

## Sec. 275-33. - Residential districts.

- A. General purpose and intent. The districts contained in this section are created to:
- (1) Provide appropriately located areas for residential development that are consistent with the City's Comprehensive Plan and with standards of public health and safety established by this chapter and any other appropriate governmental body;
  - (2) Ensure adequate light, air, privacy and open space for each dwelling;
  - (3) Protect residents from the harmful effects of excessive noise, population density, traffic congestion, and other significant adverse environmental effects;
  - (4) Protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;
  - (5) Provide sites for public and semipublic land uses needed to complement residential development or requiring a residential environment; and
  - (6) Ensure the provision of public services and facilities needed to accommodate planned population densities.
- B. List of districts and specific purpose statements. The residential districts are created with the following specific purposes:
- (1) R-1/R-2 Rural Conservation Single-Family Residential District. The Rural Conservation Single-Family Residential District is intended to conserve significant open space, both upland and lowland, consistent with the preservation goals and policies contained in the Comprehensive Plan, and in a manner that respects the equity of landowners and the ability of developers to subdivide land at a density not to exceed one dwelling unit per five acres as applied pursuant to Section 275-33 G. Density bonuses may be granted pursuant to Section 275-33 I. In conformance with the City's Comprehensive Plan and with state enabling legislation, the purposes of this section also include:
    - (a) To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development;
    - (b) To provide design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, site grading, and the amount of paving required for residential development;
    - (c) To reduce erosion and sedimentation by the retention of vegetation and the minimization of development on steep slopes;
    - (d) To promote the infiltration of stormwater on site, thereby helping to recharge groundwater supplies;
    - (e)

To provide for a diversity of lot sizes and building densities to accommodate a variety of age and income groups and residential preferences, so that the community's population diversity may be enhanced;

- (f) To implement adopted City policies to conserve a variety of irreplaceable and environmentally sensitive resource areas, including provisions for reasonable incentives to create a conservation system for the benefit of present and future residents;
  - (g) To minimize impacts on environmental resources (sensitive areas such as wetlands, floodplain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls), as well as to provide opportunities to enhance or restore existing resources that have been diminished or degraded through past land management practices;
  - (h) To protect areas of the City with productive agricultural soils for continued or future agricultural use, horticultural use, or other conservation use;
  - (i) To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity;
  - (j) To provide for the conservation and maintenance of open land within the City to achieve the above-mentioned goals and for active or passive recreational use by residents; and
  - (k) To conserve scenic views and elements of the City's rural character by limiting views of new development from existing roads.
- (2) R-2E Conservation Estate Single-Family Residential District. The R-2E Conservation Estate Single-Family Residential District is created with the same purpose as the R-1/R-2 District, except that the density of development shall not exceed one dwelling unit per two acres as applied pursuant to Section 275-33 G, and the dwellings are served by adequate public sanitary sewer and water facilities. Density bonuses may be granted pursuant to Section 275-33 I.
- (3) R-3 Suburban Single-Family Residential District. The R-3 Suburban Single-Family Residential District is intended to provide for single-family residential development, at densities not to exceed two dwelling units per net acre. This district is further intended to be used for residentially platted lots already existing at the time of the adoption of this chapter and so identified for this density range on the adopted City Comprehensive Plan or component thereof. Suburban residential lots are typically served by private on-site sewage disposal systems and private wells.
- (4) R-4 Low-Density Single-Family Residential District. The R-4 Low-Density Single-Family Residential District is intended to provide for existing single-family residential development, at a density not to exceed 2.2 dwelling units per net residential acre, and new large-lot subdivisions served by public sanitary sewer and water facilities.

- (5) R-4.5 Medium-Density Single-Family Residential District. The R-4.5 Medium-Density Single-Family Residential District is intended to provide for single-family residential development, at a density not to exceed 2.9 dwelling units per net residential acre, served by public sanitary sewer and water facilities.
- (6) R-5 Medium-Density Single-Family Residential District. The R-5 Medium-Density Single-Family Residential District is intended to provide for single-family residential development in existing subdivisions, at densities not to exceed 4.3 dwelling units per net residential acre, served by public sanitary sewer and water facilities. No unplatted lands should be placed in the R-5 District.
- (7) R-6 Section 35 Low-Density Single-Family Residential District. The R-6 Low-Density Single-Family Residential District is intended to provide for single-family residential development within Sections 34 and 35 with a minimum lot size of 25,000 square feet served by public sanitary sewer and water facilities. The Plan Commission and Common Council may approve smaller lot sizes, including reduced lot width and depth, where appropriate, in order to protect environmental features such as woodlands and tree lines, provide for additional tree protection and/or avoid steep topography. Under Section 275-33 D(17), any allowed lots smaller than 25,000 square feet shall adhere to the City's adopted zoning and subdivision codes.
- (8) R-7 Quarry Park Low-Density Single-Family Residential District. The R-7 Low-Density Single-Family Residential District is intended to provide for no more than 27 single-family residential lots which shall collectively be considered a residential community governed through a homeowners association and which is served by a community-wide on-site sewage disposal systems and wells to be maintained solely by the homeowners association and/or the homeowners in the subdivision. A developer agreement shall be in place.
- (9) Rd-1 Two-Family Residential District. The Rd-1 Two-Family Residential District is intended to provide for two-family residential development, at densities not to exceed 4.8 dwelling units per net residential acre, served by public sanitary sewer and water facilities.
- (10) Rm-1 Multiple-Family Residential District. The Rm-1 Multiple-Family Residential District is intended to provide for multiple-family residential development served by municipal sewer and water facilities. Net density shall not exceed seven dwelling units per Rm-1 zoned acre. New lands to be placed in the Rm-1 District by rezoning petition shall be located not closer than 120 feet to an existing single-family residential subdivision. Net density calculations shall include the area of land upon which the dwelling units are proposed to be located and including common open space and associated facilities on the tract of land zoned Rm-1, excluding rights-of-way of publicly dedicated streets and private streets.

C.

Use summary table. Table 275-33-1 below sets forth the uses allowed within the relevant zoning district. The abbreviations used in the table are described in Section 275-32 C and are summarized in the legend table following Table 275-33-1.

- (1) Similar uses. Where there is a new use that is not listed or identified in another zoning district that the Plan Commission finds similar in nature, operation and function to that of another use allowed in this chapter, the Plan Commission may permit the new use under similar districts and with all other applicable regulations as the existing similar use, provided that:
  - (a) The use is harmonious with and does not conflict with the other uses in the district.
  - (b) The use will not jeopardize the public health, safety and welfare.

Table 275-33-1											
Uses	Zoning Districts										Additional Regulations Refer to
	R-1/R-2	R-2E	R-3	R-4	R-4.5	R-5	R-6	R-7	Rd-1	Rm-1	
<b>Agricultural Uses</b>											
Farm buildings, general	A	*	*	*	*	*	*	A	*	*	<u>Sec. 275-41 A(1)</u>
Keeping and raising of animals	A	A	*	*	*	*	*	*	*	*	<u>Sec. 275-41 A(2)</u>
Keeping and raising of chickens for personal use	A	A	A	A	A	A	A	A	*	*	<u>Sec. 275-41 A(2)(g)</u>
Raising of crops/retail sales of locally grown crops	A	A	A	A	A	A	A	A	A	A	

<b>Residential Uses</b>												
Boarding or rooming houses	*	*	C	C	*	*	*	*	*	*		
Conservation subdivisions	P	P							P		<u>Sec. 275-41</u> B(3) through (5)	
Conventional subdivisions	C	C	P	P	P	P	P	P	P	P	<u>Sec. 275-41</u> B(3) through (7)	
Elderly housing	*	*	*	*	*	*	*	*	*	*	C <u>Sec. 275-41</u> B(1)	
Multifamily dwellings	*	*	*	*	*	*	*	*	*	*	P	
Single-family detached dwellings	P	P	P	P	P	P	P	P	P	P	C <u>Sec. 275-41</u> B(2)	
2-family dwellings with attached garage	*	*	*	*	*	*	*	*	*	P	P	
<b>Commercial Uses</b>												
Bed-and-breakfast establishments	C	*	*	*	*	*	*	*	*	*	*	<u>Sec. 275-41</u> C(4)
Car wash establishment	*	*	*	*	*	*	*	*	*	*	*	<u>Sec. 275-41</u> C(20)

Commercial sports complex	*	*	*	*	*	*	*	*	*	*	<u>Sec. 275-36</u> D(5)
Mobile tower facilities	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	<u>Sec. 275-41</u> C(16)
<b>Institutional/Public/Semipublic Uses</b>											
Assisted living facilities	*	*	*	*	*	*	*	*	*	C	<u>Sec. 275-41</u> B(1)
Churches (neighborhood)	C	C	C	C	C	C	C	C	C	C	<u>Sec. 275-70</u>
Churches (community)	*	*	*	*	*	*	*	*	*	*	<u>Sec. 275-70</u>
Community living arrangements	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	<u>Sec. 275-41</u> G(1)
Educational facilities	C	C	C	C	C	C	C	C	C	C	<u>Sec. 275-41</u> G(2)
Essential services	P	P	P	P	P	P	P	P	P	P	
Family day-care homes	P	P	P	P	P	P	P	P	P		
Foster family homes	P	P	P	P	P	P	P	P	P	P	
Recreational trails	P	P	P	P	P	P	P	P	P	P	

Utilities	C	C	C	C	C	C	C	C	C	C	
<b>Miscellaneous Uses</b>											
Amenities planned on outlots and/or easements as part of a subdivision plat, including pocket parks and/or trails	A	A	A	A	A	A	A	A			
Natural resource conservation and preservation uses	P	P	P	P	P	P	P	P	P	P	
Off-street parking and loading areas	A	A	A	A	A	A	A	A	A	A	<u>Sec. 275-57</u>
Silviculture	P	P	P	P	P	P	P	P	P	P	<u>Secs. 275-54 &amp; 275-54.1</u>
Temporary uses	T	T	T	T	T	T	T	T	T	T	<u>Sec. 275-43</u>

Any other use the Plan Commission finds will be similar in nature, operation and function to the uses allowed within the district												<u>Sec. 275-33</u> C(1)
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<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li>P Principal Use</li> <li>C Conditional Use</li> <li>A Accessory Use</li> <li>T Temporary Use</li> <li>* Prohibited Use</li> </ul>
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D. Site development standards. All development shall be subject to the intensity and dimensional standards set forth in this section. These intensity and dimensional standards may be further limited or modified by other applicable sections of this chapter, including Article V and the additional requirements set forth below in Table 275-33-2.

Table 275-33-2										
District	Minimum Lot Dimensions		Minimum Setbacks (Feet)						Maximum Height (feet)	
	Lot Area	Lot Width (feet)	Lot Depth (feet)	Front	Side (each side)	Rear	Shore	Wetland		
<b>Conservation Subdivision</b>										

R-1/R-2	20,000 square feet or 32,670 square feet; see <u>Sec. 275-33</u> D(12)	110 or 130; see <u>Sec. 275-33</u> D(13)	None	40	15	40	75	30	Dwelling: 35 Farm structure: 60
R-2E	20,000 square feet; see <u>Sec. 275-33</u> D(14)	110 or 130; see <u>Sec. 275-33</u> D(15)	None	30	12.5	25	75	30	Dwelling: 35 Farm structure: 60
<b>Conventional Subdivision/Certified Survey Map (CSM)</b>									
R-1/R-2	5 acres	200	None	50	25	50	75	10 or 30; see <u>Sec. 275-33</u> D(9)	Dwelling: 35 Farm structure: 60
R-2E	2 acres	200	None	50	25	50	75	10 or 30; see <u>Sec. 275-33</u> D(9)	Dwelling: 35

R-3	20,000 square feet	110 Corner lot: 130	155	50	15	50	50	10 or 30; see <u>Sec. 275-33</u> D(9)	Dwelling: 35
R-4	20,000 square feet	110 Corner lot: 130	155	50	15	50 or 25; see <u>Sec. 275-33</u> D(1)	50	10 or 30; see <u>Sec. 275-33</u> D(9)	Dwelling: 35
R-4.5	15,000 square feet	100 Corner lot: 120	140	40	15	40	50	10 or 30; see <u>Sec. 275-33</u> D(9)	Dwelling: 35
R-5	10,000 square feet	85 Corner lot: 100	110	30 or 40; see <u>Sec. 275-33</u> D(4)	10	35 or 25; see <u>Sec. 275-33</u> D(4)	50	10 or 30; see <u>Sec. 275-33</u> D(9)	Dwelling: 35
	15,000 square feet; see <u>Sec. 275-33</u> D(2)	100 Corner lot: 120; see <u>Sec. 275-33</u> D(2)							

R-6	25,000 square feet; see <u>Sec. 275-33</u> D(17)	110 Corner Lot: 130	155	30	10	25	75	30	Dwelling: 35
R-7	25,000 square feet; see <u>Sec. 275-33</u> D(17)	100 Corner Lot: 120	155	30	10	25	75	30	Dwelling: 35
Rd-1	18,000 square feet	120 Corner lot: 140	140	40	15	40	50	10 or 30; see <u>Sec. 275-33</u> D(9)	Dwelling: 35
Rm-1	The larger of 20,000 square feet or 6,500 square feet per dwelling unit	120	None	25	15	50	50	10 or 30; see <u>Sec. 275-33</u> D(9)	Dwelling: 35

**Additional requirements:**

- (1) In the R-4 District, the rear setback is 50 feet. However, where at least one of the following conditions is met, the minimum setback is 25 feet:
  - (a) The lot is vacant and is part of a platted residential subdivision that was recorded before February 27, 2001.
  - (b) The building permit for the principal structure located on the lot was issued before February 27, 2001.
- (2) In the R-5 District, the minimum lot area and lot width shall meet the minimum lot area and width requirements of the R-4.5 District when the lot is created after January 1, 2004.
- (3) Buildings housing animals shall not be built or located closer than 50 feet to any abutting residential lot with a lot area of two acres or less.
- (4) In the R-5 District, the front and rear setbacks differ based on the drainage type at the roadway.
  - (a) Where the lot fronts a street with a curb and gutter, the minimum front setback shall be 30 feet, and the minimum rear setback shall be 35 feet.
  - (b) Where the lot fronts a street with an open drainage ditch, the minimum front setback shall be 40 feet, and the minimum rear setback shall be 25 feet.
- (5) One additional foot of required front, side and rear yard shall be provided for every foot a farm building exceeds 35 feet in height, with a maximum height of 60 feet.
- (6) No building within a multifamily residential project shall be located any closer than 30 feet to another building.
- (7) Reserved.
- (8) Zero-lot-line residential developments may be allowed as a conditional use in the Rd-1 and Rm-1 Districts, subject to the regulations found in [Section 275-27](#) and [Section 275-44 E](#).
- (9) Wetland setback.
  - (a) All impervious surfaces shall be set back a minimum of 30 feet. However, where at least one of the following conditions is met, the minimum setback is ten feet:
    - [1] The lot is vacant and is part of a platted residential subdivision that was recorded before October 9, 2001.
    - [2] The building permit for the principal structure located on the lot was issued before October 9, 2001.
  - (b) Grading may be allowed within the wetland setback upon approval by the Director. The applicant shall demonstrate appropriate erosion control practices as approved by the City and/or the DNR.
  - (c)

Landscaping may be allowed within the wetland setback upon approval by the Director. The applicant shall demonstrate appropriate erosion control practices as approved by the City and/or the DNR.

(10) Lot coverage is set forth in Table 275-33-6.

Table 275-33-6 Lot Coverage (percent)			
District	Maximum Coverage by Buildings	Maximum Coverage by Impervious Surfaces	Minimum Coverage by Open Space and Landscaping
Rm-1	45%	60%	40%

- (11) Applicants for conventional subdivisions in the R-1/R-2 and R-2E Districts shall be required to clearly demonstrate, at a public hearing before the Plan Commission, that a conventional layout would better implement the policies, goals and objectives of the Comprehensive Plan, as compared with a conservation design alternative, which shall be allowed as a by-right permitted use. Notice of the public hearing shall be posted pursuant to Section 275-20 D(4), and notice of such hearing shall be mailed to all owners of land not less than 600 feet from the boundary of the proposed conventional subdivision, and notice of the public hearing shall also be published as a Class II legal notice under Chapter 985, Wis. Stats.
- (12) For conservation subdivisions in the R-1/R-2 District, the minimum lot size is 20,000 square feet if the POWTS is located off lot, or 32,670 square feet if the POWTS is on lot. In addition, there is a minimum amount of required conservation area in the R-1/R-2 District as follows:
  - (a) The subdivision must include at least 75% of the total acreage as conservation area. Conservation area shall not be used for residential lots, except as provided below.
  - (b) Large "conservancy lots" of at least ten acres may, in the aggregate, occupy up to 80% of the conservation area, with the remainder of the conservation area restricted from development by way of conveyance to a homeowners' association, land trust, or to the City by way of a conservation easement. However, the conservation area within each conservancy lot remains subject to the standards for conservation area in Section 275-41 herein.
- (13) For conservation subdivisions in the R-1/R-2 District, the minimum lot width at the base setback line is 110 feet. The minimum street frontage is 60 feet. For side car entry garages, the minimum lot width shall be 130 feet.

- (14) For conservation subdivisions in the R-2E District, the minimum lot size is 20,000 square feet within the subdivision. In addition, there is a minimum amount of required conservation area in the R-2E District:
- (a) The subdivision must include at least 65% of the total acreage as conservation area. Conservation area shall not be used for residential lots, except as provided below.
  - (b) Large "conservancy lots" of at least ten acres may, in the aggregate, occupy up to 80% of the conservation area, with the remainder of the conservation area restricted from development by way of conservancy to a homeowners' association, land trust, or to the City by way of a conservation easement. However, the conservation area within each conservancy lot remains subject to the standards for conservation areas in Section 275-41 herein.
- (15) For conservation subdivisions in the R-2E District, the minimum lot width at the base setback line is 110 feet. The minimum street frontage is 60 feet. For side car entry garages, the minimum lot width shall be 130 feet.
- (16) Modification of standards. The Plan Commission or Community Development Authority may modify the open space requirement, but only if supplemental design elements or improvements are incorporated into the project which compensate for the modifications of the particular standard. Such elements may include, but are not limited to, additional landscaping, low-impact/sustainable design, alternative stormwater best management practices/green infrastructure (which may include, but are not limited to, bioretention, infiltration, pervious surfaces, green roofs, rain gardens, underground storage, and/or rain harvesting/reuse).
- (17) In the R-6 and R-7 District, the Plan Commission and Common Council may approve smaller lot sizes, including reduced lot width and depth, where appropriate, in order to protect environmental features such as waterways, woodlands and tree lines, provide for additional tree protection and/or avoid steep topography; any allowed lots smaller than 25,000 square feet shall adhere to the City's adopted zoning and subdivision codes. Additional landscaping/screening requirements may apply. See Section 275-41 B(6).
- (18) In the R-6 and R-7 Districts, the Plan Commission and Common Council may approve 60-foot right-of-way widths where determined acceptable by DCD.
- (19) In the R-7 District, the development shall reserve areas sufficient in size and shape to accommodate public signs erected by, or on the order of, or by the permission of, a government entity per Section 275-61 A(3). The location of this sign may be located in an area along and visible from the I-43 Corridor.
- (20)

In the R-7 District, a development agreement shall be required along with appropriate financial sureties, to be evaluated by the City, no more than annually and no less than every five years, for adequacy, to ensure for the proper maintenance and permitting of the onsite waste treatment facility in perpetuity.

E. Building area.

- (1) R-1/R-2, R-2E, R-3, R-4, R-4.5, R-5, R-6 and R-7 Districts. Single-family dwellings in the R-1/R-2, R-2E, R-3, R-4, R-4.5, R-5, R-6 and R-7 Districts shall meet the following building area requirements.

Table 275-33-3

District		Minimum Total Living Area (square feet)		Minimum First Floor Area (square feet)	
		1-Story	Multistory	1-Story	Multistory
R-1/R-2 and R-2E	2-bedroom dwelling	1,300	1,700	1,300	900
	3-bedroom dwelling	1,500	1,700	1,500	900
	4-bedroom dwelling	1,700	1,700	1,700	900
R-3, R-4, R-4.5, R-6 and R-7	2-bedroom dwelling	1,200	1,600	1,200	900
	3-bedroom dwelling	1,350	1,600	1,350	900
	4-bedroom dwelling	1,450	1,600	1,450	900

R-5	2-bedroom dwelling	1,100	1,500	1,100	900
	3-bedroom dwelling	1,250	1,500	1,250	900
	4-bedroom dwelling	1,400	1,500	1,400	900

- (a) Add 200 square feet to the minimum total living area and the minimum first-floor area required for each bedroom exceeding four in the R-1/R-2 and R-2E Zoning Districts.
- (b) Add 150 square feet to the minimum total living area and the minimum first floor area required for each bedroom exceeding four in the R-3, R-4, R-4.5, R-5, R-6 and R-7 Zoning Districts.
- (c) Add 200 square feet to the total minimum building area required for any dwelling that does not have a basement or has a basement with an area of less than 600 square feet.
- (d) An attached or detached garage is required in the residential districts. The garage shall have a minimum floor area of 400 square feet. A detached garage shall count toward maximum square footage as allowed under Section 275-42 B.

(2) Rd-1 District. Each dwelling unit in the Rd-1 District shall meet the following building area requirements:

Table 275-33-4	
Dwelling Type	Minimum Total Building Area per Dwelling Unit (square feet)
2-bedroom	1,100
3-bedroom	1,150
4-bedroom	1,300

- (a) Add 150 square feet to the minimum total building area per dwelling unit for each bedroom exceeding four.
- (b) Add 200 square feet to the total minimum building area required for any dwelling that does not have a basement or has a basement with an area of less than 600 square feet.
- (c) An attached or detached garage is required in the residential districts. The garage shall have a minimum floor area of 400 square feet. A detached garage shall count toward maximum square footage as allowed under subsection 275-42 B.

(3) Rm-1 District. Each dwelling unit in the Rm-1 District shall meet the following building area requirements.

Table 275-33-5	
Dwelling Type	Minimum Total Building Area per Dwelling Unit (square feet)
Efficiency	500
1-bedroom	650
2-bedroom	800
3-bedroom	1,000

- (a) Add 150 square feet to the minimum total building area per dwelling unit for each bedroom exceeding three.
- (b) The minimum floor area of a principal building in the Rm-1 District shall not be less than 2,000 square feet.
- (c) The minimum floor area of an Rm-1 dwelling that does not have a basement or has a basement with an area of less than 600 square feet shall not be less than 2,200 square feet.
- (d) Multifamily dwellings are required to have a certain portion of the required parking spaces located in an enclosed attached or underground parking garage. Refer to Section 275-57 for off-street parking requirements.

F.

The design of all new conservation subdivisions in the R-1/R-2 and R-2E Districts shall be governed by the following minimum standards:

- (1) Ownership. The tract of land may be held in single and separate ownership or in multiple ownership. However, when a tract is held in multiple ownership, it shall be planned as a single entity with common authority and common responsibility.
  - (2) Site suitability. As evidenced by the existing resources/site analysis plan, the conceptual preliminary plat, the detailed final plat, and the tract incorporating this design option shall be suitable for supporting development in terms of environmental conditions, its size, and configuration.
  - (3) Intersections and access. New intersections with existing public roads shall be minimized. Although two separate accessways into and out of subdivisions containing more than 25 dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow. Any individual cul-de-sac (public or private) within the residential development shall have no more than 15 units that have exclusive frontage along said cul-de-sac. A public cul-de-sac shall serve at least a minimum of five units that have exclusive frontage along the cul-de-sac.
  - (4) Sensitive area disturbance. The proposed design shall minimize disturbance of environmentally sensitive areas, as shown on the existing resources and site analysis plan. Areas within the 100-year floodplain, or having slopes in excess of 20%, and rock outcroppings constitute such environmentally sensitive areas where disturbance shall be strictly minimized. Demonstration by the applicant that these features will be protected by the proposed application shall be prerequisite to approval of both the conceptual preliminary plat and the detailed final plat.
  - (5) The applicant shall further endeavor to harmonize the development of the site with these natural features and to synergize those natural features with each other so as to preserve, where possible, their contiguity.
  - (6) The developer shall, where applicable, apply the design standards as set forth in the Developer's Handbook.
- G. Density determination in the R-1/R-2 and R-2E Zoning Districts. When a property is subdivided under Section 235-15, applicants shall have the choice of two methods of determining the maximum permitted residential building density on their properties. They are as follows:
- (1) Adjusted tract acreage approach: Determination of the maximum number of permitted dwelling units on any given property shall be based upon the adjusted tract acreage of the site. The adjusted tract acreage shall be determined by multiplying the acreage classified as being in the categories of constrained land (described below) by the numerical "density factor" for that category of constrained land.

- (a) The following shall constitute "constrained land" and shall be deducted from the total (gross) tract area:
- [1] All land within the rights-of-way of existing, reserved or dedicated streets prior to the date of submission of the application for public streets or highways, or within the rights-of-way for existing or proposed aboveground rights-of-way of utility lines.
  - [2] All land under existing private streets.
  - [3] Wetlands: multiply the acreage of delineated wetlands by 95%.
  - [4] Floodway: multiply the acreage within the floodway by 100%.
  - [5] Flood-fringe: multiply the nonwetland portion of the 100-year floodplain by 50%.
  - [6] Steep slopes: multiply the acreage of land with natural ground slopes exceeding 20% by 80%.
  - [7] Extensive rock outcroppings: multiply the total area of rock outcrops and boulder fields more than 1,000 square feet by 90%.
  - [8] Moderately steep slopes: multiply the acreage of land with natural ground slopes of between 15% and 20% by 60%.
- (b) Only one constrained feature deduction shall apply to any one portion of the tract. The greatest applicable density factor shall apply.
- (2) Yield plan approach: Determination of density, or maximum number of permitted dwelling units, shall be based on an actual yield plan. Yield plans shall meet the following requirements:
- (a) Yield plans must be prepared as conceptual layout plans in accordance with the standards of Chapter 235, Subdivision of Land, containing proposed lots, streets, rights-of-way, and other pertinent features. Drawn to scale, they must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.
  - (b) The yield plan shall reflect the dimensional standards in the underlying zoning district. It must identify the site's primary and secondary resources, as identified in the existing resources/site analysis plan, and demonstrate that the primary resources will be successfully absorbed in the development process without disturbance by allocating this area to the proposed house lots.
  - (c) On sites not served by central sewage disposal, density shall be further determined by evaluating the number of homes that could be supported by individual septic systems on conventional lots. Based on the primary and secondary resources, identified as part of the inventory and analysis, and observations made during a site visit of the property, staff (with the assistance of consultants, when needed) shall select a 10% sample of the lots

considered to be marginal for on-lot sewage disposal. The applicant is required to provide evidence that these lots meet the standards for individual septic systems. When all lots in the sample pass, the applicant shall be granted the full density determined by the yield plan. Should any of the lots in a sample fail to meet the standard for an individual septic system, those lots shall be deducted from the yield plan, and a second 10% sample shall be selected by the staff and tested for compliance. This process is repeated until all lots in a given sample meet the standard for an individual septic system.

- (d) Yield plan dimensional standards: The dimensional standards to be used in the development of yield plans shall be the same as those pertaining in the underlying zoning district.

H. Design standards for conservation subdivisions.

- (1) House lots shall not encroach upon a primary environmental corridor, and their layout shall avoid, to the extent practicable, a secondary environmental corridor and isolated natural resource area.
- (2) All new dwellings shall meet the following additional setback requirements:
  - (a) From all road rights-of-way bordering the perimeter of the plat: 100 feet.
  - (b) From all other tract boundaries: 50 feet.
  - (c) From cropland or pasture land: 100 feet.
  - (d) From buildings or barnyards housing livestock: 300 feet.
  - (e) From active recreation areas such as courts or play fields (not including tot-lots): 150 feet.
- (3) Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of Chapter 235, Subdivision of Land.
- (4) House lots shall generally be accessed from interior streets rather than from roads bordering the tract.
- (5) To the maximum extent practicable, lots shall directly abut or be located directly across the street from conservation areas.
- (6) Standards pertaining to the quantity, quality, configuration, ownership, and maintenance of the conservation area created under this article are contained in Section 275-41 B(3) of this chapter.
- (7) Subdivisions shall be divided in accordance with the City's Developer's Handbook and applicable City ordinances.

I. Additional density may be allowed by the Plan Commission when one of the following public benefits is proposed:

- (1)

Greater open space percentages. A density increase may be granted by the Common Council for conservation subdivision applications at the following rates: in the R-1/R-2 District, up to one dwelling unit for every five additional acres of permanent conservation land; and in the R-2E District, up to one additional dwelling unit for every two acres of unconstrained land (set aside as permanent conservation land). Area for off-site POWTS and buffer shall not be included in the open space calculations for additional lots.

- (2) Larger tracts. A density bonus may be granted by the Common Council for conservation subdivision applications involving tracts greater than 50 acres in area at the following rate: one additional dwelling unit for every ten acres of total tract acreage above 50 acres in the R-1/R-2 District and one additional dwelling unit for every 20 acres of total tract acreage above 50 acres in the R-2E District.
- (3) Transfer of density. The landowner may increase the number of lots in a conservation subdivision by transferring density from parcels not included in the conservation subdivision plat under the provisions of this article. Density may be increased on the receiving parcel while density is decreased on the sending parcel in order to achieve the desired objectives. All sending and receiving areas must be located within the corporate boundaries of the City of New Berlin but outside the boundaries of the existing sewer service areas. The following requirements shall be met:
  - (a) Sending area and receiving area ratios. The additional lots allowed under a transfer-of-density rule may not encroach on the required open space. Land deed-restricted on a transfer of density can only be counted once and cannot be considered open space for any other project.
    - [1] Sending areas which do not share a common lot line(s) with the conservation subdivision plat shall get a 50% density credit of their buildable area under the following schedule:
      - [a] For every ten acres of A-1, A-2, or R-1/R-2 residentially zoned land deed-restricted to open space, dedicated to permanent open space, and/or protected through a conservation easement, one additional lot will be allowed in the conservation subdivision plat.
      - [b] Reserved.
      - [c] There is no transfer of density from C-1 or C-2 land that is not abutting the proposed conservation subdivision.
    - [2] Sending areas which do share a common lot line(s) with the conservation subdivision plat shall get a 100% density credit under the following schedule:
      - [a] For every five acres of A-1, A-2, or R-1/R-2 residentially zoned land deed-restricted to open space, dedicated to permanent open space, and/or protected through a conservation easement, one additional lot will be allowed in the conservation

subdivision plat.

- [b] Reserved.
  - [c] Twenty-five percent of C-1 and/or C-2 land abutting the conservation subdivision plat can be counted towards the required open space consistent with zoning regulations.
- [3] The City of New Berlin shall have the authority to determine the buildable area of the sending area and the maximum potential density transferred based on compliance with standards contained within this chapter and Chapter 235, Subdivision of Land.
- (b) Procedures for use of transfer of density. The transfer of density shall take place as a private exchange between property owners, subject to approval of the sending and receiving parcels by the City in accordance with the procedures set forth below.
- [1] An application for use of the density exchange option on a receiving parcel shall be made to the City of New Berlin Plan Commission and shall include the following:
- [a] A sketch plan of the proposed subdivision.
  - [b] A calculation of the number of lots to be acquired from the sending parcel and the resulting density on the receiving parcel.
  - [c] Documentation of ownership interests acceptable to the City Attorney.
- [2] The Plan Commission shall tentatively approve the use of the transfer-of-density option on the receiving parcel and allow the applicant to proceed with the subdivision process if:
- [a] The receiving parcel meets the criteria set forth in this section.
  - [b] The sketch plan for the receiving parcel represents a subdivision which can be accommodated on the property while protecting at least 50% of the gross site area in common open space and sensitive environmental features such as steep slopes, wetlands, floodplains, critical species habitats and stream corridors.
- [3] An application for approval of the sending parcel may be no later than the submission of the preliminary plat for the receiving parcel subdivision and shall include the following:
- [a] A boundary survey of the sending parcel(s).
  - [b] A sketch of the sending parcel, including documentation of the area of the parcel from which the development densities will be transferred.
  - [c] Documentation of the sending parcel owner's intent to transfer density.
  - [d] Documentation that the parcel meets the requirements of this section.
  - [e] A calculation of the maximum number of lots which are to be transferred from the sending parcel and the number of lots which are not to be transferred.

- [f] If any residual lots remain on the sending parcel, a sketch plan of the proposed clustered subdivision, meeting all requirements for cluster development at a density stipulated in this chapter and Chapter 235, Subdivision of Land.
- [4] Subdivisions on a receiving parcel may be recorded in sections. A final subdivision plan shall not be approved for the receiving parcel until one or more sending parcels are approved and the maximum allowable density to be transferred is certified by the City, which provides the necessary number of additional lots for the lots shown on the final subdivision plan.
- [5] Following approval of the final subdivision plat for the receiving parcel(s), the following documents shall be recorded at one time in the office of the Waukesha County Register of Deeds:
  - [a] A final plat for each sending parcel, designating the property as a sending parcel, indicating the number of lots which have been transferred from the parcel.
  - [b] If ownership of a sending parcel is not transferred or dedicated to the City or an entity acceptable to the City, a conservation easement for each sending parcel restricting it from further development in perpetuity, held by the City or an entity acceptable to the City, and deed restriction held by the owner, his successors and assigns.
  - [c] A final plat for each receiving parcel. The final plat for a portion of a receiving parcel may consist of large holding lots that are recorded as "unbuildable" until further subdivision occurs. Final plats for cluster subdivisions on the holding lots shall follow all the requirements of this chapter.
- [6] Plats on sending and receiving parcels shall follow all the requirements of this chapter and Chapter 235, Subdivision of Land.
- (c) Achievable density. The provisions of this section shall not be interpreted as guaranties of achievable density. Developments using a transfer of density shall be subject to all other applications and regulations of this chapter and Chapter 235, Subdivision of Land. These other regulations or site-specific conditions may prevent maximum transfer-of-density levels from being achieved due to the character of the land, location of natural features, access requirements, or surrounding uses.

(Amended 9-23-2014 by Ord. No. 2529; 1-12-2016 by Ord. No. 2558; 8-24-2021 by Ord. No. 2652; 10-9-2018 by Ord. No. 2607; 6-11-2019 by Ord. No. 2620; 10-13-2020 by Ord. No. 2642; 4-25-2023 by Ord. No. 2668; Ord. No. 2702, § VI, 3-11-2025)

Sec. 275-34. - Commercial districts.

A. General purpose and intent. The districts contained in this section are created to:

- (1) Provide appropriately located areas consistent with the New Berlin Comprehensive Plan for a full range of retail and service commercial uses;
  - (2) Strengthen the City's economic base and provide employment opportunities close to home for residents of the City and surrounding communities;
  - (3) Create suitable environments for various types of commercial uses and protect them from the adverse effects of incompatible uses;
  - (4) Minimize the impact of commercial development on abutting residential districts;
  - (5) Ensure that the appearance and effects of commercial buildings and uses are harmonious with the character of the area in which they are located; and
  - (6) Ensure the provision of adequate off-street parking and loading facilities.
- B. List of districts and specific purpose statements. The commercial districts are created with the following specific purposes:
- (1) B-1 Shopping Center District. The B-1 Shopping Center District is intended to provide for neighborhood and community shopping centers with groupings of retail and customer service establishments to serve both the citizens of New Berlin, the surrounding region, and businesses. Hotels and regional uses are also appropriate in this district when planned appropriately in relation to traffic and landscaping. This district is intended to accommodate the requirement of on-site parking and loading facilities; landscape planting screens in areas adjacent to nonbusiness development or other incompatible uses; and a partially pedestrian-oriented shopping environment. Uses in this district are intended to be compatible with the character of the adjacent residential areas served.
  - (2) B-2 General Retail Sales and Service District. The B-2 General Retail Sales and Service District is intended to accommodate a broad range of retail sales and service uses. The district is also intended to provide for the orderly and attractive development and grouping in appropriate and convenient locations for small-lot business activities of a general nature. The district is further intended to promote the provision of ample off-street parking and loading areas; landscape planting screens in areas adjacent to nonbusiness development or other incompatible uses; and development in character with the adjacent land uses.
  - (3) B-3 General Bulk Sales District. The B-3 General Bulk Sales District is intended to provide for such uses as building supplies, equipment sales, contracting services, septic system service, LP gas sales, and outdoor storage establishments. This district is intended to accommodate the needs of the agricultural community for the western portion of the community without detracting from the character of the area. The B-3 District is also intended to provide for, where properly screened, on-site parking for customers' automobiles, on-site outdoor areas for merchandise storage and sales, customer off-street loading facilities, and open outdoor areas for sale of large items of merchandise transported by truck. The district also requires

the minimization of adverse impacts upon any adjacent incompatible land uses. The district is further intended to promote the provision of ample off-street parking and loading areas; landscape planting screens in areas adjacent to nonbusiness development or other incompatible uses; and development in character with the adjacent land uses.

(4) B-5 Rural Commercial District. The B-5 Rural Commercial District is intended to accommodate the needs of the agricultural community with a range of retail sales and service uses. The uses of these areas are intended to provide convenience for farms and the growing residential uses in the western portion of the community without detracting from the character of the surrounding area. The district is further intended to promote the provision of ample off-street parking and loading areas; landscape planting screens in areas adjacent to nonbusiness development or other incompatible uses; and development in character with the adjacent land uses.

C. Use Summary Table. Table 275-34-1 below sets forth the uses allowed within the relevant zoning district. The abbreviations used in the table are described in Section 275-32 C and are summarized in the legend table following Table 275-34-1.

- (1) Similar uses. Where there is a new use that is not listed or identified in another zoning district that the Plan Commission finds similar in nature, operation and function to that of another use allowed in this chapter, the Plan Commission may permit the new use under similar districts and with all other applicable regulations as the existing similar use, provided that:
  - (a) The use is harmonious with and does not conflict with the other uses in the district.
  - (b) The use will not jeopardize the public health, safety and welfare.

Table 275-34-1					
Uses	Zoning Districts				Additional Regulations Refer to
	B-1	B-2	B-3	B-5	
<b>Commercial Uses</b>					
Amusement centers or arcades	P	*	*	*	
Automotive body repair	*	*	P	*	
Automotive fuel sales	C	C	P	C	<u>Sec. 275-41 C(2)</u>

Automotive rental	*	*	P	*	
Automotive sales	*	*	P	*	
Automotive service	P	P	P	*	<u>Sec. 275-41 C(3)</u>
Banquet halls	P	P	P	*	
Bars and taverns	P	P	P	P	
Breweries	P	P	C	*	<u>Sec. 275-41 C(12)</u> (d)
Brewpubs	P	P	C	*	<u>Sec. 275-41 C(12)</u> (c)
Car wash establishment	P	P	P	*	<u>Sec. 275-41 C(20)</u>
Commercial sports complex	P	*	*	*	<u>Sec. 275-36 D(5)</u>
Contracting and construction sales services	C	C	P	P	
Contractor bulk sales	*	*	P	P	
Convenient cash businesses	P	*	*	*	<u>Sec. 275-41 C(19)</u>
Cosmetic tattoo establishments/ permanent cosmetics	P	P	P	P	<u>Sec. 275-41 C(17)</u>
Department stores	P	C	*	*	<u>Sec. 275-41 C(5)</u>

Farm equipment sales and service	*	*	P	P	
Funeral services	P	P	*	*	<u>Sec. 275-41 C(7)</u>
Greenhouses	P	P	P	P	
Health and fitness studios	P	P	C	*	
Hotels and motels	C	*	*	*	<u>Sec. 275-41 C(8)</u>
Mobile tower facilities	A/P/C	A/P/C	A/P/C	A/P/C	<u>Sec. 275-41 C(16)</u>
Outdoor displays and sales	A	A	A	A	<u>Sec. 275-41 C(9)</u>
Outdoor storage	*	*	A	A	<u>Sec. 275-41 C(10)</u>
Personal services	P	P	P	P	<u>Sec. 275-41 C(11)</u>
Pet day-care/boarding facilities	C	C	P	P	
Public signs	P	P	P	P	<u>Sec. 275-61 A(3)</u>
Restaurants	P	P	P	P	<u>Sec. 275-41 C(12)</u>
Retail commercial uses	P	P	P	P	
Self-storage facilities	*	*	C	C	<u>Sec. 275-41 C(14)</u>
Service commercial uses	P	P	P	P	<u>Sec. 275-41 C(15)</u>
Shopping centers	P	C	C	C	
Theaters	P	P	*	*	
Veterinary clinics	P	P	P	P	

Wholesale commercial uses	*	*	P	P	
<b>Office Uses</b>					
Business offices	P	P	P	P	
Contracting and construction offices (only)	P	P	P	P	
Financial institutions	P	P	P	P	<u>Sec. 275-41 D(1)</u>
Medical and dental offices	P	P	C	C	
<b>Manufacturing/Industrial Uses</b>					
Aboveground/ underground storage tanks	P	P	P	P	<u>Sec. 275-41 I</u>
Freight services	*	*	*	*	
Industrial sales	*	*	C	*	
Warehouses	*	*	C	*	
<b>Institutional/Public/Semipublic Uses</b>					
Bus stations	C	*	*	*	
Churches (neighborhood)	P	P	P	P	<u>Sec. 275-70</u>
Churches (community)	C	C	C	C	<u>Sec. 275-70</u>
Day-care centers	P	P	P	P	
Essential services	A	A	A	A	

Indoor recreational uses	C	C	*	*	
Recreational trails	P	P	P	P	
Truck rental services	*	*	P	*	
Utilities	P	P	P	P	
<b>Miscellaneous Uses</b>					
Drive-through facilities	A	A	A	A	<u>Sec. 275-41 H(1)</u>
Natural resource conservation and preservation uses	P	P	P	P	
Off-street parking and loading areas	A	A	A	A	<u>Sec. 275-57</u>
Park-and-ride lots	P	P	P	P	
Residential quarters	*	A	A	A	<u>Sec. 275-42 G(1)(a)</u>
Silviculture	P	P	P	P	<u>Secs. 275-54 &amp; 275-54.1</u>
Any other use the Plan Commission finds will be similar in nature, operation and function to the uses allowed within the district					<u>Sec. 275-34 C(1)</u>

**LEGEND**

- P Principal Use
- C Conditional Use
- A Accessory Use
- T Temporary Use
- \* Prohibited Use

D. Site development standards. All development shall be subject to the intensity and dimensional standards set forth in this section. These intensity and dimensional standards may be further limited or modified by other applicable sections of this chapter, including Article V and the additional requirements set forth below in Table 275-34-2.

Table 275-34-2

District	Minimum Lot Dimensions		Minimum Setbacks (feet)					Maximum Height (feet)
	Lot Area (square feet)	Lot Width (feet)	Front	Side (each side)	Rear	OHWM	Wetland	
B-1	Neighborhood shopping center: 3 acres	200	40	25	25	50	10	35 Except hotels and motels: 55
	Community shopping center: 10 acres							
	Internal lots: 40,000							
B-2	40,000	200	40	15	25	50	10	35
B-3	3 acres	250	50	25	25	50	10	35

B-5	40,000	200	50	25	25	50	10 or 30; see <u>Sec.</u> <u>275-34</u> D(5)	35
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**Additional requirements:**

- (1) The Plan Commission may waive side and rear setback requirements if adjacent developments are designed as a unified project.
- (2) The side setback in the B-2 and B-3 Districts applies to structures on lots of 100 feet or more in width. The side setback can be reduced to ten feet for structures on existing lots with a width less than 100 feet.
- (3) Hotels and motels may exceed the maximum height requirement of 55 feet if the eligibility for height credit is satisfied as set forth herein. A credit of one hotel floor may be granted for each level of underground parking and/or for the dedication of permanent open space in an amount not less than two times the square footage of the floor space added. In no event shall a credit be granted in excess of two floors and not to exceed 22 feet. Lands which are designated as environmental corridors, isolated natural resource areas or conservancy lands shall not be eligible for purposes of calculating the credit set forth herein.
- (4) Reserved.
- (5) Wetland setback.
  - (a) All impervious surfaces shall be set back a minimum of ten feet, except in the B-5 Zoning District, the minimum setback is 30 feet. However, where at least one of the following conditions is met in the B-5 Zoning District, the minimum setback is ten feet:
    - [1] The lot is vacant and is part of a platted residential subdivision that was recorded before October 9, 2001.
    - [2] The building permit for the principal structure located on the lot was issued before October 9, 2001.
  - (b) Grading may be allowed within the wetland setback upon approval by the Director. The applicant shall demonstrate appropriate erosion control practices as approved by the City and/or the DNR.
  - (c) Landscaping may be allowed within the wetland setback upon approval by the Director. The applicant shall demonstrate appropriate erosion control practices as approved by the City and/or the DNR.
- (6)

Modification of standards. The Plan Commission or Community Development Authority may modify the open space requirement, but only if supplemental design elements or improvements are incorporated into the project which compensate for the modifications of the particular standard. Such elements may include, but are not limited to, additional landscaping, low-impact/sustainable design, alternative stormwater best management practices/green infrastructure (which may include, but are not limited to, bioretention, infiltration, pervious surfaces, green roofs, rain gardens, underground storage, and/or rain harvesting/reuse).

Table 275-34-3			
District	Lot Coverage (percent)		
	Maximum Coverage by Buildings	Maximum Coverage by Impervious Surfaces	Minimum Coverage by Open Space and Landscaping
B-1	50%	75%	25%
B-2	50%	75%	25%
B-3	50%	75%	25%
B-5	40%	65%	35%

(Amended 9-23-2014 by Ord. No. 2529; 10-9-2018 by Ord. No. 2607; 8-24-2021 by Ord. No. 2652; 4-25-2023 by Ord. No. 2668)