 32 square feet in area nor the height of other permitted signs and shall be removed within 15 days after the sale, rental or lease has been accomplished.
  - (3) No sign shall be located within 25 feet of the public right-of-way at a street intersection nor over the right-of-way.
  - (4) One temporary "open house" event sign may be located entirely within the property to which the sign applies but shall not be displayed more than five calendar days prior to the open-house event and shall be removed immediately following the open-house event.
  - (5) One off-premises temporary "open house" event sign per lot with the owner's permission, provided such sign is erected on the day of the open house event and removed immediately following the open-house event.
- N. *Window and door signs.* In business and industrial buildings, the inside surface of any window or door may be used for attachment of on-premises signs.
- O. *On-premises insignia.* Insignia and commemorative plaques of recognized historic agencies or religious orders not exceeding four square feet in area.
- P. *On-premises and off-premises temporary signs.* Temporary signs not exceeding 32 square feet in area pertaining to events of civic, philanthropic, educational, or religious organizations, provided such signs are posted with the property owner's permission and not more than 30 days before said event and removed within five days after the event.
- Q. *Vehicular signs.* Truck, bus, trailer or other vehicle signs while operating in the normal course of business; which is not primarily the display of signs.
- R. *Neighborhood identification signs.* In any zone, a sign, masonry wall, landscaping or other similar material and feature may be combined to form a display for neighborhood or tract identifications, provided that the legend of such sign or display shall consist only of the neighborhood or tract name, not exceeding four square feet in area.
- S. *Rummage/garage sales signs.* See section 9-6-4.F.

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T. *Business flags.*

- (1) Only one of the following types of business flag per business premises may be displayed for the purpose of promoting a business or other nonresidential use as follows:
  - (a) On-premises building-mounted business flags extending into public rights-of-way shall not exceed 15 square feet and shall maintain a vertical clearance of six feet above grade when extending more than 30 inches from the building facade.
  - (b) Movable business flags shall have a weighted base not to exceed two square feet, shall have a rigid pole to support the flag; shall not exceed 18 inches in width, and shall not exceed ten feet in height measured from the bottom of the base to the tip of the flag. These flags may be located in the terrace area immediately adjacent to the business and shall be displayed only during business hours.
- (2) Business flags located on private property shall not exceed 24 square feet and be located in accord with the general design requirements of this section.
- (3) Business flags shall advertise only merchandise or services provided at the subject business. These provisions do not apply to flags of nations or political subdivisions. Business flags are not permitted in conjunction with a home occupation.

U. *Sandwich signs as permitted in section 10-4-12.B.*

**Sec. 10-4-14. Construction specifications.**

- A. All signs shall comply with the provisions of the city building code and the National Electrical Code, as amended, and the additional construction standards hereinafter set forth, where applicable.
- B. All ground and roof sign structures shall be self-supporting structures as defined in the building code and permanently attached to sufficient foundations.
- C. Electric service to ground signs shall be concealed.
- D. All signs, except those attached flat against the wall of a building, shall be constructed to withstand wind loads as follows, with correct engineering adjustments for the height of the sign above grade:
  - (1) For solid signs, 30 pounds per square foot on the largest face of the sign and structure.
  - (2) For skeleton signs, 30 pounds per square foot of the total face cover of the letters and other sign surfaces or ten pounds per square foot of the gross area of the sign, as determined by the overall dimensions of the sign, whichever is greater.
- E. No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent lateral movement that could cause wear on supporting members or connections.

**Sec. 10-4-15. Installation and maintenance.**

- A. *Safety.* All signs and awnings shall be installed and maintained in a workmanlike manner using equipment which is adequate and safe for the task. This chapter recognizes that there is a great peril to the public safety by improper performance of sign contractors through use of inadequate equipment. Therefore, the zoning administrator may deny a sign permit if the sign installer does not have or does not arrange for use of adequate equipment. The zoning administrator may also cite the sign contractor for a violation of this chapter if he fails to use proper equipment in the maintenance of signs.



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- B. *Electric signs.* This chapter recognizes that electric signs are controlled under the special equipment provisions of the National Electric Code (Article 600) and the city electrical code. It is also recognized that electric sign contractors have developed a specialized trade of high-voltage discharge electric sign installation and maintenance to properly install and service high-voltage electric signs.
- (1) Electric sign contractors and their employees are hereby authorized to perform the following specific tasks:
    - (a) Install exterior electric signs, ballasts or high voltage transformers to sockets or outline lighting tubes, but may not connect said signs to primary branch circuits.
    - (b) Install interior electric signs, but may not connect said signs to the primary branch circuit.
    - (c) Maintain and replace any electric component within the sign, on its surface, or between the sign and building for exterior signs only.
  - (2) This chapter prohibits the electric sign contractor or its employees from performing work on electric signs in contradiction to the National Electrical Code or the city electrical code.

### **Sec. 10-4-16. General design requirements.**

- A. Any provision set forth in this chapter which is found to be less restrictive than the rules of the Wisconsin Department of Transportation or the state statutes over which such department has jurisdiction shall not be construed to supersede such state rules or statutes.
- B. A ground sign, any part of which is closer than nine feet to the right-of-way shall have a minimum vertical distance of eight feet between the bottom of the sign and the grade at the right-of-way line or shall not be more than three feet in height above grade.
- C. Any ground sign, projecting sign, awning, canopy or marquee within 25 feet of a street intersection shall maintain a minimum vertical distance between the bottom of the sign, awning, canopy or marquee and the grade at the right-of-way line of ten feet or shall be not more than three feet in height above grade at the right-of-way line.
- D. Ground signs and awnings shall not project more than 72 inches into the public right-of-way, but in no case be closer than two feet to the curblin as measured from the property line.
- E. All other projecting signs, awnings, canopies and marquees shall maintain a minimum vertical distance between the bottom of the sign, awning, canopy or marquee and the grade at the right-of-way line of eight feet.
- F. Except where provided for elsewhere in this Code, projecting signs and roof signs may extend not further than six feet from the building to which they are attached, but in no case more than 72 inches into the public right-of-way, and in no case be closer than two feet to the curblin, as measured from the property line.
- G. A roof sign shall not extend more than eight feet above the highest point of the roof on which it is installed. A roof sign that projects beyond the facade of a building shall be governed by the requirements for a projecting sign.
- H. Projecting and wall signs shall not extend more than five feet above the front of the building to which they are mounted.
- I. No projecting sign shall be spaced closer than 50 feet from another projecting sign on a building facade utilized by the same occupant.
- J. Any sign located in an area that is accessible to vehicles shall have a minimum vertical clearance of 16 feet. (See National Electrical Code 600.10(b))

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- K. No advertising device of any type shall be in any way attached to any utility, sign or other municipal poles or structures located in the public right-of-way.
  - L. No more than six signs shall be attached to a single sign structure.
  - M. Unless otherwise specified, the minimum distance between off-premises signs oriented upon FAP highway systems shall be 100 feet.

**Sec. 10-4-17. Special signs.**

- A. *Subdivision development signs.* The zoning administrator may issue a special permit for a temporary sign in any zone in connection with the marketing of lots or structures in a subdivision, subject to the following restrictions:
  - (1) Such permits may be issued for a period of not more than one year and may be renewed for additional periods of up to one year upon written application at least 30 days prior to its expiration.
  - (2) Signs as used in this section refers to all types of signs, except those excepted or prohibited by this chapter.
  - (3) The sign must be located on the property being developed and must comply with all applicable building setback requirements.
  - (4) The sign may not exceed 80 square feet.
  - (5) One sign is allowed for each major street adjacent to the subdivision.
- B. *Changing signs.* The plan commission may approve a changing message sign, provided the following findings can be made by the commission:
  - (1) The sign regulations applicable to the district would allow a static message sign of identical size and placement as the proposed changing sign.
  - (2) Proximity of the changing sign to nearby traffic signals would not adversely affect public safety by distracting or confusing motorists.
  - (3) Visibility of the changing sign from nearby residential properties would not create a nuisance for nearby residents.
  - (4) That "changing" does not mean flashing of the message.
  - (5) That the intensity of the changing message lights shall not create a nuisance.

**Sec. 10-4-18. Signs permitted by zoning district.**

- A. *Conservancy and residential districts.*
  - (1) Signs not requiring a permit.
  - (2) On-premises business identification signs for authorized, conditional or nonconforming uses.
    - (a) Permitted signs. One wall sign and one ground sign per frontage road, provided all buildings are set back at least 25 feet from the right-of-way line.
    - (b) Area restrictions. Twenty-four square feet for each ground sign and the total area of wall signs is not to exceed 0.5 square feet per linear foot of building facade facing a right-of-way up to 24 square feet.
    - (c) Height restrictions. Ground signs are not to exceed a height of 15 feet.

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- (d) Setbacks. All ground signs shall be located at least 25 feet from interior side or rear lot lines and completely outside the public right-of-way.

B. *Business districts.*

- (1) Signs not requiring a permit.
- (2) Awnings.
- (3) On-premises signs for authorized, conditional and nonconforming uses.
  - (a) Wall signs. Two per building facade calculated at six square feet of area per linear foot of building facade to a total maximum area of 300 square feet per facade.
  - (b) Ground, roof, and projecting signs. Any combination not exceeding three such signs per frontage street calculated at two square feet of area per linear foot of lot frontage to a total maximum area of 300 square feet. Such signs shall not exceed 25 feet in height nor project more than six feet into the public right-of-way, nor be less than two feet from the curb.
  - (c) Setbacks. All freestanding ground signs shall be not less than ten feet from interior side and rear lot lines in B-2 and B-3 districts.
- (4) Off-premises signs.
  - (a) Wall signs. Where the maximum area for on-premises signs is not used, one off-premises wall sign per building facade may be permitted, calculated at six square feet per linear foot of the building facade. The combined total of on-premises and off-premises wall signs shall not exceed 300 square feet per facade. Said off-premises wall signs may be attached to or painted on any building. However, no building shall have more than two off-premises wall signs with no one sign exceeding 100 square feet in area. Off-premises ECM signs may be permitted in accordance with section 10-4-17.B.
  - (b) Ground signs. Where the maximum area for on-premises signs is not used, one off-premises sign per frontage street, calculated at two square feet per linear foot of lot frontage. The combined total of on-premises and off-premises signs shall not exceed 300 square feet. However, no one off-premises sign shall exceed 100 square feet. Such off-premises signs shall not face residential zoning districts and shall not exceed 25 feet in height. Off-premises ECM signs may be permitted in accordance with section 10-4-17.B.
  - (c) Setbacks. All freestanding ground signs shall be so located as to not extend into the public right-of-way nor into required front and street side yard setback areas and shall be not less than 25 feet from interior side and rear yard lot lines.
- (5) Exceptions: Rogers Street Fishing Village.
  - (a) It is the intent of this section to recognize the unique character of the Rogers Street Fishing Village and to encourage design concepts which preserve and enhance the aesthetic character of the historic fishing village to the greatest possible extent within that area bounded by Jackson Street, the East Twin River, 17th and 22nd Streets. The plan commission is hereby authorized to approve the use of materials and designs other than are required in other districts, at its discretion, within the intent of this chapter, in keeping with the Rogers Street Fishing Village Development Plan, and within the following specific parameters:
    - [1] Off-premises signs not referring to businesses in the Rogers Street area shall not be permitted.
    - [2] Setbacks. Projecting signs shall not extend more than two feet into public rights-of-way which are less than 50 feet wide.

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- [3] Height. Signs shall not exceed a height of 25 feet.
  - (6) Shopping centers (multitenant buildings) and office buildings.
    - (a) Signs not requiring a permit.
    - (b) Awnings.
    - (c) Signs for authorized, conditional and nonconforming uses, including:
      - [1] Two tenant on-premises wall signs per tenant facade calculated at six square feet per linear foot of facade to a maximum area of 300 square feet per tenant. Wall signs for multiple tenants may be placed on a shared wall in lieu of the preceding on the same basis, to a total area of 300 square feet.
      - [2] Shopping center identification on-premises wall, roof or ground signs, the gross area of which shall be calculated at two square feet per linear foot of lot frontage, to a maximum of 400 total square feet.
      - [3] Height. Ground signs shall not exceed a height of 50 feet.
      - [4] Setback. No portion of any ground sign or directional entrance-exit sign shall extend into the right-of-way.

C. *Industrial districts.*

- (1) Signs not requiring a permit.
- (2) Awnings.
- (3) On-premises signs for authorized, conditional and nonconforming uses.
  - (a) Wall signs. Two per building facade calculated at six square feet of area per linear foot of building facade to a total maximum area of 300 square feet per facade.
  - (b) Ground, roof and projecting signs. Any combination not exceeding three such signs per frontage street calculated at two square feet of area per linear foot of lot frontage to a total maximum area of 300 square feet. Such signs shall not exceed 25 feet in height nor project more than six feet into the public right-of-way, nor be less than two feet from the curb.
  - (c) Setbacks. Ground signs other than directional entrance-exit signs shall be setback at least 25 feet from interior and rear lot lines and no portion of such signs shall project into the street right-of-way.
- (4) Off-premises signs.
  - (a) Wall signs. Where the maximum area for on-premises signs is not used, one off-premises sign per building facade may be permitted, calculated at six square feet per linear foot of the building facade. The combined total of on-premises and off-premises signs shall not exceed 300 square feet per facade. Said off-premises signs may be attached or painted on any building. However, no building shall have more than two off-premises signs with no one sign exceeding 100 square feet in area. Off-premises ECM signs may be permitted in accordance with section 10-4-17.B.
  - (b) Ground signs. Where the maximum area for on-premises signs is not used, one off-premises sign per frontage street, calculated at two square feet per linear foot of lot frontage. The combined total of on-premises and off-premises signs shall not exceed 300 square feet. However, no one off-premises sign shall exceed 100 square feet. Such off-premises signs shall not face residential zoning districts and shall not exceed 25 feet in height. Off-premises ECM signs may be permitted in accordance with section 10-4-17.B.

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- (c) **Setbacks.** All freestanding ground signs shall be so located as to not extend into the public right-of-way nor into required front and street side yard setback areas and shall be not less than 25 feet from interior and rear lot lines.
- D. **Signs oriented upon high-speed FAP highways.** The following specific provisions shall be optional in business and industrial districts along FAP highways whereon the posted speed limit is at least 35 miles per hour and, where utilized, supersede any other conflicting provisions regarding on-premises and off-premises ground, projecting or roof signs.
- (1) **Area restriction.** Off-premises signs shall be a total maximum area of 300 square feet.
  - (2) **Height.** Fifty feet from ground level for both on-premises or off-premises signs.
  - (3) **Setback.** Not less than 100 feet nor more than 660 feet from the right-of-way, not less than 50 feet or a distance equal to its height, whichever is greater, from any other public right-of-way.
  - (4) **Spacing.** No off-premises sign shall be located nearer than 300 feet to any other off-premises sign or to a residential property or residential district. A back-to-back double-faced sign shall be considered a single sign for the purpose of this section.
- E. **Additional on-premises signs.** Section 10-4-18.A. through D. shall apply in the zoning district indicated. However, additional on-premises signage may be authorized on a fully developed site exceeding two acres or having more than 500 feet of road frontage for the following purposes: shopping center identification and single-tenant site, business or industrial identification signs. Such signs shall be planned in a manner that is consistent with the intent of this chapter and subject to the approval of the plan commission and city council.

(Amended 6-7-2021)

### **Sec. 10-4-19. Violations and penalties.**

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 1-1-5 of this Code. The zoning administrator shall enforce the provisions of this chapter, and he may take any appropriate legal action necessary to obtain compliance with this chapter, including but not limited to forfeiture, injunction and nuisance abatement.