

# DODGEVILLE

==== *At the heart of it all!* ====

## CHAPTER 17 - ZONING

**CITY OF DODGEVILLE, WI**  
**ADOPTED: SEPTEMBER 2021**

CITY OF DODGEVILLE | 110 E Fountain St, Dodgeville WI 53533

**CITY OF DODGEVILLE  
CHAPTER 17 - ZONING CODE**

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**17.01 AUTHORITY.** These regulations are adopted under the authority granted by §62.23(7), Wis. Stats.

**17.02 SHORT TITLE.** This chapter shall be known as, referred to or cited as the "Zoning Code, City of Dodgeville, Wisconsin."

**17.03 PURPOSE.** The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics and general welfare of the City.

**17.04 INTENT.** It is the general intent of this chapter to regulate and restrict the use of all structures, lands and waters; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic and other dangers; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the City; and implement the City comprehensive plan or plan components. It is further intended to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

**17.05 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

**17.06 INTERPRETATION.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**17.07 DEFINITIONS.** For the purpose of this chapter, the following definitions shall be used:

(1) **ABUTTING.** Having a common property line or district line.

(2) **ACCESSORY BUILDING.** A building or portion of a building subordinate to the principal building and used for a purpose customarily incidental to the permitted use of the principal building or the use of the lot. When an accessory building is a part of the principal building or is substantially attached thereto, the side yard and rear yard requirements of the principal building shall be applied to the accessory building.

(3) **ALLEY.** A street or thoroughfare less than 21 feet wide and affording only secondary access to abutting property.

(4) APARTMENT. A portion of a multiple dwelling used as a separate housing unit and having cooking facilities and a private bath.

(5) APARTMENT HOUSE. See DWELLING, MULTI-FAMILY.

(6) BASEMENT. A story, as defined in sub. (42) below, partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement.

(7) BOARDING HOUSE. A building other than a hotel where lodging and meals are furnished for compensation for 3 or more persons not members of a family.

(8) BUILDING. Any structure use, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

(9) BUILDING, ALTERATION OF. Any change or re-arrangement of the supporting members, such as bearing walls, beams, columns or girders, of a building; an addition to a building; or movement of a building from one location to another.

(10) 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 deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

(11) CAMPING TRAILER. A nonself-propelled travel/recreational-type vehicle designed for temporary or vacation-type camping accommodations.

(12) CERTIFICATE OF DESIGN APPROVAL. A written statement issued by the Design Review Board stating that a proposed project meets the design conditions of sec. 17.29 of this Code.

(13) CERTIFICATE OF OCCUPANCY. A written statement issued by the Building Inspector which permits the use of a building or lot or a portion of a building or lot and which certifies compliance with the provisions of this chapter for the specified use and occupancy.

(14) DWELLING. (a) One-Family. A detached building designed for or occupied exclusively by one family.

(b) Two-Family. A detached or semi-detached building designed for and occupied exclusively by 2 families.

(c) Multi-Family. A building or portion thereof designed for and occupied by more than 2 families, including tenement houses, row houses, apartment houses and

hotels.

(15) DWELLING UNIT. A separate housekeeping unit, designed and used for occupancy by a single family.

(16) FAMILY. Any number of persons related by blood, adoption or marriage, or not to exceed 2 persons not so related, living together in one dwelling as a single housekeeping entity. For purposes of this definition domestic partnership arrangements are also deemed "related."

(17) FLOOR AREA. (a) For residential uses, the gross horizontal area of the floor of a dwelling unit, exclusive of porches, balconies, garages and basements, measured from the exterior faces of the exterior walls or from the center lines of walls or partitions separating dwelling units.

(b) For uses other than residential, the area measured from the exterior faces of the exterior walls, or from the center line of walls or partitions separating such uses, including all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.

(18) FRONTAGE. All the property abutting on one side of a street between 2 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.

(19) GARAGE. (a) Private. An accessory detached building or space for storage.

(b) 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.

(c) Storage. Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold. No commercial motor vehicle exceeding 2 tons capacity shall be stored in any storage garage.

(20) HOME OCCUPATION. A gainful occupation or activity, whether for gain or not for gain, conducted by members of the family only within their place of residence; provided that no article is sold or offered for sale on the premises except such as is produced by such occupations, that no stock in trade is kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, that no sign other than one unlighted name plate not more than one foot square is installed and that no person other than a member of the immediate family living on the premises is employed. Outdoor storage of raw materials or finished products is not allowed.

(21) HOTEL. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than 5 sleeping rooms with no

cooking facilities in any individual room or apartment.

(22) LODGING HOUSE. A building other than a hotel where lodging only is provided for compensation for not more than 3 persons not members of the family.

(23) LOT. A parcel of land having a width and depth sufficient to provide the space necessary for one principal building and its accessory building, together with the open spaces required by this chapter and abutting on a public street or officially approved place. See Figure 1 in Appendix.

(24) LOT, CORNER. A lot abutting on 2 or more dedicated and accepted streets at their intersections, provided that the interior angle of such intersection is less than 135°.

(25) LOT DEPTH. The mean horizontal distance between the front and rear lot lines.

(26) LOT, INTERIOR. A lot other than a corner lot.

(27) LOT LINES. The lines bounding a lot as defined herein.

(28) LOT, THROUGH. An interior lot having frontage on 2 nonintersecting streets.

(29) MANUFACTURED AND MOBILE HOME COMMUNITY. Any plot or plots of ground upon which three (3) or more manufactured homes or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

(30) MANUFACTURED HOME. Any of the following, including any additions, attachments, annexes, foundations, and appurtenances:

(a) a 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 USC 5401 to 5425.

(b) A mobile home, unless a mobile home is specifically excluded under the applicable statute.

(31) MOBILE HOME. A vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure including any additions, attachments, annexes, foundations, and appurtenances, its plumbing, heating, air conditioning and electrical systems, and all appliances and other equipment carrying a manufacturer's warranty.

(32) MOTEL. A series of attached, semi-detached or detached sleeping units for the accommodation of transient automobile tourists.

(33) MOTOR HOME. A self-propelled travel/recreational-type vehicle designed for temporary or vacation-type camping accommodations.

(34) NONCONFORMING USE. A building or premises lawfully used or occupied at the time of the passage of this chapter or amendments thereto which use or occupancy does not conform to the regulations of this chapter or any amendments thereto.

(35) PARKING FACILITY. A structure or an open area other than a street or alley used for temporary parking of more than 4 self-propelled vehicles and available for public use, whether free, for compensation or as an accommodation for clients or customers.

(36) PARKING STALL. An off-street space, available for the parking of a motor vehicle and which, in this chapter, is held to be an area 9 feet wide and 18 feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

(37) PROFESSIONAL OFFICE. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession. When established in an R-I District, a professional office shall be incidental to the residential occupation and not more than 25% of the floor area of only one story of a dwelling unit shall be occupied by such office.

(38) PUBLIC AIRPORT. Any airport which complies with the definition contained in §114.002(7), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.

(39) SETBACK. The minimum horizontal distance between the right of way of any adjacent street or alley or the lot line between lots and the nearest point of a building or any projection thereof, excluding uncovered steps and ramps.

(40) SHOPPING CENTER. A group of stores, planned and designed for the site on which it is built, functioning as a unit with off-street parking provided on the property as an integral part of the unit.

(41) STREET. All property dedicated for public street purposes.

(42) 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 1/2 or more of its height above grade shall be deemed a story for purposes of height regulation.

(43) STORY, HALF. The space under any roof except a flat roof which, if occupied for

residential purposes, shall be counted as a full story.

(44) 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.

(45) STRUCTURAL ALTERATIONS. Any change in the supporting members of a building or any change in the roof structure or in the exterior walls.

(46) TEMPORARY STORAGE. The placement of an item of personal property on property in the City for a total of not more than 30 consecutive or nonconsecutive days in any one calendar year.

(47) TEMPORARY STRUCTURE. A movable structure which does not require a permanent location on the ground and which is not attached to something having a permanent location on the ground for a total of not more than 30 consecutive or nonconsecutive days in any one calendar year.

(48) USE. The use of a property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

(49) USE, ACCESSORY. A use subordinate in nature, extent or purpose to the principal use of a building or lot and which is also an approved use if so stated in this chapter.

(50) USE, CONDITIONAL. A use, either public or private, which, because of its unique characteristics, cannot be properly classified as a permitted use in any particular district or districts. In each case, after due consideration and recommendation by the Plan Commission 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 by the Common Council.

(51) USE, PERMITTED. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.

(52) USE, PRINCIPAL. The main use of land or building as distinguished from a subordinate or accessory use. A principal use may be permitted or conditional.

(53) UTILITIES. Public and private facilities such as water wells, water and sewer pumping stations, water storage tanks, electric transmission towers, electric lines, electric transmission substations, gas transmission regulation stations, telephone and telegraph exchanges, microwave relay structures, but not including sewage disposal plants, municipal incinerators, warehouses, shops, mobile telecommunications towers and storage yards.

(54) 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 specified by measurement from the corner on each street line.

(55) YARD. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

(a) Front Yard. A yard extending the full width of the lot between the front lot line and the nearest part of the principal building, excluding uncovered steps and ramps.

(b) Rear Yard. 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 and ramps.

(c) Side Yard. A yard extending from the front yard to the rear yard, being the minimum horizontal distance between a building, excluding uncovered steps and ramps, and the side lot line.

(56) ZONING DISTRICT. An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of building and premises are uniform.

(57) ZONING PERMIT. A permit stating that the placement of and the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is to be located.

#### **17.08 GENERAL PROVISIONS.**

(1) IN VICINITY OF AIRPORT. Except as otherwise provided, no building or object of natural growth located within 3 miles of the boundaries of any public airport owned or leased by the City, or privately owned and open to public use on an equal basis to all, shall hereafter be erected, altered or permitted to grow to a height above the elevation of the nearest point of the boundary of such airport greater than 1/30 of the distance from the said point on such boundary. No overhead power, telephone or telegraph lines shall be erected within 1/2 mile of any boundary of the site of any airport. No building or land located within 3 miles of the boundary of any airport shall be so used that by reason of the emission of smoke, gas or other emanation, it shall produce a hazard to the operation of aircraft. The regulations set forth in this subsection shall not apply to growing field crops which are harvested at least once a year, nor to fences not over 5 feet high.

(2) COMPLIANCE. No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this chapter and all other applicable City, County and State regulations.

(3) USE RESTRICTIONS. The following use restrictions and regulations shall apply:

(a) Principal Uses. Only those principal permitted and conditional uses, their essential services and the following shall be permitted in that district.

1. Accessory Uses. Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include storage, garages or other parking facilities; gardening sheds; and private swimming pools. Accessory buildings which are not a part of the principal building shall not occupy more than 30% of the area of the required rear yard, shall not be more than 15 feet high and shall not be nearer than 5 feet to any lot line nor 5 feet to any alley line, and shall not extend into a front yard beyond the required setback.

2. Unclassified or Unspecified Uses. Unclassified or unspecified uses may be permitted by the Council after the Plan Commission has made a review and recommendation, provided that such uses are similar in character to the principal uses permitted in the district.

3. Temporary Uses. Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Zoning Administrator.

(4) YARD REDUCTION OR JOINT USE. (a) 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.

(b) 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) No lot in the City which contains a building shall hereafter be reduced by any type of conveyance to an area less than would be required for the construction of such building on such lot.

(5) LOT OCCUPANCY. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a platted lot and in no case shall there be more than one main building on one platted lot.

(6) ALLEY LOADING SPACE. In any business or industrial district, wherever a lot abuts upon a public or private alley, sufficient space for the loading or unloading of vehicles

shall be provided on the lot in connection with any commercial or industrial use so that the alley shall at all times be free and unobstructed to the passage of traffic.

(7) YARDS ABUTTING DISTRICT BOUNDARIES. 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 2 districts which abut the district boundary line.

(8) DEVELOPMENT PROJECTS. When a development project consisting of a group of 2 or more buildings is to be constructed on a site not subdivided into customary lots and streets, or where an existing lot and street layout make it impractical to apply the requirements of this chapter to the individual building units, the Plan Commission may approve a development, provided it complies with the regulations of this chapter as applied to the whole plat. In the Mixed Use (MU) Zoning District, such projects shall be subject only to design review under section 17.29.

(9) MOTOR HOMES. No motor home, mobile home or camping trailer shall be used for residence purposes unless located in a licensed Manufactured and Mobile Home Community, except that City police may permit the overnight parking of such vehicles in the City in emergency situations.

(10) VISION CLEARANCE. No obstructions such as structures, parking or vegetation shall be permitted in any district other than the B-C Business District between the height of 2-1/2 and 10 feet above a plane through the mean curb grades within the triangular space formed by any 2 existing or proposed intersecting street or alley right of way lines and a line joining points on such lines, located a minimum of 15 feet from their intersection. Official signs and one utility pole or street light may be permitted within each segment of an intersection traffic visibility area.

(11) PARKING RESTRICTIONS. See sec. 17.26 of this chapter.

(12) APPLICATION TO PERSONAL PROPERTY. The various setback and yard requirements of the various districts and the certificate of occupancy requirements of sec. 17.32 of this chapter shall apply to items of personal property, regardless of height, which occupy more than 30% of the available unused area of the lot or parcel upon which such items shall be placed and such requirements shall apply to items of personal property, regardless of area, which exceed 12 feet in height above the ground level.

(13) SEWER TREATMENT PLANT (Cr. Ord. #909). In order to minimize potential odor, noise and nuisances caused by sewerage treatment facilities, and to enhance plant security and reliability, sewerage treatment facilities shall be separated from all buildings intended for commercial or residential use by a distance of not less than 500 feet, measured from the nearest points of the residential or commercial building and the sewerage treatment building or other facility. In the event the City shall approve plans for expansion of a sewerage treatment

facility, prior to approval of a building permit for construction of a new residential or commercial building, the 500 foot distance shall be measured from the nearest points of planned expansion of the sewerage treatment building or other facility and the proposed residential or commercial building.

**17.09 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:

(1) CHURCHES, SCHOOLS, ETC. Churches, schools, hospitals, sanitariums and other public and quasi-public buildings may be erected to a height not exceeding 60 feet nor 5 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.

(2) CHIMNEYS, TOWERS, LOFTS, ETC. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, windmills, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts or aerials and necessary mechanical appurtenances exceeding the height regulations of this chapter may be permitted as conditional uses by the Plan Commission.

(3) RESIDENCES. Residences in the residence districts may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by one foot for each foot which such building exceeds the height limits of the district in which it is located.

(4) SETBACK AND YARD MODIFICATIONS. The setback and yard requirements required elsewhere in this chapter may be modified as follows:

(a) Uncovered Stair Restrictions. Uncovered stairs, landings, fire escapes and ramps may project into any yard, but not to exceed 6 feet and be not closer than 3 feet to any lot line, and must be 8 feet or more above ground.

(b) Cul-de-Sac and Curve Restrictions. Residential lot frontage on cul-de-sacs and curves may be less than 80 feet provided the width at the building setback line is at least 80 feet and the street frontage is not less than 45 feet.

(c) Essential Services Exemptions. Essential services, utilities, electric power and communication transmission lines are exempt from the setback and distance requirements of this chapter.

(d) Street Setback Restrictions. The required street setbacks may be decreased in any residential or business district to the average of the existing street setbacks of the abutting structures on each side, but in no case less than 15 feet in the residential districts and 5 feet in any business district.

(5) CORNER LOTS. On corner lots less than 75 feet wide and of record at the time of the passage of this chapter, where reversed frontage exists, the setback on the side street shall not be less than 50% 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.

(6) LOTS ABUTTING DIFFERENT GRADES. Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.

(7) BUILDINGS ON THROUGH LOTS. The requirements for a rear yard for buildings on through lots and extending from street to street may be waived 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.

(8) NONCONFORMING AREA (Rep. & Recr. Ord. #908). Subject to the restrictions and conditions contained in sec. 17.10(4) of this chapter, 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 as such at the time of the passage of this chapter, such lot may be occupied by one family.

(9) UNOBSTRUCTED YARDS. Every part of a required yard shall be open to the sky unobstructed except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 2 feet.

#### **17.10 NONCONFORMING USES, STRUCTURES AND LOTS.**

(1) EXISTING NONCONFORMING USES. (a) Continuation. The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter, provided, however:

1. Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this chapter.

2. The total lifetime structural repairs or alterations shall not exceed 50% of the assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this chapter.

3. (Am. Ord. #1004) Substitution of new equipment may be permitted by the Council if such equipment will reduce the incompatibility of the nonconforming use

with the neighboring uses. In the case of a mobile home located in an R-I Single- or 2-Family Residential District, a maximum of one substitution of a mobile home shall be permitted on a lot, whether or not it reduces incompatibility with neighboring uses.

4. Abolishment or Replacement of Existing Nonconforming Use. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than 50% of its current assessed value, it shall not be restored except so as to comply with the use provisions of this chapter. From the date of adoption of this chapter, a current file of all nonconforming uses shall be maintained by the City Clerk, listing the following:

- a. Owner's name and address.
- b. Use of the structure, land or water.
- c. Assessed value at the time of its becoming a nonconforming use.

(2) EXISTING NONCONFORMING STRUCTURES. Any lawful nonconforming structures existing at the time of the adoption or amendment of this chapter may be continued, although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this chapter. However, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter. Nevertheless, In the event that a nonconforming structure is damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation on or after March 2, 2006, it may be replaced at the size, location, and use that it had immediately before the damage or destruction occurred. However, if necessary for the structure to comply with applicable state or federal law, the size of such structure may exceed the size that it had immediately before the damage or destruction occurred.

(3) CHANGES AND SUBSTITUTIONS. Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Council has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Council.

(4) EXISTING SUBSTANDARD LOTS. An existing lot which does not contain sufficient area to conform to the dimensional requirements of this chapter may be used as a building site provided that the lot is of record in the County Register of Deed's office prior to the effective date of this chapter, the lot has never been developed with one or more structures placed partly on an adjacent lot, and the lot is developed to comply with all other provisions of this Code. Substandard lots shall be required to meet the setbacks and other yard requirements of this chapter. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after approval of a variance by the Board

of Zoning Appeals.

**17.11 COMMUNITY LIVING ARRANGEMENTS; FAMILY CHILD CARE HOMES.**

(1) STATE LAWS ADOPTED. The provisions of §§62.23(7)(i) and 66.1017, Wis. Stats., are hereby adopted by reference and shall supersede all permitted and conditional uses as stated in this chapter.

(2) PERMITTED USES: RESTRICTIONS.

COMMUNITY LIVING  
ARRANGEMENT (CLA); FAMILY  
CHILD CARE HOMES

DISTRICTS PERMITTED

STATUTORY RESTRICTIONS

(a) Foster family home (domicile licensed under §48.62, Wis. Stats., up to 4 children, not operated by corporation, child welfare agency, church, association, or public agency)	All residential districts	None
(b) Other foster homes	All residential districts	§62.23(7)(i)1. and 2., Wis. Stats.
(b1) (Cr. Ord. #894) Adult family home (domicile as defined in §50.01(1)(a), Wis. Stats., and certified under §50.032(1m), Wis. Stats., up to 4 adults, or More if all adults are siblings)	All residential districts	None
(b2) (Cr. Ord. #894) Other adult family homes	All residential districts	§62.23(7)(i)2r. and 9. Wis. Stats.
(c) CLA, up to 8 persons	All residential districts	§62.23(7)(i)1., 2. and 9., Wis. Stats.
(d) CLA, 9 to 15 Persons	Multi-family districts	§62.23(7)(i)1., 2. and 9., Wis. Stats.
(e) Family child care home licensed under §48.65, Wis. Stats., up to 8 children	All One-- and Two-family districts and planned residential development districts	§66.1017, Wis. Stats.

(3) **CONDITIONAL USES.** All community living arrangements and family day care homes not permitted in sub. (2) above. See sec. 17.24 of this chapter.

**17.12 ZONING DISTRICTS** (Am. Ord. #983; Am. Ord. #985; Am. Ord. #998).

(1) **ESTABLISHED.** For the purposes of this chapter, the City is hereby divided into the following 11 zoning districts:

- (a) R-I One- and Two-Family Residential District
- (b) R-M Multi-Family Residential District
- (c) MU Mixed Use District
- (d) M-H Mobile Home District
- (e) B-C Central Business District
- (f) B-N Neighborhood Business District
- (g) B-H General Highway Business District
- (h) M-L Limited Industrial District
- (i) M-G General Industrial District
- (j) A-G Agricultural District
- (k) PUD Planned Unit Development District

(2) **BOUNDARIES.** Boundaries of these districts are hereby established as shown on a map entitled "Zoning Map, City of Dodgeville, Wisconsin," dated September 21, 2021, as amended, which is on file in the office of the City Clerk. Such boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property lines; center lines of streets, highways, alleys, easements and railroad rights of way; or such lines extended, unless otherwise noted on the Zoning Map.

(3) **HISTORIC SITES AND DISTRICTS.**

(a) The following 2 zoning designations may be assigned by the Council after designation by the Historic Preservation Commission in the manner provided in ch. 16A of this Code and notice and hearing by the Plan Commission as required by sec. 17.24 of this chapter:

- (i) H Historic Site or Structure
- (ii) HD Historic Preservation District

(b) The H Historic Site or Structure and the HD Historic Preservation District designations shall be in addition to the underlying zoning district of the land as provided in pars. (1)(a) through (k) above and shall be shown on the Zoning Map, City of Dodgeville, Wisconsin, dated September 21, 2021, as amended.

(c) Land and buildings designated H Historic Site or Structure and HD Historic Preservation District shall be governed by the procedures and subject to the rights and

restrictions established under ch. 16A of this Code in addition to those contained in this chapter.

(4) VACATED STREETS. Vacation of public streets and alleys shall cause the land vacated to automatically revert to the same district as the abutting side.

(5) ANNEXED TERRITORY. Annexations to or consolidations with the City subsequent to the effective date of this chapter shall be placed in the R-I Single- and Two-Family Residential District unless the annexation ordinance temporarily places the land in another district. Within one year of the date of annexation, the Plan Commission shall evaluate and recommend a permanent district classification to the Council.

(7) APPLICABILITY. For the purposes of this section, buildings erected or structurally altered shall include buildings relocated either into or within the City.

(8) ZONING MAP. A certified copy of the zoning Map shall be adopted and approved with the text, as part of this chapter, and shall bear upon its face the attestation of the Mayor and the City Clerk, and shall be available to the public in the office of the City Clerk. Changes thereafter to the districts shall be entered on this certified copy.

**17.13 R-1 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT.** The R-I District is established for low density developments of one- and two-family homes.

(1) PERMITTED USES. (a) One-family and two-family dwellings. Each residential unit in a two-family dwelling located in a single lot may be under separate ownership provided that the property upon which the dwelling is located is a condominium, as defined in §703.02, Wis. Stats.

(2) CONDITIONAL USES. See also sec. 17.24 of this chapter.

(a) Churches and similar places of worship and instruction, including parsonages.

(b) Municipal buildings, except sewerage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards and penal or correctional institutions and asylums.

(c) Utility offices, provided there is no service garage or storage yard.

(d) Public, parochial and private elementary and secondary schools.

(e) Public parks, recreation areas, playgrounds and community centers.

(f) Home occupations and professional offices.

(g) (Cr. Ord. #887) Day care centers.

(h) See sec. 17.24(1) of this chapter.

(3) LOT, YARD AND BUILDING REQUIREMENTS (Am. Ord. #970). See also sec. 17.08 of this chapter.

Lot frontage at setback.....	Minimum 80 ft.
Lot area. ....	Minimum 8,000 sq. ft.
Principal building:	
Front setback.....	Minimum 25 ft.
Side setbacks:	
Up to 1-1/2 stories.....	Minimum total, 20 ft.
Minimum per side, 8 ft. 1-1/2 to 2-1/2 stories. ....	Minimum total, 25 ft.
Minimum per side, 10 ft. Rear setback. ....	Minimum 25 ft .
Building height.....	Maximum 35 ft.
Building width. ....	Minimum 24 ft.
Number of stories.....	Maximum 2-1/2
Off-street parking.....	Minimum 2 spaces per dwelling unit.
Accessory buildings:	
Front setback.....	Minimum 25 ft.
Side setback.....	Minimum 5 ft.
Rear setback. ....	Minimum 5 ft .
Garage(s) (attached, detached or in combination) ...	Maximum 900 ft <sup>2</sup> , Maximum height 15 ft

(See also sec. 17.24 of this chapter)

**17.14 R-M MULTI-FAMILY RESIDENTIAL DISTRICT.** The R-M District is established to protect certain areas of land, both developed and undeveloped, with peculiar characteristics, such as present high density dwelling units, proximity to commercial developments, or proximity to major streets, and because of a probable, continued demand for such dwelling accommodations which are well-designed, pleasant places in which to live.

(1) PERMITTED USES.

(a) Uses permitted in the R-I District

(b) (Am. Ord. #994) Multi-family dwellings containing not more than 8 dwelling units.

(2) CONDITIONAL USES.

(a) (Rep. & Recr. Ord. #994) Multi-family dwellings containing 9 or more dwelling units.

(b) Boarding houses and lodging houses.

(c) Public hospitals.

(d) Private clubs, fraternities and lodges, except those whose chief activity is customarily carried on as a business.

(e) Bed and breakfast establishments.

(f) (Cr. Ord. #1169) Churches and similar places of worship and instruction, including parsonages.

(g) See sec. 17.24(1) of this chapter.

(3) LOT, YARD AND BUILDING REQUIREMENTS. See also sec. 17.08 of this chapter.

(a) One-and Two-Family Dwellings. Same as for R-I District.

(b) Multi-Family Dwellings.

Lot frontage at setback..... Minimum 80 ft.

Lot area per unit. .... Minimum 4,000 sq.

ft.

Principal building:

Front yard..... Minimum 30 ft .

Side yards:

Up to 2 stories. ....Minimum per side, 18 ft.

3 stories. ....Minimum per side, 21 ft .

Rear yard. .... Minimum 25 ft.

Building height..... Maximum 45 ft.

Number of stories..... Maximum 3

Off-street parking..... Minimum 1-1/2 spaces per unit.

(See also sec. 17.24 of this chapter)

Accessory buildings:

Front yard..... Minimum 30 ft.

Side yards..... Minimum total, 10 ft

Rear yard. .... Minimum 10 ft.

Garage (attached or detached) .....Maximum 900 ft<sup>2</sup>,  
Maximum height 15 ft

### 17.145 MU MIXED USE DISTRICT

(1) Definition and Purpose. "Mixed use development" means the development of one or more contiguous parcels or one or more structures with one or more different land uses, such as a combination of residential, office, retail, industrial or public use in a single or physically integrated group of structures. The mixed use zone provides an opportunity to develop undeveloped or underdeveloped areas to provide housing and quality community design. Development in the MU district is subject only to design review where all of the uses on a lot are permitted uses and where all of the development standards set forth in this section are met. Subject to design review, more than one principal structure is permitted per lot provided that the use of each structure is a permitted use and all of the development standards set forth in this section are met.

Mixed use is desirable in order to:

- (a) Increase housing.
- (b) Encourage a variety of businesses which offer retail goods or consumer services that serve the needs of the surrounding neighborhood.
- (c) Create a friendly environment with well-designed streets and public open spaces.
- (d) Provide a sense of community and place with quality community design.

(2) Permitted uses. Uses permitted in the MU district are as follows:

- (a) Professional services and offices;
- (b) Personal and pet grooming;
- (c) Interior retail sales of retail businesses regularly open not earlier than 6:00 a.m. or later than 8:00 p.m.;
- (d) Parks, open space areas and recreational facilities;
- (e) Restaurants without drive-through facilities;
- (f) Planned unit development (PUD);
- (g) Adult and child daycare facilities;
- (h) Community based residential facilities;
- (i) Private clubs and lodges;
- (j) Single and multifamily residential uses, including one or more multifamily structures for up to 16 units per structure;
- (k) Personal services;
- (l) Museums, libraries, art galleries;

- (m) Centers for senior citizens, youth, general community and similar groups;
- (n) Senior housing facilities;
- (o) Community gardens;
- (p) Farmers markets;
- (q) Churches;
- (r) Convalescent centers, rest homes, nursing homes;
- (s) Schools.
- (t) Public utility facilities and structures

(3) Accessory structures and uses. Accessory structures and uses in the MU district are permitted as follows: All uses and structures customarily accessory to permitted uses;

(4) Conditional uses. Conditional uses in the MU district are as follows:

- (a) Home occupations
- (b) Parking lots as separate, primary uses, including park and ride lots;
- (c) Parking structures as separate, primary uses;
- (d) Gas stations and related convenience stores;
- (e) Retail sales that include exterior sales or which are regularly open earlier than 6:00 a.m. and/or later than 8:00 p.m.;
- (f) Clinics;
- (g) Interior storage facilities.

(5) Development standards. Development standards in the MU zone are as follows:

(a) Multi-Family Dwellings.

Lot area per unit. Minimum 1,500 sq. ft.

Principal building:

Front setback. Minimum 25 ft .

Side setbacks:

Up to 2 stories. Minimum side, 18 ft.

3 stories. Minimum side, 21 ft .

More than 3 stories Minimum side, 25 ft.

Rear setback. Minimum 25 ft.

Building height. Maximum 50 ft.

Number of stories. Maximum 5

Accessory buildings:

Front setback. Minimum 25 ft.

Side setback. Minimum 10 ft .

Rear setback. Minimum 10 ft.

Off-street parking. Minimum 1-1/2 spaces per unit.

(See also sec. 17.24 of this chapter)

(b) Business/Commercial Buildings and Structures

Principal building:

Front setback. Minimum 30 ft .

Side setback: . Minimum side, 20 ft.

Rear setback. Minimum 25 ft.

Building height Maximum 35 ft.

Number of stories Maximum 2

Off-street parking Minimum 1-1/2 spaces per unit.

(See also sec. 17.24 of this chapter)

Accessory buildings:

Front setback. Minimum 30 ft.

Side setback. Minimum 20 ft .

Rear setback. Minimum 25 ft.

(c) Combination Business/Commercial Buildings and Structures

Same as (5)(a)

(d) Light Industrial Buildings and Structures

Same as (5)(b)

**17.15 M-H MANUFACTURED AND MOBILE HOME COMMUNITY DISTRICT.**

(1) PERMITTED USES

(a) Manufactured and Mobile Home Communities.

(2) CONDITIONAL USES. None.

(3) MANUFACTURED AND MOBILE HOME COMMUNITY REQUIREMENTS. See sec. 12.09 of this Code.

**17.16 B-C CENTRAL BUSINESS DISTRICT.** The B-C District is established to provide for those retail trade, financial and entertainment activities serving the entire regional community.

(1) PERMITTED USES.

(a) Banks and other financial institutions, including loan and finance companies.

(b) Clinics.

(c) Cocktail lounges and taverns.

(d) Commercial schools.

- (e) Hotels.
- (f) Newspaper offices and light service printers.
- (g) Parking facilities.
- (h) Professional and business offices.
- (i) Restaurants and taverns.
- (j) Retail stores.
- (k) Service establishments
- (l) Theaters and places of amusement.
- (m) Utility company offices.

(2) **CONDITIONAL USES.** (a) Any other uses similar in character with the permitted uses and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.

- (b) Apartments. See sub. (3) below.
- (c) See sec. 17.24(1) of this chapter.

(3) **ADDITIONAL RESTRICTIONS.** Uses permitted in the B-C District are subject to the following conditions:

(a) Dwelling units are not permitted below the second floor and business uses are not permitted on any floor above the ground floor, except in those buildings or structures where dwelling units are not established.

(b) All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

(c) No bars shall be permitted on Iowa Street, from Fountain Street to Spring Street.

(4) **LOT, YARD AND BUILDING REQUIREMENTS.** Within the B-C District, there shall be no minimum required standards or setbacks in order to provide flexibility in the redevelopment of the downtown area.

**17.17 B-N NEIGHBORHOOD BUSINESS DISTRICT.** The B-N District is established to permit lower customer or traffic volume-type businesses in semi-residential settings.

(1) **PERMITTED USES.**

- (a) Barber shops, beauty parlors, insurance agencies and professional offices.
- (b) Uses permitted in the R-I and R-M Districts

(2) **CONDITIONAL USES.** (a) Any other uses similar in character with the permitted

uses.

(b) See sec. 17.24(1) of this chapter.

(3) LOT, YARD AND BUILDING REQUIREMENTS.

Lot frontage..... Minimum 30 ft.  
Side yards..... Minimum total, 20 ft.  
Rear yard. .... Minimum 25 ft.  
Building height..... Maximum 35 ft.  
Number of stories..... Maximum 2-1/2

(4) OFF-STREET PARKING AND LOADING REQUIREMENTS. See sec. 17.26 of this chapter.

**17.18 B-H GENERAL HIGHWAY BUSINESS DISTRICT.** The B-H District is established to provide for the establishment of principally motor vehicle-oriented or dependent commercial activities in nonresidential settings. Lot dimensional requirements are established to provide for the orderly grouping of commercial uses and for adequate off-street parking.

(1) PERMITTED USES.

- (a) Automotive sales, servicing and repairs.
- (b) Cleaning, dyeing and pressing establishments.
- (c) Construction/contractor shops
- (d) Convenience stores.
- (e) Department stores and discount stores.
- (f) Banks.
- (g) Restaurants.
- (h) Feed and seed stores.
- (i) Locker plants.
- (j) Gasoline and service stations, providing all gas pumps are not less than 30 feet from any existing or proposed street line.
- (k) Laundromats.
- (l) Lumber and contractor's yards.
- (m) Motels.
- (n) Plumbing and heating shops.
- (o) Printing and related trades.
- (p) Publishing, including newspaper publishing, job printing, lithographing and blueprinting.
- (q) Recreational and entertainment establishments.
- (r) Shopping centers.
- (s) Supermarkets.
- (t) Taxidermists.

- (u) Tourist information and hospitality centers.
- (v) Veterinary clinics.
- (w) (Cr. Ord. #988) All permitted uses in the B-C Central Business District.

(2) CONDITIONAL USES. (a) Farm machinery and equipment sales, repair and storage.

(a) Painting businesses.

(b) Other uses similar in character to the permitted uses, giving due consideration to such items as noise, odor, pollution, traffic and parking, safety, hours and type of operation.

(c) (Cr. Ord. #1169) Churches and similar places of worship and instruction.

(d) See sec. 17.26(1) of this chapter.

(2) LOT, YARD AND BUILDING REQUIREMENTS.

- Lot frontage..... Minimum 100 ft.
- Lot area. .... Minimum 20,000 sq. ft.
- Front yard..... Minimum 50 ft.
- Side yards..... Minimum total, 20 ft.
- Rear yard. .... Minimum 25 ft.
- Building height..... Maximum 35 ft.
- Number of stories..... Maximum 2-1/2

(3) OFF-STREET PARKING AND LOADING REQUIREMENTS. See sec. 17.26 of this chapter.

**17.19 M-L LIMITED INDUSTRIAL DISTRICT.** The M-L District is intended to provide for manufacturing or industrial operation which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the City as a whole by reason of noise, dirt, dust, smoke, odor, traffic, physical appearance or other similar factors, and subject to such regulatory controls as will reasonably insure compatibility in this respect. Outdoor storage of raw materials or finished products is not allowed.

(1) PERMITTED USES. (a) Automotive repair, service and storage of automobile accessories, except the wrecking of motor vehicles.

(b) Blacksmithing, tinsmithing and sheet metal work.

(c) Breweries and brewpubs.

(d) Manufacture, fabrication, packing and packaging and assembly of products from furs, glass, leather (but not tanning of hides or manufacture of leather), metals,

paper (but not the manufacture of paper or pulp), plaster, plastic (but not the manufacture of plastic), textiles and wood (but not the manufacture of paper or pulp).

(e) Manufacture, fabrication, packaging and packing of confections, cosmetics, electrical appliances, electronic devices, food (except meat and meat products, fish and fish products, cabbage products or the vining of peas).

(f) Manufacture of furniture, home supplies and appliances, instruments, jewelry, office supplies, pharmaceuticals, sporting goods, tobacco products and toiletries.

(g) Laboratories.

(h) Warehousing.

(i) Welding shops.

(j) Wholesaling.

(k) (Cr. Ord. #1112) All permitted uses in the B-H Highway Business District.

(2) **CONDITIONAL USES.** (a) Storage and warehousing of fuel and materials, but not the storage of wrecked or dismantled vehicles and junk or the storage of explosives.

(b) Other uses similar in character to the permitted uses, giving due consideration to such items as noise, odor, pollution, traffic and parking, safety, hours and type of operation.

(c) (Cr. Ord. #1169) Churches and similar places of worship and instruction.

(d) See sec. 17.26(1) of this chapter.

(3) **LOT, YARD AND BUILDING REQUIREMENTS.**

Lot frontage.....	No minimum
Lot area. ....	Minimum one acre
Front setback.....	Minimum 50 ft.
Side setbacks.....	Minimum total, 20 ft.
Rear setback .....	Minimum 25 ft.
Building height.....	Maximum 45 ft.
Number of stories.....	Maximum 3

(4) **OFF-STREET PARKING AND LOADING REQUIREMENTS.** See sec. 17.26 of this chapter.

**17.20 M-G GENERAL INDUSTRIAL DISTRICT.** By virtue of its location and because of the present character and extent of its development within the area, the M-G District is established.

(1) **PERMITTED USES.** Any manufacturing or storage use, except for uses listed in sub. (2) below.

(2) **CONDITIONAL USES.**

(a) Cement, lime, gypsum or plaster of Paris manufacture.

- (b) Explosives, manufacture or storage.
- (c) Junk yards.
- (d) (Cr. Ord. #1169) Churches and similar places of worship and instruction.
- (e) See sec. 17.24(1) of this chapter.

(3) LOT, YARD AND BUILDING REQUIREMENTS. Same as for M-L District.

(4) OFF-STREET PARKING AND LOADING REQUIREMENTS. See sec. 17.26 of this chapter.

**17.21 A-G AGRICULTURAL DISTRICT.**

(1) PERMITTED USES.

- (a) Agriculture.
- (b) Composting.
- (c) Dairying.
- (d) Floriculture.
- (e) Forestry
- (f) General farming (except farms operated for the disposal of garbage, rubbish, offal or sewage
- (g) Grazing
- (h) Greenhouses
- (i) Hatcheries
- (j) Horticulture
- (k) Livestock raising
- (l) Nurseries
- (m) Orchards
- (n) Paddocks
- (o) Pasturage
- (p) Poultry raising
- (q) Roadside stands for the sale of farm products produced on the premises
- (r) Stables
- (s) Truck farming
- (t) Viticulture

(2) ACCESSORY USES. Farm dwellings for those resident owners and laborers actually engaged in the principal permitted uses are considered accessory uses.

(3) CONDITIONAL USES. See sec. 17.26(1) of this chapter.

(4) LOT, YARD AND BUILDING REQUIREMENTS.

Lot frontage..... Minimum 200 ft.

Lot area. .... Minimum 5 acres  
 Residence:  
 Yard and building requirements..... Same as R-I District Farm buildings:  
 Front setback..... Minimum 300 ft.  
 Side setbacks..... Minimum 300 ft.  
 Rear setbacks ..... Minimum 300 ft.  
 Building height..... Maximum 50 ft.

**17.22 PUD PLANNED UNIT DEVELOPMENT DISTRICT (Cr. Ord. #1097).**

(1) STATEMENT OF PURPOSE. The Planned Unit Development District is established to provide a voluntary regulatory framework designed to encourage and promote coordinated area site planning and improved environmental and aesthetic design in the City by allowing for greater freedom, imagination and flexibility in the development of land while insuring substantial compliance with the basic intent of this chapter and the general plan for community development. To promote this purpose, the Planned Unit Development allows diversification and variation in the bulk and relationship of uses, structures and spaces in developments conceived as unified plans and projects. It is further intended to encourage more rational and economic development in regard to public services and encourage and facilitate preservation of open land.

(2) PERMITTED USES. No use shall be permitted in a Planned Unit Development District except those designated as permitted uses under the general development plan for the District. Any use permitted by right or as a conditional use in any of the other zoning districts under this chapter may be approved as a part of the general development plan, subject to the criteria for approval established under sub. (5) below. Such requirements as are made a part of the general development plan, along with the recorded plan itself, shall be construed to be and enforced as a part of this chapter.

(3) DEVELOPMENT REQUIREMENTS. In a Planned Unit Development District, there shall be no predetermined specific lot area, lot width, height, floor area ratio, yard, usable open space, sign and off-street parking requirements, except as such requirements are made a part of the general development plan.

(4) SINGLE PARCEL, LOT OR TRACT. Each PUD District shall be considered as one tract, lot or parcel, and the legal description shall define said PUD as a single parcel, lot or tract and be so recorded with the County Register of Deeds.

(5) CRITERIA FOR APPROVAL. The following criteria shall be considered in determining whether the general development plan is consistent with the spirit and intent of this chapter and has the potential for significant community benefits in terms of environmental and aesthetic design.

(a) Character and Intensity of Land Use. In a Planned Unit Development District, the uses and their intensity, appearance and arrangement shall be of a visual and

operational character which:

(b) Are compatible with the physical nature of the site or area.

(c) Will produce an attractive environment of sustained aesthetic desirability, economic stability and functional practicality compatible with the general development plan.

(d) Will not adversely affect the anticipated provision for school or other municipal services.

(e) Will not create a traffic or parking demand incompatible with the existing or proposed facilities to serve the development.

(f) Economic Impact. A Planned Unit Development District shall not adversely affect the economic prosperity of the City or of surrounding properties.

(g) Preservation and Maintenance of Open Space. In a Planned Unit Development District, adequate provisions for the improvement and continuing preservation and maintenance of attractive open space shall be made.

(h) Implementation Schedule. The proponents of a Planned Unit Development District shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Council, including suitable provisions for assurance that each phase could be brought to completion in a manner which will not result in an adverse effect upon the community as a result of termination at that point.

(6) PROCEDURE. The procedure for rezoning to a Planned Unit Development District shall be the same procedure as required pursuant to sec. 17.30 of this chapter for any zoning district change, except that, in addition thereto, the rezoning may only be considered with the consent of the owner of the land within the proposed PUD District and in conjunction with a development plan, as described below.

(a) Pre-Application Conference.

1. Before submitting an application for a Planned Unit Development rezoning, an applicant shall confer with the Plan Commission, the City staff and other City department heads.

2. The purpose of the pre-application conference is to familiarize both the applicant and the Plan Commission with details of and requirements regarding the PUD before the applicant enters into binding commitments or incurs substantial expense.

3. At the pre-application conference, the Plan Commission shall

familiarize the applicant with the PUD process and explain to the applicant issues that should be considered in planning the project. The applicant shall inform the Plan Commission of the applicant's development concept through general outlines and sketch plans. Any statement made by either the Plan Commission or the applicant concerning potential disposition of a PUD application or the final form of the development shall not be legally binding.

(b) Development Plan. The development plan shall include:

1. A statement describing the general character of the intended development.
2. An accurate map of the project area, including its relationship to surrounding properties and existing topography and key features.
3. A plan of the proposed project showing sufficient detail to make possible evaluation of the criteria for approval as set forth in sub. (5) above.
4. When requested, a general outline of intended organizational structure related to property owner's association, deed restrictions and private provision of common services.
5. Permitted uses within specific designated areas of the district.

(c) An implementation plan which shall include:

1. The pattern of public and private roads, driveways, walkways and parking facilities
2. Detailed lot layout and division plat where required.
3. The arrangement of building groups, other than one-family dwellings, and their architectural character.
4. Sanitary sewer and water mains.
5. Grading plan and storm drainage system.
6. The location and treatment of open spaces and recreation or other amenities.
7. The location and description of any areas to be dedicated to the public.

8. Landscape plan and plant list.
9. Proof of financing capability.
10. Analysis of economic impact upon the community.
11. A construction schedule indicating the approximate dates when construction of the project can be expected to begin and be completed.
12. Agreements, bylaws, provisions or covenants which govern the organizational structure, use, maintenance and continued protection of the development and any of its common services, common open areas or other facilities.

(c) Approval.

1. In reviewing original and final development plans and application, the Plan Commission may seek technical assistance from such sources as it deems necessary at the expense of the applicant and subject to the applicant's approval. Following a review of the development plan, the Plan Commission shall recommend to the Council that it be approved as submitted, approved with modifications or disapproved.

2. Upon receipt of the Plan Commission recommendation, the Council may approve the development plan and the rezoning to a Planned Unit Development District and authorize the development to proceed accordingly, or disapprove the plan and send it back with specific objections to the Plan Commission for further negotiation with the developer.

3. In the event of approval, the approved development plan, together with such agreements with regard to project value, character and other factors to assure that the proposed development will be constructed as presented in the approved development plan and within the time frame set forth therein, shall be recorded by the Council in the Iowa County Register of Deeds office. This shall be accomplished prior to the issuance of any building permit.

4. Any subsequent change or addition to the approved development plan or to any use permitted thereunder shall first be submitted for approval to the Plan Commission. Minor changes in the location, sitting and height of buildings and structures may be authorized by the Council without additional public hearings if required by engineering or other circumstances not foreseen at the time the approved development plan was engineered. If, however, in the opinion of the Commission, the change or addition constitutes a substantial alteration of the development plan, compliance with the procedure for an amendment to this chapter shall be required before such change or

addition shall be permitted. The following shall be considered substantial alterations to the development plan:

- i. A change in the use or character of the development.
- ii. An increase in overall coverage of structures.
- iii. An increase in the intensity of use.
- iv. An increase in the problems of traffic circulation and public utilities.
- v. A reduction in approved open space.
- vi. A reduction of off-street parking and loading space.
- vii. A reduction in required pavement widths.

(7) ENFORCEMENT. (a) The developer shall begin construction of the PUD within 12 months of the date of the recording of the approved development plan. The Council may grant, in writing, an extension of this time period of up to 12 months upon demonstration of good cause by the developer. If the developer fails to commence construction of the PUD within the specified time, the City shall proceed with actions as specified in par. (c) below.

(b) If the PUD is to be developed in stages, the developer shall begin the construction of each stage within the time limits specified in the final development plan. Construction in each phase shall include all the elements of that phase specified in the final development plan.

(c) The Plan Commission or Building Inspector shall periodically monitor the construction of the PUD with respect to start of construction and development phasing. If the Plan Commission or its designee finds that either the developer has failed to begin development within the specified time period or that the developer is not proceeding in accordance with the approved development phasing with respect to either timing or construction of an approved mix of project elements, the Plan Commission shall give written notice to the developer to appear before the Plan Commission within 30 days to report on the status of the PUD. Upon review of the PUD, the Plan Commission may recommend to the Council an extension of the time for start of construction or the length of time needed to complete a phase, recommend that the developer amend the approved development plan subject to the procedures specified in sub. (6) (c) 4. above or recommend termination of the project and repeal of the zoning change. When the Plan Commission deems it necessary to terminate the project and repeal the zoning change, it shall recommend to the Council that the Planned Unit Development District created for such project be nullified and the original zoning classification returned to the land therein.

The repeal of the zoning change shall be subject to the procedures specified in sec. 17.34 of this chapter. At the time of such zoning change, existing completed or partially completed structures and uses thereon that do not conform to the regulations for the district in which located shall be deemed nonconforming as defined by this chapter.

**17.23 GROUNDWATER PROTECTION OVERLAY DISTRICT; WELLHEAD PROTECTION (Cr. Ord. #1227).**

(1) PURPOSE, AUTHORITY AND APPLICATION.

(a) Purpose Residents in the City depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this section is to institute land use regulations and restrictions to protect the City's municipal water supply and well fields, and to promote the health, safety and general welfare of the residents of the City.

(b) Authority. Statutory authority of the City to enact these regulations was established by the Wisconsin Legislature in §62.23(7) (am) and (c), Wis. Stats. Under these statutes, the City has the authority to enact this section, effective in the incorporated areas of the City, to encourage the protection of groundwater resources.

(c) Application. The regulations specified in this section shall apply within the City's corporate limits.

(2) DEFINITIONS. (a) Aquifer. A saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.

(b) Existing Facilities. Current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the City's wellhead protection area that lies within the corporate limits of the City. Existing facilities include, but are not limited to, the type listed in the Department of Natural Resources form 3300-215, Public Water Supply Potential Contaminant Use Inventory Form which is incorporated herein as if fully set forth.

(c) Recharge Area. The land area which contributes water to a well by infiltration of water into the subsurface and movement with groundwater toward the well. This area extends beyond the corporate limits of the City.

(d) Groundwater Protection Overlay District. That area described with the City's Wellhead Protection Plan.

(e) Well Field. A piece of land used primarily for the purpose of supplying a location for construction of wells to supply a municipal water system.

(2) GROUNDWATER PROTECTION OVERLAY DISTRICT.

(a) Separation Distances. The following minimum separation distances shall be maintained within the Groundwater Protection Overlay District.

(i) Fifty feet between a well and an emergency or standby power system that is operated by the same facility which operates the well and that has a double wall above ground storage tank with continuous electronic interstitial leakage monitoring. These facilities shall meet the installation requirements of Wis. Admin Code § ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under Wis. Admin. Code § ATCP 93.110.

(ii) Fifty feet between a well and storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints. Gravity sanitary sewers shall be successfully air pressure tested in place. The air pressure test shall meet or exceed the requirements of the 4 psi low pressure air test for plastic gravity sewer lines found in the latest edition of Standard Specifications for Sewer & Water Construction in Wisconsin. Force mains shall be successfully pressure tested with water to meet the AWWA C600 pressure and leakage testing requirements for one hour at 125% of the pump shut-off head.

NOTE: Current AWWA C600 specifications are available for inspection at the office of the Wisconsin Department of Natural Resources, the Secretary of State's office and the office of the Revisor of Statutes.

(iii) Two hundred feet between a well and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one- or two-family residential heating fuel oil underground storage tank or above ground storage tank or POWTS treatment tank or holding tank component and associated piping.

(iv) Three hundred feet between a well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of Wis. Admin. Code § ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under Wis. Admin. Code § 93.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(v) Three hundred feet between a well and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with interstitial monitoring for a double wall tank or electric leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of Wis. Admin. Code § ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under Wis. Admin. Code § ATCP 93.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(vi) Four hundred feet between a well and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.

(v) Six hundred feet between a well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of § ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under § 93.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(vi) One thousand feet between a well and land application of municipal, commercial or industrial waste; the boundaries of a landspreading facility for spreading of petroleum-contaminated soil regulated under Wis. Admin. Code chapter NR 718 while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment units, lagoons or storage structures; manure stacks or storage structures; and POWTS dispersal component with a design capacity of 12,000 gallons per day or more.

(vii) Twelve hundred feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; any

property with residual groundwater contamination that exceeds Wis. Admin. Code NR 140 enforcement standards; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage or any other single wall underground storage tank or above ground storage tank that has not received written approval from the department of safety and professional services or its Local Program Operator under Wis. Admin. Code § 93.110 for a single wall tank installation. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances; and bulk pesticide or fertilizer handling or storage facilities.

(b) Overlay \_District Zones. This District is hereby divided into Zone A and B.

(i) Zone A. Identified as the primary source of water for the municipal well aquifer and as the area most likely to transmit groundwater contamination to the municipal wells. Zone A is more restrictive than Zone B.

a. Permitted Uses, Zone A. The following uses are permitted uses within the groundwater protection Zone A. Uses not listed shall be considered prohibited uses:

i. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.

ii. Playgrounds.

iii. Wildlife areas.

iv. Non-motorized trails, such as bike, skiing, nature and fitness trails.

v. Residential, commercial and industrial property, which is municipally sewered, and free of flammable and combustible liquid and underground storage tanks (USTs).

(ii) Zone B. Identified as a secondary source of water for the municipal wells because of the large cone of depression and a greater time of travel. Zone B is less restrictive than Zone A.

i. Permitted Uses, Zone B. The following uses are permitted uses within the groundwater protection Zone B. Uses not listed shall be considered prohibited uses:

ii. All uses listed as permitted uses in Zone A.

iii. Above-ground petroleum product storage tanks less than 660 gallons. All new or replaced tanks shall be installed in compliance with Wis. Admin. Code chapter § ATCP 93.

iv. Residential, commercial and industrial property which is municipally sewerred or has a state-approved sewer and septic system.

v. Motor vehicle filling and service stations that have received written approval from the Wisconsin Department of Commerce under Wis. Admin. Code § ATCP 93.

(iii) Mapping. The location and boundaries of the zoning districts established by this section are set forth in the City Wellhead Protection Plan. Said plan, together with everything shown therein and all amendments thereto, shall be as much a part of this section as though fully set forth and described herein.

(4) REVIEW OF PERMIT APPLICATION. (a) The Public Works Committee shall review all requests for approval of permits for new land uses in the Groundwater Protection Overlay District. All determinations shall be made by the Public Works Committee within 60 days of any request for approval, provided however, that this 60-day period of limitation may be extended by the Committee for "good cause", as determined in the sole and absolute discretion of the Committee.

(b) Upon reviewing all requests for approval, the Public Works Committee shall consider all of the following factors:

(i) The City's responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.

(ii) The degree to which the proposed land use practice, activity or facility may seriously threaten or degrade groundwater quality in the City or the City's recharge area.

(iii) The economic hardship which may be faced by the landowner if the application is denied.

(iv) The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.

(v) The proximity of the applicant's property to other potential sources of contamination.

(vi) The then existing condition of the City's groundwater public water

wells and well fields, and the vulnerability to further contamination.

(vii) The direction of flow of groundwater and other factors in the area of the applicant's property which may affect the speed of the groundwater flow, including topography, depth of soil, extent of aquifer, depth to water table and location of private wells.

(viii) Any other hydro geological data or information which is available from any public or private agency or organization.

(ix) The potential benefit, both economic and social, from the approval of the applicant's request for a permit.

(c) Any exemptions granted will be made conditional and may include environmental and/or safety monitoring which indicates whether the facility may be emitting any releases or harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs. The Public Works Committee may require that a bond be posted for future monitoring and cleanup costs if deemed necessary at the time of granting an exemption.

(d) The applicant shall be solely and exclusively responsible for any and all costs associated with the application, including all of the following:

(i) The cost of an environmental impact study if so required by the City or its designee.

(ii) The cost of groundwater monitoring or groundwater wells if required by the City or its designee.

(iii) The costs of an appraisal for the property or other property evaluation expense if required by the City or its designee.

(iv) The costs of the City's employee's time associated in any way with the application based on the hourly rate paid to the employee multiplied by a factor, determined by the City, representing the City's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.

(v) The cost of City equipment employed.

(vi) The cost of mileage reimbursed to the City employees.

(5) REQUIREMENTS FOR EXISTING FACILITIES AND LAND USES. (a) Existing facilities shall provide copies of all Federal, State and local facility operation approvals or certificates and ongoing environmental monitoring results to the City.

(b) Existing facilities shall provide additional environmental or safety monitoring as deemed necessary by the Public Works Committee, specifically including the production of any and all environmental statements detailing the extent of chemical use and storage on the property.

(c) Existing facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.

(d) Existing facilities shall have the responsibility of devising and/or filing with the City a contingency plan satisfactory to the Public Works Committee for the immediate notification of the appropriate City officers in the event of an emergency.

(e) Property owners with an existing agricultural use shall be exempt from requirements of this section as they relate to restrictions on agricultural uses, provided however, that such exemption shall only apply to the property owners in existence at the time of adoption of the section and this exemption shall not constitute a covenant running with the land.

(6) ENFORCEMENT AND PENALTIES. (a) In the event an individual and/or facility causes the release of any contaminants which endanger the Groundwater Protection Overlay District, the individual facility causing said release shall immediately cease and desist, and provide clean-up satisfactory to the City.

(b) The individual/facility shall be responsible for all costs of cleanup and the City consultant fees at the invoice amount plus administrative costs for oversight, review and documentation, including all of the following:

(i) The cost of City employees' time associated in any way with the clean-up based on the hourly rate paid to the employee multiplied by a factor determined by the City, representing the City's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.

(ii) The cost of City equipment employed.

(iii) The cost of mileage reimbursed to the City employees attributed to the clean-up.

(c) Following any such discharge, the City may require additional test monitoring or other requirements as outlined in subs. (5) and (6) above.

(d) Violations. It shall be unlawful to construct or use any structure, land or water in violation of this section. Any person who is specifically damaged by such violations may institute appropriate action or proceeding to enjoin a violation of this

section.

(e) Penalties. Any person who fails to comply with the provisions of this section shall, upon conviction thereof, forfeit not less than \$100 nor more than \$500 plus the costs of the prosecution for each violation, and in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days, or in the alternative, shall have such costs added to their real estate property tax bill as a lien against the property. Each day a violation exists or continues shall constitute a separate offense.

(7) SEVERABILITY CLAUSE. If any section, subsection, sentence, clause paragraph or phrase of this section is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or other applicable administrative or governing body, such decision shall not affect the validity of any other section, subsection, sentence, clause, paragraph or phrase or portion thereof. The Council of the City hereby declares that they would have adopted this section and each section, subsection, sentence, clause, paragraph or phrase thereof irrespective of the fact that anyone or more other sections, subsections, sentences, clauses, paragraphs, or phrases may be declared invalid or unconstitutional.

#### **17.24 CONDITIONAL USES.**

(1) GENERAL USES APPLICABLE TO ONE OR MORE DISTRICTS. The following uses shall be conditional uses and may be permitted as specified:

(a) Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, museums and historical landmarks or restorations may be permitted in all residential, business and industrial districts.

(b) Utilities in all districts, provided all principal structures and uses are not less than 50 feet from any residential lot line.

(c) Incinerators, sewerage disposal plants and earth or sanitary landfill operations may be permitted in Agricultural and M-G Industrial Districts.

(d) Outside storage or new or used items offered for sale may be permitted in M-G Industrial Districts.

(e) Cemeteries may be permitted in any district.

(f) Skating rinks, sports fields, swimming pools and tennis courts may be permitted in any district.

(g) Commercial recreational facilities such as bowling alleys, dance halls,

driving ranges, gymnasiums, lodges, physical culture facilities, pool and billiard halls, roller rinks and outdoor theaters may be permitted in any business district.

(2) STATEMENT OF PURPOSE - CONDITIONAL USES. There are certain uses of lands and building which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without the imposition of certain reasonable conditions after consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses are classified as conditional uses.

(3) AUTHORITY OF THE PLAN COMMISSION; REQUIREMENTS.

(a) The Common Council shall authorize the Zoning Administrator to issue a conditional use permit only after Plan Commission review and public hearing, provided that such conditional use and involved structure(s) are found to meet the standards set forth in this section, be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such Common Council determination, and the resulting conditional use permit, shall specify the name of the permittee, the location and legal description of the affected premises, the nature of the permission granted, the duration of the permit (if limited), and any conditions or requirements imposed on the conditional use by the Plan Commission. The conditional use permit shall be in a recordable format and recorded at the Office of the Register of Deeds for Iowa County. Prior to the granting of a conditional use, the Common Council shall make findings based upon substantial evidence that the standards herein prescribed are being complied with.

(b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.

(c) The Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.

(d) In addition to the standard conditions set out in sub. (8), the Plan Commission may recommend and the Common Council may impose requirements and conditions on the conditional use to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements

specified in sub. (8). Any condition imposed must be reasonable, related to the purpose of the ordinance, measurable (to the extent practicable), and based on substantial evidence. Such conditions may relate to issues including, but not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, type of shore cover, specified sewage disposal and water supply systems, piers and docks, and/or increased setbacks, yards or parking requirements.. The Common Council may also impose conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate using substantial evidence that all requirements and conditions established by the Plan Commission and Common Council related to the conditional use are or shall be satisfied. If the applicant meets or agrees to meet all of the requirements or conditions, then the Common Council must grant the conditional use permit.

(e) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

(f) Substantial Evidence. For the purposes of this section, "substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion. The applicant must demonstrate that the application and all requirements and conditions established by the Common Council related to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. If the applicant meets or agrees to meet all of the requirements and conditions specified in this Chapter or those imposed by the Common Council pursuant to sub. (1)(c), the Common Council shall grant the conditional use permit. The Common Council's decision to approve or deny the conditional use permit must be supported by substantial evidence.

(4) INITIATION OF CONDITIONAL USE. Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses provided for in this Chapter in the zoning district in which such land is located.

(5) APPLICATION FOR CONDITIONAL USE.

An application for a conditional use shall be filed on a form prescribed by the City and shall be accompanied by the fee established by the Common Council. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a

statement in writing by the applicant and substantial evidence showing that the proposed conditional use shall conform to the standards set forth in sub. (8). The Plan Commission and Common Council may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; highwater mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

(6) HEARING ON APPLICATION.

Upon receipt of the application and statement referred to in sub. (5) above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Plan Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time. Either the applicant or his or her agent shall attend the public hearing of the Plan Commission at which such application is to be considered unless such attendance has been excused by the Plan Commission.

(7) NOTICE OF HEARING ON APPLICATION.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wisconsin Statutes in the official City newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator and members of the Plan Commission.

(8) STANDARDS - CONDITIONAL USES.

The Plan Commission must recommend and the Common Council must grant a conditional use if the Plan Commission and Common Council find that all of the following conditions are present:

(a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.

(c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

(e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.

(g) That the proposed use does not violate floodplain regulations governing the site.

(h) That, when applying the above standards to any new construction of a building or an addition to an existing building, that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

(9) GRANT OR DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT.

When a denial of a conditional use application is made, the Plan Commission may and the Common Council shall furnish the applicant a written decision, supported by substantial evidence, giving the reason for the denial. The Council shall accept, reject or modify the Plan Commission's recommendations. Decisions shall be made in accordance with Wis. Stat. § 62.23(7)(de).

(10) CONDITIONS AND GUARANTEES.

The following conditions shall apply to all conditional uses:

(a) Alteration of Conditional Use. No alteration of a conditional use shall be permitted unless approved by the Common Council.

(b) Architectural Treatment. Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Common Council may require the use of certain general types of exterior construction materials and/or architectural treatment.

(c) Sloped Sites; Unsuitable Soils. Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and

footings, drain tile, etc.

(d) Conditional Uses to Comply with Other Requirements. Conditional uses shall comply with all other provisions of this Chapter such as lot width and area, setbacks, height, parking and loading.

(11) VALIDITY OF CONDITIONAL USE PERMIT.

Where the Common Council has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Council 's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Common Council, upon the recommendation of the Plan Commission, may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Plan Commission at least thirty (30) days before the expiration of said permit.

(12) COMPLAINTS REGARDING CONDITIONAL USES.

The Plan Commission and Common Council shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in sub. (8) above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in sub. (7) above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in sub (8) or conditions previously imposed by the Plan Commission, recommend that the Common Council modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use, provided that the standards meet the requirements of sub. (2)(d) above. In the event that no reasonable modification of such conditional use can be made in order to assure that standards (a) and (b) in sub. (8) will be met, the Plan Commission may recommend revocation of the subject conditional approval to the Common Council. The Council may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use. Following any such hearing, the recommendation of the Plan Commission and decision of the Common Council shall be furnished

to the current owner of the conditional use in writing stating the reasons therefor.

## **17.25 SOLAR ENERGY SYSTEMS & ACCESS**

(1) STATEMENT OF FINDINGS. Diminishing supplies of nonrenewable energy resources threaten the physical and economic well-being of the residents of this community who presently rely on such resources to maintain their homes, industries, businesses and institutions;

(a) Solar energy systems hold great promise for the future energy needs of this community because they use a renewable energy resource; because they require less capital, land, water and other resources needed for central-station generation of electricity; and because they do not pollute the community's water and air; and

(b) The successful use of solar energy systems for such purposes as supplying space heating, water heating or the productions of electricity is dependent upon sufficient access to direct sunlight.

(2) PURPOSE. This section is adopted under authority contained in Sec. 66.0403, Wis. Stats., for the purpose of protecting the health, safety, and general welfare of the community by:

(a) Promoting the use of solar energy systems;

(b) Protecting access to sunlight for solar energy systems; and

(c) Assuring that potentially conflicting interests of individual property owners are accommodated to the greatest extent possible compatible with the overall goal of this ordinance.

### **(3) ZONING DISTRICTS**

Solar collectors which are solar farms are allowed as a permitted use in the A-G (Agricultural) Zoning District provided that the permit required under this section has been procured.

Roof mounted and ground mounted solar collectors which are not solar farms are permitted in all zoning districts and do not require a solar access or zoning permit.

(4) DEFINITIONS. In this section:

(a) "APPLICANT" means an owner applying for a permit under this section.

(b) "APPLICATION" means an application for a permit under this section.

(c) "COLLECTOR SURFACE" means any part of a solar collector that absorbs solar energy for the use in the collector's energy transformation process. "Collector

surface” does not include frames, support and mounting hardware.

(d) “COLLECTOR USE PERIOD” means 9:00 a.m. to 3:00 p.m. standard time daily.

(e) “IMPERMISSIBLE INTERFERENCE” means a blockage of solar energy from a collector surface or a proposed collector surface for which a permit has been granted under this section during a collector use period, if such blockage is by any structure or vegetation on property an owner of which was notified under sec. (5)(f) “impermissible interference” does not include:

(i) Blockage by a narrow protrusion, vegetation, or other object which never obstructs more than 5% of the solar energy which would strike a solar collector during the collector use period on any given day;

(ii) Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice is mailed or delivered under sec. (5)(f).

(iii) Blockage by any vegetation planted before the date the last notice is mailed or delivered under sec. (5)(f).

(iv) Blockage by any structure or vegetation which obstructs less solar energy from a solar collector during the collector use period than would be obstructed by a 6 foot high wall located along the northern boundaries of the property to the south of the solar collector.

(f) “OWNER” means at least one owner, as defined under Sec. 66.0217(1)(d), Wis. Stats., of a property or the personal representative of at least one owner.

(g) “PERMIT” means a solar access permit issued under this section.

(h) “SOLAR COLLECTOR” means a device, structure or part of a device or structure a substantial purpose of which is to transform solar energy into thermal, mechanical, chemical or electrical energy.

(i) “SOLAR ENERGY” means direct radiant energy received from the sun.

(j) “SOLAR FARM” means an array of multiple solar collectors on ground-mounted racks or poles that transmit solar energy and is the primary land use for the parcel on which it is located

(5) PERMIT APPLICATION AND NOTICE.

(a) Permit Jurisdiction. Any owner who has installed or intends to install a solar collector shall apply to the City for a permit. A permit may affect any land located within the territorial limits of the City.

(b) Application. An application for a permit under this Section may be obtained from the Building Inspector and shall be completed by the applicant.

(c) Informal Pre-Application Meeting. Prior to the filing of an application, the applicant shall meet with the Building Inspector to discuss the application and the permit process.

(d) Application Fee. The completed permit application shall be submitted to the Building Inspector with an application fee as stated in the Schedule of Fees.

(e) Review Of Application. The Building Inspector shall review the application to determine if it is satisfactorily completed. The Building Inspector shall notify the applicant of this determination within thirty (30) days after the application has been filed and the application fee received. If the Building Inspector determines that the application is satisfactorily completed, the City shall provide notice forms and receipt forms to the applicant for service and signing under Subsection (f).

(f) Service Of Notice. If an applicant is notified that an application has been satisfactorily completed, the applicant shall deliver by certified mail or by hand the notice, supplied by the City, to the owner of any property which the applicant proposed to be restricted by the permit. The applicant shall submit to the Building Inspector a copy of a signed receipt for every notice-delivered under this subsection.

(g) Content Of Notice. The information on the notice form shall include:

(i) The name and address of the applicant, and the address of the land upon which the solar collector is or will be located.

(ii) That an application has been filed by the applicant.

(iii) That the permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.

(iv) That any person who received a notice may request a hearing under sec. (6) within thirty (30) days after receipt of the notice.

(v) The procedure for filing a hearing request and telephone number, address and office hours of the City Clerk.

(6) HEARING.

Within thirty (30) days after receipt of the notice under sec. (5)(f), any person who has received a notice, or anyone acting on the person's behalf, may file a request for a hearing on the granting of a permit or the Common Council may determine that a hearing is necessary even if no such request is filed. If a request is filed or if the Common Council determines that a hearing is necessary, the Common Council shall conduct a hearing on the application within 90 days after the last notice is delivered. At least thirty (30) days prior to the hearing date, the Common Council shall notify the applicant, any person who has requested a hearing under this section, all owners notified under sec. (5)(f), and any other person filing a request of the time and place of the hearing. Prior to the hearing, the Plan Commission shall submit an advisory recommendation to the Common Council.

(7) GRANT OF PERMIT.

(a) Determination. The Common Council shall grant a permit if the Board determines that:

(i) The granting of a permit will not unreasonably interfere with the orderly land use and development plans of the City; and

(ii) No person has demonstrated that she or he has present plans to build a structure that would create an impermissible interference by showing that she or he has applied for a building permit prior to receipt of a notice under sec. (5)(f) has expended at least Five Hundred (\$500.00) Dollars on planning or designing such a structure, or by submitting any other credible evidence that she or he has made substantial progress toward planning or constructing a structure that would create an impermissible interference; and

(iii) The benefits to the applicant and the public will exceed any burdens; and

(iv) No person has demonstrated that the granting of a permit would cause an undue hardship in using his or her property in a manner consistent with existing zoning regulations and neighboring property uses.

(b) Conditions.

(i) The Common Council may grant a permit subject to any condition or exemption the Common Council deems necessary to minimize the possibility that the future development of nearby property will create an impermissible interference or to minimize any other burden on any person affected by granting the permit. Such conditions or exemptions may include but are not limited to restrictions on the location of the collector and requirements for the compensation of persons affected by the granting of the permit.

(ii) As a condition of receiving a permit, the permit holder shall be responsible for the cost of trimming (pre-existing) vegetation on property affected by the permit to prevent an impermissible interference. The permit holder shall give consideration to the desires of the property owner in trimming such vegetation and shall not unnecessarily remove vegetation which does not or will not in a reasonable period of time create an impermissible interference.

(8) APPEALS.

Any person aggrieved by a decision under this section may appeal the decision by making a written request to the Common Council within ten (10) days of the decision. The decision shall be reviewed by the Zoning Board of Appeals.

(9) RECORD OF PERMIT. If the Common Council grants a permit:

(a) The Common Council shall specify the property restricted by the permit and shall prepare notice of the granting of the permit. The notice shall include the legal description pursuant to sec 706.05(2)(c), Wis. Stats., for the property upon which the solar collector is or will be located and for any property restricted by the permit, and shall indicate that the property may not be developed and vegetation may not be planted on the property so as to create an impermissible interference with the solar collector which is the subject of the permit unless the permit affecting the property is terminated or unless a waiver agreement affecting the property is recorded under sec. (11).

(b) The applicant shall record with the register of deeds of the county in which the property is located the notice under subsection (a) for each property specified under subsection (a) and for the property upon which the solar collector is or will be located.

(c) The Common Council shall note the location of any solar collector which is the subject of a permit on a map showing the location of all solar collectors for which permits have been granted and shall identify on the map all properties which are subject to restrictions resulting from the granting of a permit.

(10) RIGHTS OF PERMIT HOLDER.

The holder of a permit granted under this Section is entitled to access to sunlight for the solar collector subject to any conditions or exemptions in the permit and may seek damages for any loss caused by an impermissible interference or an injunction to prevent an impermissible interference as provided under sec. 66.0403(7), Wis. Stats.

(11) WAIVER OF RIGHTS.

A permit holder by written agreement may waive all or part of any right protected by a

permit. The permit holder shall record a copy of the agreement with the register of deeds. A copy of the agreement shall also be filed with the Common Council.

(12) TERMINATION OF PERMITS.

(a) Any rights protected by a permit under this section shall terminate if the Common Council determines that the solar collector which is the subject of the permit is:

(i) Permanently removed or is not used for two (2) consecutive years, excluding time spent on repairs or improvements, or

(ii) Not installed and functioning within two (2) years after the date of issuance of the permit.

(iii) Not operating at more than 20% of it's original labeled output.

(b) The Common Council shall give the permit holder written notice and an opportunity for a hearing on a proposed termination under subsection (a).

(c) If the Common Council terminates a permit, the Common Council shall record a notice of termination with the register of deeds. The Common Council shall charge the permit holders for the cost of recording.

(d) The Common Council shall modify the map of solar collectors prepared under sec. (9)(c) to reflect the termination of a permit.

(13) PRESERVATION OF RIGHTS.

The transfer of title to any property shall not change the rights and duties provided by a permit granted under this section.

(14) SAVINGS CLAUSE.

If any provision of this section is found invalid or unconstitutional or if the application of this section to any person or circumstance is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this section which can be given effect without the invalid or unconstitutional provision or application.

**17.26 TRAFFIC, PARKING AND ACCESS.**

(1) **LOADING REQUIREMENTS.** In all business and industrial districts adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

(2) **PARKING REQUIREMENTS.** In all districts and in connection with every use, except in the B-C Central Business District, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the following:

(a) **Access.** Adequate access to a public street shall be provided for each parking space, and driveways shall be at least 12 feet wide and no more than 35 wide for one- and two-family dwellings and a minimum of 24 feet for all other uses.

(b) **Size.** The size of each parking space shall be not less than 9 feet by 18 feet, exclusive of the space required for ingress and egress.

(c) **Location.** The location is to be on the same lot as the principal use or not over 400 feet from the principal use. No parking stall or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line or a street line opposite a residential district.

(d) **Surfacing.** All off-street parking areas shall be graded and surfaced so as to be dust-free and properly drained. Any parking area for more than 5 vehicles shall have the aisles and spaces clearly marked.

(e) **Curbs or Barriers.** Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot line.

(f) **Number of Parking Stalls Required.**

- |       |  |  |
|-------|--|--|
| (i)   | One- and two-family dwellings and mobile homes                     | 2 stalls/dwelling unit                         |
| (ii)  | Multi-family dwellings   | 1-1/2 stalls/dwelling unit                     |
| (iii) | Hotels and motels  | 1 stall/guest room plus<br>1 stall/3 employees |
| (iv)  | Hospitals, clubs, lodges, dormitories, lodging and boarding houses | 1 stall/2 beds plus<br>1 stall/3 employees     |
| (v)   | Sanitariums, institutions, rest and nursing homes                  | 1 stall/5 beds plus 1 stall/3 employee         |
| (vi)  | Medical and dental   | 3 stalls/clinical professional employee        |
| (vii) | Churches, theaters, auditoriums,                                   | 1 stall/5 seats                                |

community centers, vocational and night schools and other places of public assembly

- (viii) Colleges, secondary and elementary schools permitted 1 stall/2 employees plus 1 stall/student auto
- (ix) Restaurants, bars, places of floor area, entertainment, repair shops, retail and service stores 1 stall/150 square feet of
- (x) Manufacturing and processing plants 1 stall/5 employees
- (xi) Financial institutions and businesses, governmental and professional offices 1 stall/200 square feet of floor area plus 1 stall/2 employees
- (xii) Funeral homes 1 stall/4 seats plus 1 stall/vehicle used in the business
- (xiii) Bowling alleys 5 stalls/alley
- (xiv) In the case of structures or uses not mentioned, the provision for a use which is similar shall apply.
- (xv) Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.
- (xvi) Parking stalls are not required to be provided in the Central Business District, but when they are provided, they shall conform to requirements of size, access, surfacing and barriers, but not number of stalls or location as specified above.

(3) DRIVEWAYS. All driveways installed, altered, changed, replaced or extended after the effective date of this chapter shall meet the following requirements:

(a) (Rep. & Recr. Ord. #872) Openings for vehicular ingress and egress shall comply with Chapter 8 of this Code..

(b) Vehicular entrances and exits to drive-in banks and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public

parking lots shall be not less than 100 feet from any pedestrian entrance or exit to a school, church, hospital, park, playground, library or public emergency shelter.

(4) HIGHWAY ACCESS. No direct private access shall be permitted to the existing or proposed rights of way of any controlled access arterial street without permission of the highway agency that has access control jurisdiction.

## **17.27 FENCING STANDARDS**

(1) PURPOSE. The purpose of this Section is to regulate the materials, location, height, and maintenance of fencing, landscaping walls, and decorative posts in order to prevent the creation of nuisances and to promote the general welfare of the public.

(2) APPLICABILITY. The requirements of this Section apply to all fencing, landscape walls, and decorative posts for all land uses and activities.

(3) REVIEW AND APPROVAL. Fences shall be reviewed and approved by the Building Inspector, or designee, and shall require a building permit, unless the proposed fence requires a conditional use permit.

(4) TEMPORARY FENCING. Permits are not required for temporary fencing. Temporary fencing shall be permitted for the following purposes:

(a) The use of wood or plastic snow fences for the purposes of limiting snow drifting between November 1 and April 1.

(b) The protection of excavation and construction sites and the protection of plants during grading and construction, in association with an active building permit.

(5) DESIGN AND MATERIALS.

(a) Fences shall be constructed using the following materials:

(i) Naturally resistant or treated wood

(ii) Brick or masonry

(iii) Natural stone

(iv) Wrought iron

(v) Vinyl

(vi) Galvanized and/or coated chain link

(vii) Any other material of comparable quality as approved by the Building Inspector or designee.

(b) Rules Related To Specific Materials.

(i) Permanent chicken wire fences or snow fences shall not be used with residential uses.

(ii) Barb wire fencing or similar security fencing shall be permitted only on the top of security fencing when located at least 6 feet above the ground and shall be permitted only in the M-G, M-I and MU (when a site contains an industrial use) districts. Such fences shall meet the setbacks for the principal structure.

(iii) Galvanized and coated chain link fences shall have a minimum 9 gauge thickness, and a top rail support is required. Galvanized and coated chain link fences shall not be permitted in front or street yards and shall not extend toward the street beyond the front of the building.

(c) Design.

(i) With the exception of fences used for required screening, any fence located in the front yard shall be a maximum of 50 percent opaque, meaning that the spaces between the pickets are equal to or greater than the width of the pickets.

(ii) A fence that includes pre-woven or interwoven privacy fence slats and that is at least 90 percent opaque shall be considered a solid fence.

(d) Height.

(i) Maximum Height. The maximum height of any fence panel, landscape wall, or decorative post shall be the following:

a. 4 feet when located within the required or provided front yard or street yard, whichever is closer to the street.

b. 6 feet within the side yard or rear yard, but not in the required front yard or beyond the front façade of the principal building.

c. 6 feet in the front yard on the long side of corner lots provided the fence has a setback equal to that of the principal structure, or what would be required for new construction of a principal structure based on the lot dimensions, whichever is greater.

(ii) In the R-M, B-C, B-H, M-G, M-L, PUD and MU zoning districts, the maximum height shall be the following:

a. 4 feet when located within the required or provided front yard or street yard, whichever is closer to the street.

b. 8 feet within the side yard or rear yard, but not in the required front yard or beyond the front façade of the principal building.

c. 8 feet in the front yard on the long side of corner lots provided the fence has a setback equal to that of the principal structure, or what would be required for new construction of a principal structure based on the lot dimensions, whichever is greater.

(iii) Where permitted, barb wire fencing or similar security fencing on top of fences shall not extend higher than 3 feet beyond the top of the fence.

(iv) Height shall be measured from the ground immediately under the fence to the top rail of the fence.

(v) Height Exceptions.

a. Decorative posts at a minimum spacing of 24 inches may extend 8 inches above the maximum height.

b. To accommodate slopes and/or lawn maintenance, up to 4 inches of ground clearance shall be allowed which will not contribute to the measurement of maximum fence height.

c. Berms with slopes less than or equal to a minimum of 3 feet of horizontal to a maximum of every 1 foot of vertical (i.e. 3:1) shall not contribute to the measurement of maximum fence height.

(e) Location.

(i) Fences must meet the visibility standards in section 17.08(10).

(ii) Fences may be located within or on any property line but in no case may fences extend over the property line. In the event maintenance will need to be done

(iii) Fences legally constructed prior to the effective date of this Chapter shall be permitted to be replaced in their existing location.

(f) Orientation. Any and all fences, landscape walls, or decorative posts shall be erected so as to locate visible supports and other structural components toward the subject property, i.e. with the finished side facing outward.

(g) Maintenance. Any and all fences, landscape walls, or decorative posts shall be maintained in a structurally sound and attractive manner.

## **17.28 OUTDOOR LIGHTING**

(1) PURPOSE. The purpose of this Section is to provide illumination levels on sites for function and safety as well as regulate the spillover of light and glare on operators of motor vehicles, pedestrians, and nearby land uses in the vicinity of a light source in order to promote traffic safety and to prevent the creation of nuisances.

(2) APPLICABILITY. The requirements of this Section apply to all exterior lighting within the jurisdiction of this Chapter, except for lighting within public rights-of-way.

(3) REVIEW AND APPROVAL. All developments and redevelopments will be reviewed for conformance with this Section through the design review process.

(4) DEPICTION ON REQUIRED SITE PLAN. Any and all exterior lighting shall be depicted as to its location, orientation, and configuration on the site plan required for the development of the subject property.

(5) EXTERIOR LIGHTING REQUIREMENTS.

(a) In no instance shall an exterior lighting fixture be oriented so that the lighting element (or a clear shield) is visible from a property located within a residential zoning district. The use of shielded luminaries and careful fixture placement is encouraged so as to facilitate compliance with this requirement.

(b) Flashing, flickering and/or other lighting which may distract motorists is prohibited.

(c) Intensity of Illumination.

(i) In no instance shall the amount of illumination attributable to exterior lighting, as measured at the property line, exceed 0.50 foot-candles above ambient lighting conditions on a cloudless night.

(ii) The maximum average on-site lighting in nonresidential zoning districts shall be 3.0 foot-candles.

(iii) The maximum average on-site lighting in residential zoning districts shall be 1.0 foot-candles.

(iv) The following exceptions shall be permitted.

a. The maximum average allowable on-site lighting of outdoor recreation facilities and assembly areas is 4.0 foot-candles.

b. The maximum average on-site lighting of auto display lots and gas station pump islands is 25.0 foot-candles, provided that lighting is dimmed to 3.0 foot-candles when business is closed. All under-the-canopy fixtures shall be fully recessed.

(v) Reflected glare onto nearby buildings, streets, or pedestrian areas is prohibited.

(6) FIXTURES AND LUMINARIES.

(a) Outdoor lighting shall be full cut-off fixtures and downward facing and no direct light shall transmit onto adjacent properties.

(b) Exempt from the requirement under sub. (a) are decorative light fixtures with frosted glass lamps, and any fixtures using a light bulb with a factory-rated light output of 7,700 lumens or less, including 100 watt incandescent bulbs and 100-watt-equivalent compact fluorescent bulbs.

(c) Light fixtures shall not be located within required bufferyards or required minimum setbacks.

(d) The color and design of fixtures shall be compatible with the building and public lighting in the area, and shall be uniform throughout the entire development site.

(e) The maximum fixture mounting height by zoning district shall be:

(i) 16 feet in residential and mixed use zoning districts

(ii) 20 feet in commercial zoning districts

(iii) 25 feet in all other zoning districts

(iv) Light fixture mounting height may be increased by up to 3 feet over the maximum fixture mounting height to accommodate a light pole base, provided the overall height does not exceed 25 feet.

(f) All lighting fixtures existing prior to the effective date of this Chapter shall be considered legal nonconforming fixtures.

(g) All areas designated on required site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 foot-candles.

(7) **ADDITIONAL LIGHTING REQUIREMENTS FOR NONRESIDENTIAL USES AND MULTI-FAMILY USES.**

(a) Each exterior entrance to one or more dwelling units and garages shall have an exterior light within 8 feet of the entrance.

(b) For residential uses, exterior lighting with automatic controls shall be provided so that the house numbers are visible from the adjacent street and interior drive. For units with individual exterior entrances, such lighting shall be provided so that the unit numbers are visible to pedestrians on the sidewalk.

(c) Exterior lighting with automatic controls shall be provided for all sidewalks and parking areas to provide safe travel between the parking areas and the building.

(d) Motion sensor lights shall be permitted, provided they are placed no higher than 16 feet above ground level and provided they meet the requirements for outdoor lighting set forth in this section.

(7) **ADDITIONAL LIGHTING REQUIREMENTS FOR INTENSIVE OUTDOOR RECREATION USES.**

(a) Lighting shall be set to automatically shut off when there is no scheduled play and shall be extinguished no later than 10 P.M. Lower light levels for off the field lighting may be provided for an additional 1 hour for safe egress.

(b) The mounting height for light fixtures shall be no greater than one-fourth the distance to the nearest property line from where the light fixture is located.

**17.29 DESIGN REVIEW (Cr. Ord. #1105).**

(1) **STATEMENT OF INTENT.** The purpose and intent of this section is to protect the aesthetic character of the City by fostering commercial and multi-family development which is visually harmonious with the City's existing buildings, rural character and natural environment, to be accomplished through design guidelines for buildings, landscapes, signs and lighting. Specific goals of design review are to:

(a) Safeguard property values, protect public and private investments, and

promote high quality commercial, multi-family and industrial development which is consistent with our midwestern hometown/countryside character, as described in sub. (5) below.

(b) Protect adjacent landowners from adverse or inappropriate aesthetic impact problems of new development which is not consistent with local design character.

(c) Recognize and define the features of each of the character regions within the City and to establish contextual guidelines for development in each one.

(d) Protect against the problem of highway strip development and to encourage well designed clustered highway commercial development. See sub. (3)(d) below.

(e) Encourage landscape design which compliments the natural landscape, improves the general appearance of the City and utilizes locally native plant species.

(f) Maintain the appearance of design approved developments throughout the entire life of the development.

(g) Develop and apply design guidelines for buildings, landscapes, signs and lighting which do not overly restrict innovation and variety, but are intended to facilitate and assist in focusing on design practices which result in developments which sustain a positive, contextual aesthetic character.

(h) Establish a formal review process which includes appropriate criteria for design review related to new or remodeled buildings, site protection, landscaping and site development.

(i) Minimize the number of prescriptive standards and maximize the number of performance standards to permit flexibility in maintaining or enhancing the character with new development.

Performance standards encourage flexibility and innovation of design in which more than one solution is acceptable. The proposals must, however, meet the range of positive photo examples, performance strategy for natural and cultural resources and the criteria listed for each of the relevant design review standards.

Prescriptive standards dictate a specific type of design condition which is a requirement that is deemed necessary to retain the desired character.

(2) DESIGN REVIEW BOARD. All design review duties included in this section shall be performed by the Design Review Board established under sec. 1.30 of this Code. All references herein to "Board" shall mean the Design Review Board.

(3) DEFINITIONS. For purposes of this section, the following definitions shall be used:

(a) Architectural Compatibility. The aesthetic design of a building or group of buildings which includes the site design, landscape development and signage which compliments rather than dominates the setting.

(b) Big Box Design. Buildings which present a large monolithic appearance of frontages and roof lines and otherwise lack the various planes, projections, bays, dormers, setbacks and roof lines to provide pedestrian scale design for on-site users and appropriate Dodgeville character from the public viewing areas.

(c) Buffer Plantings. An area of land identified on a site plan in which landscaping is used to provide a transition between use areas to effectively reduce the environmental, aesthetic and other impacts of one type of land use upon another.

(d) Clustered Highway Commercial. A development pattern in which uses, buildings and parking are grouped or "clustered," rather than spread evenly along highways.

(e) Commercial Development. For the purposes of this section, it includes the full range of uses identified under commercial zoning.

(f) Design Assessment Photos. Representative photos which illustrate positive and negative designs for architecture, signage, landscaping and parking lots that are considered examples of development that either contribute toward or detract from Dodgeville's hometown/countryside character.

(g) Design Review Standards. A series of design activities, listed under sub. (7) below, which describe the standards by which new development will be judged for appropriateness in meeting Dodgeville's character.

(h) Design Review Vocabulary. A combination of photos and text which communicates citizen design expectations for new development.

(i) Dodgeville Character. The feeling associated with Dodgeville's midwestern rural community appearance, unique identity and memorable qualities of architecture, signage and landscaping illustrated by the positive design assessment photos.

(j) Franchise Architecture. Buildings which follow the prototypical corporate design standards and present an appearance which is repeated without regard to regional, local and site appearance conditions.

(k) Franchise Sign. Signs which adhere to prototypical corporate design standards and are expected to be the same for urban and rural settings.

(l) Industrial Development. The full range of industrial land uses recognized in this chapter.

(m) Landscaping. Any combination of living plants such as grass, ground cover, shrubs, trees, and nonliving landscape material such as rocks, pebbles, sand, mulch, fences or pedestrian paving materials.

(n) Mechanical Equipment. Equipment, devices and accessories, the use of which is used for heating, ventilating, air conditioning and similar purposes and without appropriate screening or design can create an adverse visual impact.

(o) Multi-Family. For the purposes of this section, it includes apartments, condominiums, townhouses and other forms of attached or higher density housing. Single-family, duplexes, tri-plexes and 4-plexes are not included under design review.

(p) Native Plants. Any plant species with a geographic distribution indigenous to southwestern Wisconsin. Plant species indigenous to areas outside this area and introduced by humans are not native vegetation.

(q) Natural Landscape Design (Naturalistic Landscaping). A planting concept in which the choice of species and placement provides an aesthetic appearance of a native community or looks natural.

(r) Negative Design Features. Conditions which reviewers tend to find negative in appropriateness for Dodgeville character.

(s) Nodal Development. A development pattern which groups businesses at major intersections rather than lined up along the length of a highway.

(t) Performance Assurance. A process which will insure the completion of landscaping or the site improvements in situations where the applicant fails to complete the activity in a reasonable period.

(u) Performance Standards. Area design standards which encourage flexibility and innovation of design in which more than one solution is possible, but the development must meet the range of positive photo examples, performance strategies and relevant design review standards.

(v) Performance Strategies. Natural and cultural resource strategies which are established to guide new development towards a desired future condition for the City.

(w) Positive Design Features. Conditions which viewers tend to find positive in appropriateness for Dodgeville character (see sub. (6)(a) below).

(x) Prescriptive Standards. Design standards which generally dictate a specific type of design condition as a requirement of approval in meeting appropriate Dodgeville character development.

(y) Screening. A structure or planting which conceals from view of public ways the area behind such structure or planting.

(z) Site Plan. A plan prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principle site design features proposed for a specific parcel of land.

(aa) Strip Highway Commercial. A linear "strip" of development which tends to front on both sides of well traveled roads, extend inward for one parcel, generally designed with high vehicular access, excessive signage, limited landscaping, franchise or uncoordinated architecture and area primarily developed for auto uses.

(4) APPLICABILITY. The provisions of this section are in furtherance of the land use and development controls of land in the City and apply in the following instances:

(a) All new commercial, multi-family, buildings including 5 or more dwelling units and industrial development within the City are subject to design review. New development includes one or more of the following types of development: building, landscaping, signage, lighting, parking areas, alterations of walls or roofs requiring building permits, landscaping as a part of new or renovated development or a new parking area and site clearance activities including tree removal, grading, excavation or landfilling. New development does not include landscaping for minor additions to existing landscaping.

(b) Design review approval is required for exterior wall and roof alterations to existing commercial, multi-family and industrial development which had not previously been subject to design review. Painting and the replacement of roofing are considered design alterations but will be acted upon by the Board on an expedited basis.

(c) Design review approval is required prior to site clearance activities such as tree removal, grading, excavation or filling.

(d) Design review approval is required prior to the issuance of a building permit for new commercial, multi-family and industrial development or for exterior wall and roof alterations to existing commercial, multi-family and industrial development not previously subject to design review.

(5) CHARACTER DISTRICTS. Dodgeville's character evolved as the City grew. Like the rings of a tree, each region was influenced by the events of its period of development and has

unique features which combine to create its visual character. To encourage development which relates to and is compatible with the specific surrounding area, desirable features are described for each district. Boundaries of each district are shown on the Character Region Map in the Appendix. A description of each district is as follows:

(a) District 1, Historic Commercial. The inner range is the central business area of the City which developed before 1920. It includes the Iowa Street and Main Street National Historic Districts. New construction within any Historic District, as well as remodeling or renovation of any designated historic structure, is regulated by ch. 16A of this Code and is subject to review under Chapter 16A in lieu of this section

(b) District 2, Hometown. The middle ring encompasses most of the City developed before 1950. It is less dense, mostly residential and pedestrian friendly with sidewalks and street parking. The architecture is eclectic with some Victorian, brick and stone, but is mostly frame with clapboard. The buildings tend to have pitched roofs and are one or 2 stores tall and are in white or light earth tones with some red. The street lighting is pedestrian scaled. Lots are smaller than in the outlying Countryside District with buildings set back from the street with grass or plantings in front and back. Landscaping includes gardens, foundation plantings and shrubs. Trees on parkways and elsewhere are large, more mature and primarily deciduous. Open green spaces are scattered with parks in each part of the City. Signage is limited, low key and is generally monument style or attached to buildings and unlit.

(c) District 3, Countryside. The outer ring of the City has developed primarily since 1960. The outer boundaries will expand as the City's boundaries expand. Blending gently with the surrounding rural landscape, it is more open, less dense with larger lots and off-street parking. It includes more highway business and industrial buildings as well as new housing areas. Cluster development is preferred with green space interspersed. The architecture is more horizontally oriented, primarily one or 2 level buildings. There are more steel and concrete structures with some wood or masonry. The lighting is spotty, being muted in residential areas and brighter in commercial lots. The landscape includes areas of open land with natural woods and prairies. There are more conifers and more turf mixed with large areas of pavement for parking. Buildings are set back from the street and there is more planned landscaping. Signage is often monument style with few large billboards or tall self-lit signs.

(6) PERFORMANCE STANDARDS. A range of development types are acceptable if they are sensitive to the City's natural resources and contribute to the desirable living conditions and aesthetic character of the City. Future development should be consistent with positive photo examples. The applicant has the burden of showing that the proposed development contains the necessary design qualities which will meet the appropriate design standards, as hereinafter set forth, and thus provide a sustainable Dodgeville character. The photos and standards which follow set forth examples to guide and assist development:

(a) Positive and Negative Photos. See photos in application materials

(b) Design Features Photo Key. The photos were selected based on the following

#### POSITIVE DESIGN REVIEW FEATURES

- ◆ Clean well kept appearance
- ◆ Green space with plantings
- ◆ Visual order (all fits for a quality corridor experience)
- ◆ Historical significance maintained
- ◆ Sense of safety, security, human comfort
- ◆ Attractive trees for both summer and winter
- ◆ Overall quality landscaping
- ◆ Maintains or creates quality community design appearance
- ◆ Attractive street signage
- ◆ Good architecture in design, color and materials
- ◆ Well planned and designed development
- ◆ Provides pedestrian friendly conditions
- ◆ Image of special place to community
- ◆ Well planned, landscaped parking lot with safe traffic flow
- ◆ Compliments other adjacent or nearby developments
- ◆ Screens the "aliens" (dumpsters, utilities)
- ◆ Creates stability for community image and property values
- ◆ Effective lighting

#### NEGATIVE DESIGN REVIEW FEATURES

- ◆ Chaotic or run down appearance
- ◆ Utility poles and wires
- ◆ Dominance of pavement, excessive pavement
- ◆ Sparse or lacking quality landscaping
- ◆ Excessive visual clutter or signage
- ◆ Lack of meaningful architectural character
- ◆ Area appears abandoned
- ◆ Inconsistent land use
- ◆ Billboards
- ◆ Traffic and building design unrelated
- ◆ Lack of green or open space as part of development
- ◆ Image of uncontrolled commercial strip development
- ◆ Lack of street trees
- ◆ Provides for poor "sense of place"
- ◆ Lack of screening "aliens"
- ◆ Excessive dominance of franchise buildings and signage
- ◆ Lack of pedestrian sensitivity in design development
- ◆ Gives appearance of "Anywhere USA"

- ◆ Area doesn't fit visually together by relating to other development
- ◆ Detracts from overall community stability, image and property values

(c) Photo Assessment Modifications. The Design Review Board may make photo example changes by adding, deleting or replacing positive or negative photos used to guide design review. These changes will not require Council approval or require a public hearing. The changes must meet one or more of the following modification criteria:

- ◆ Must be consistent with the criteria of statement of intent.
- ◆ Must add a design review element or type of development which sustains the Dodgeville visual character that was not fully represented in the approved survey photo examples.
- ◆ Must contribute to improved applicant understanding of the design review standards.
- ◆ Illustrates new development in the City which received design review.
- ◆ Must be approved by a majority of the Design Review Board members.

(d) Site Design Standards. The intent of this section is to insure that adequate open space and natural resources of the site are incorporated into the design. Building, parking, signage and landscaping should integrate into an aesthetic and functional solution which respects the particular City character district.

(i) General Standards For Hometown or Countryside Districts:

a. Where open space, natural resources or topographical patterns contribute to the beauty of the area, they should be incorporated into the design of new development. Any grading or contouring should appear natural to the site and protect the natural resources and adjacent properties.

b. Roadside trees are very important to Dodgeville character and their removal should be minimized and supported by clear justification. Where possible, the site design should incorporate any existing trees or wooded areas.

c. The areas of green space should be located to provide transitions between adjacent sites and as a transition between public roads and the building or parking lot. The majority of the green space should be on the side facing the street or highway.

d. The size, shape, scale and location of the structure should be compatible with the existing site features.

e. Buffering the mechanical equipment, trash dumpsters, loading areas and open storage areas must be accomplished in a manner

which visually screens them from roads and surrounding developed parcels. Suitable screening types include opaque wood fences and a mixture of dense evergreen and deciduous landscaping.

f. All newly installed utility services and I service revisions due to exterior alterations should be placed underground.

g. The use of landscape buffers may be required between incompatible land uses which necessitate strong visual separation. A minimum distance of 20 feet is generally required with landscape planting of deciduous and evergreen trees and shrubs.

(ii) Standards that vary by district.

a. There is no set percentage of the parcel which is required to be maintained in green space (this does not include impervious surface areas such as buildings and parking areas); however, design solutions need to demonstrate that adequate levels of green space are provided. The location and quality of the green space is more important than the absolute percentage. Seeing some sky helps retain the feeling of openness of the surrounding landscape.

1. In the Hometown District, generally 15% to 30% would be typical.

2. In the Countryside District, 30% to 40% is more favorable. Larger lots should include interior plant islands, include existing vegetation and possibly link several smaller lots rather than one expansive one.

b. Parking areas need to be carefully designed to fit the site with sensitivity to location size and perimeter screening. Placement of parking should be placed to the rear or sides of building away from direct public view.

1. In the Hometown District where options for side yard or rear parking do not exist, front yard parking (between the building and the road) will require a landscaped setback of at least 5 feet.

2. In the Countryside District, parking lots should not take on an urban parking lot appearance. The parking should be located in the area with the least visual impact with perimeter landscaping, include interior plant islands on larger lots, include

existing vegetation and possibly link several smaller lots rather than one expansive one.

c. Setbacks in the Hometown District building should relate to the surrounding buildings and not extend forward of adjacent facades.

d. In the Countryside District, there is no specified setback requirement and it will be determined on a case by case basis.

(e) Building Design Standards. The intent of this section is not to restrict developments to a predetermined architectural style. However, for approval, new developments must meet the range of positive examples on the photos and design standards by clearly demonstrating how the design maintains or enhances the Dodgeville character. The building design must avoid presenting an appearance of monotonous similarity to or excessive dissimilarity with appropriate existing structures.

(i) General Building Standards For Both Hometown and Countryside Districts. a. All sides of a structure should receive full design consideration. A facade should relate to the rest of the building.

(ii) All projections and mechanical details such as louvers, exposed flashing, flues, vents, gutters and downspouts are to be recognized as architectural features and are treated to match the color of the adjacent surface or an approved complimentary color.

(iii) If the project is a large structure or structures, the design shall avoid the monolithic ("big box") appearance of frontages and roof lines. The large "box" massing of such structures shall be diminished by breaking up building sections or by the use of elements as variable planes, projections, bays, dormers, setbacks or changes in roof line.

(iv) If the Board finds the project unusually large, or if it is likely to become a City landmark, or if it is in a visually prominent area, or if it is located at the City's gateway, the design shall acknowledge the special impact the project would have on the entire community by addressing the design solution in an exemplary manner.

(v) The clustering of smaller visually compatible commercial structures is desired over singular large structures.

(vi) The use of high quality durable materials and construction methods is desired over temporary, portable or slab-built structures that do not impart a feeling of permanence or community commitment.

(vii) New building development shall also avoid:

a. The look of franchise architecture.

b. Buildings which demand visual attention through the use of bold colors and materials which are not found to be positive in meeting Dodgeville character.

c. Buildings with the appearance of large metal buildings which lack design details or are otherwise without the positive attributes of Dodgeville character.

d. The flat strip mall look which lacks positive architectural details.

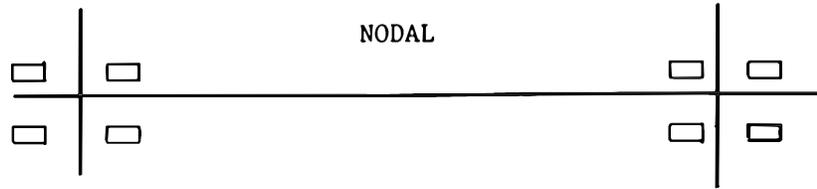
(f) Standards by District.

(i) Color Preferences. Lighter earth tone colors, white or occasionally red are preferred in the Hometown District with more medium toned earth tones preferable in the Countryside District.

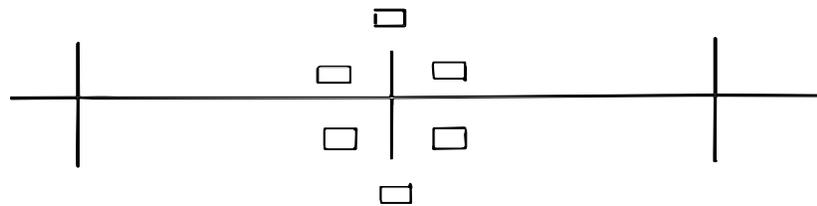
(ii) Building Materials. In the Hometown District, Wood frame or brick or limestone masonry construction is strongly preferred. Buildings with metallic or concrete block exposed surfaces are not generally viewed as compatible there. In the Countryside District, Wood, reinforced concrete, stone or brick are preferred, but metallic or concrete block building surfaces may be used for certain types of businesses.

(iii) Roofs. Pitched roofs are preferred in the Hometown and Countryside Districts with flat roofs appropriate in some buildings in the Countryside area. Roofs should be appropriate to the style of building.

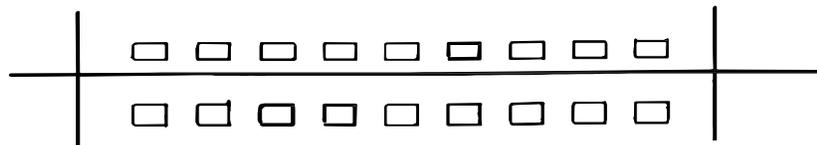
(iv) Highway Commercial and Cluster Development Design Standards. The intent of this section is to provide guidelines which protect against the negative aspects of highway "strip" commercial and encourage development which responds to the principles of nodal or cluster commercial development. Highway strip commercial tends to visually blight the roadside and generally lacks the design qualities which are desired in maintaining the character of Dodgeville (see drawing below).



CLUSTER



STRIP



(v) Commercial cluster development requires new buildings to be located in groups with varying setbacks and well landscaped areas between the structures and the roadway, thus maximizing the open space around each cluster and helping to preserve scenic views.

(vi) Nodal commercial development requires new businesses to be grouped at major intersections rather than lined up along the entire length of a highway. This can be implemented by designating business zones at intersections with land between used in a less intensive way such as low density housing or forestry.

(vii) Criteria to determine if development is strip or cluster-node development:

- a. Common Components.

- ◆ Both serve as community entryways
- ◆ Both generally include highway corridor development about one parcel deep
- ◆ Both have similar land uses
- ◆ Both include commercial buildings, signage, parking and need traffic control
- ◆ Both are dependent on the auto
- ◆ Both are on heavily traveled roads.

b. Components of "Strip" Development.

- ◆ Numerous large free standing and portable signs
- ◆ Large expanses of unscreened parking area
- ◆ Little or no landscaping
- ◆ Few or no pedestrian improvements
- ◆ Above ground utilities and overhead lights
- ◆ Numerous poorly delineated and closely spaced driveway access points
- ◆ An uncoordinated approach to design
- ◆ Franchise design is valued over community design
- ◆ Parcels built to maximum allowed, i.e. only buildings and parking
- ◆ Architecture and excessive signage results in "anywhere USA" appearance

c. Components of Node/Cluster Commercial Development.

- ◆ Nodes/clusters limited to major intersections
- ◆ Strong relationship exists between land planning zoning and design review
- ◆ Billboards and off-premises signage are not permitted
- ◆ Are compact/central developments
- ◆ Buildings generally are at the front of the parcel with parking
- ◆ Roadway access is funneled into one location
- ◆ Buildings are often individual, clustered together or singular with considerable architectural interest and pedestrian scale (no big boxes)
- ◆ Building architecture fits the site, neighbors and community norm, is not franchise driven
- ◆ Extensive landscaping in parking areas, at building entries, corners and foundations
- ◆ Does not tend to max out the parcel with buildings and parking

behind

- ◆ A coordinated sign plan which fits the architecture, type of use and is discrete in appearance

(g) Landscaping Design Standards. The intent of this section is to encourage a landscape design which preserves existing natural vegetation and incorporates green space into the development in ways that harmonize and enhance the natural and built environment. The design review plan should indicate:

(i) The size, species and location of plant material to be retained or placed on the site. The planted size of shade trees should not be less than 1-1/2 inch diameter by 8 feet tall, conifers should be at least 4 feet tall and shrubs of good nursery stock which will provide effective landscape development within 3 years of planting.

(ii) The percentage of the site which will be maintained in green space and the setback distance between highway property line and building or parking lot.

(iii) Plant material which provides interest and variety in structure, texture, color and growth pattern in all seasons. A listing of native most preferred landscape plants and non- native preferred landscape plants is available from the offices of the City Clerk and Building Inspector.

(iv) How it relates to adjacent property. In the Hometown District, a tighter plan with more foundation plantings is appropriate, with a more naturalistic plan favored in the countryside District.

(v) How it addresses screening areas from public view is related to signage and buffers any incompatible land uses.

(h) Exterior Lighting Standards. Exterior lighting shall meet the standards of section 17.25.

(i) Signage Design Standards. The intent of this section is to encourage creative, distinct and effective signs which are appropriate for individual proprietors, yet meet with the community Hometown/Countryside image. The standards are intended to foster signage which respects the residential and natural aspects of the community. The review is limited to the aesthetics of the sign and are separate from and in addition to the conditions of sec. 17.30 of this chapter. The following standards for both Hometown and Countryside Districts shall be used to review signs:

a. Identification of businesses from moving cars must be balanced with the visual impact of the signs on the landscape. Restraint in sign design can aid in identification since small signs identify business with less confusion, limits

sign competition and protects positive experience of the built and natural environment.

b. Signs should be integral architectural elements of the building and site and be compatible with signs on adjoining sites.

c. Sign Materials. Wood is preferred; signs lit from a hidden source preferable to self-lit signs. Electronic or plastic signs and banners are discouraged.

d. Style of Sign. Freestanding ground signs are best where there is a large setback from the road or where several businesses are in one complex. Projecting signs and wall signs are best where there are slow moving cars or pedestrians.

e. Sign Message. Keep it simple! Use bold easily recognized symbols and lettering, but keep it small and succinct. Excessive numbers of large signs cancel each other out and create sign overload.

f. Sign Color. If possible, limit to 3 colors with one for background (preferably dark), a contrasting color for lettering and a third color for emphasis. The colors should complement the general tone of the building.

g. Sign Landscaping. Freestanding signs will generally require low and medium height plants to soften the edge and create a positive sign image.

h. Sign Master Plan. If more than one sign is proposed for a parcel, the applicant shall get approval for all proposed and existing signage to assure a coordinated plan.

(7) APPLICATION, APPEAL AND COMPLETION PROCESS.

(a) Preapplication(Optional but Strongly Encouraged).

(i) The applicant shall obtain from the Clerk-Treasurer a set of design review standards and the access to design assessment photos for both positive and negative examples.

(ii) The applicant shall ask the Clerk-Treasurer to schedule a Design Review Board meeting to discuss plans before any design work is begun. The Clerk-Treasurer shall inform the Chairperson of the Design Review Board of the time and place of the meeting, which will be scheduled within 21 days of the applicant's request.

(b) Application and Review Process.

(i) Applicant shall submit an application and 8 copies of information required in sub. (8) below to the Clerk-Treasurer who shall schedule a Design Review meeting within 21 days of the filing of the application. The Clerk-Treasurer will contact the Chairperson to schedule a meeting and distribute copies of the application and supporting information to Board members at least 7 days before the meeting.

(ii) If the Board desires more information, it may elect to defer the initial meeting beyond the 21-day period.

(iii) The applicant shall be present at the meeting to explain how the project meets design conditions. The Board shall review the materials and approve, approve with conditions or deny the project proposal.

(iv) If approved, the Board shall issue a certificate of design approval to the applicant.

(c) Appeal Process. It is intended that the applicant and the Board work together to reach agreement. If the applicant finds the decision or action of the Board unacceptable, an appeal may be taken to the Council by written request to be placed on the Council's agenda. The appeal shall include the grounds for the appeal and shall be received by the Clerk-Treasurer within 30 days after the date of the decision being appealed. If not received within such 30 day period, applicant's appeal rights shall expire. The Council shall review the appeal and make a decision which affirms, affirms with conditions, reverses or remands to the Board with instructions. The decision by the Council shall be final, subject to review by the Board of Zoning Appeals and judicial review.

(8) SUBMISSION REQUIREMENTS. The following information shall be submitted in a form which can be clearly understood by the Board.

(a) An application available at the office of the Clerk-Treasurer.

(b) A site plan and specifications which contain the following information:

(i) Scale, i.e. 1"=20', and north arrow.

(ii) Address of site, development name, owner, designer.

(iii) All property lines.

(iv) Contour maps for parcels which will be altered. Spot elevations should show elevation of retaining walls, steps, water flow direction.

(v) Proposed access plan with on-site parking stalls and adjacent roads. Indicate traffic flow and directional signage.

(vi) Indicate existing natural vegetation and its species and size and any areas where it will need to be removed.

(vii) Locations of existing and proposed buildings for this site and those within 50 feet of the site boundaries. Include building's external dimensions and distances from property lines.

(viii) Accurate location of all proposed landscaping with species, size and height if conifers.

(ix) Location height, size and design of all proposed signage.

(x) Surface material proposed for parking, storage or driveways.

(xi) Exterior lighting concept.

(xii) Location and screening proposal for all dumpsters, storage or service areas.

(xiii) The location of all present and proposed utility systems, especially telephone, cable or electrical systems (indicate if underground).

(xiv) Dimensions of buffers and setbacks.

(xv) Approximate percentage of parcel in green space.

(xvi) Provisions for handicapped persons under Americans with Disabilities Act.

(c) Elevations. Complete elevations drawn in appropriate scale (usually 1/4"=1') of all proposed buildings and existing buildings if they are joined to new development.

(i) Exterior elevations of all sides of building to show architectural detail.

(ii) All signs to be mounted on the building or freestanding.

(iii) Designation of colors and materials to be used on the exterior of all proposed components.

(d) Material Samples. Examples of materials used for roof, walls and signage.

(e) Discretionary Information. In some situations, with Board approval, less information may be required than above indicated. When developments are large or complex or in visually sensitive areas, more information may be required which may include, but is not limited to:

(i) Site photos.

(ii) A more complete landscape plan.

(iii) A more detailed contour map.

(iv) Architectural renderings or computer simulations of perspectives and elevations in color.

(9) ENFORCEMENT. (a) Applicants shall be allowed a reasonable time, as approved by the Board, to complete landscaping and other site improvements prior to issuance of a certificate of occupancy.

(i) In appropriate instances, the Board may require a bond or letter of credit prior to issuance of a building permit to insure timely completion of landscaping and other site improvements.

(ii) All approved projects must be completed within 2 years following final approval by the Design Review Board. If not completed within said 2 year period, the applicant's certificate of design approval shall expire.

(b) Approved designs shall be maintained in a state of good order and repair so as to present a satisfactory appearance on a continuing basis and to sustain quality. Maintenance problems decrease property values and provide a negative impact on the entire community. Approved designs are expected to be maintained throughout the life of the development.

(c) The owner and every person in charge of a property for which a certificate of design approval has been issued shall keep in good repair all landscaping and exterior portions of such improvement and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair, including, but not limited to:

(i) The deterioration of exterior walls or other vertical supports.

(ii) The deterioration of roofs or other horizontal members.

- (iii) The deterioration of external chimneys.
- (iv) The deterioration or crumbling of exterior plasters or mortar.
- (v) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors.
- (vi) The peeling of paint, rotting, holes and other forms of decay.
- (vii) The deterioration of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping.
- (viii) The deterioration of any features so as to create or permit the creation of any hazardous or unsafe condition or conditions.
- (ix) Unattended landscaping or structure by neglecting it and permitting damage to it by weather or vandalism.

(d) In the event a property for which a certificate of design approval has been issued is not maintained in good order and repair in accordance with par. (c) above, the Building Inspector shall send a notice of such violation to the owner and occupant of the property. If the specific violation is not corrected within 30 days from the day of the notice, the owner shall be required to submit a plan for correction to the Building Inspector within 30 days following such notice, including a timetable for completion, appropriate to the nature of the violation and acceptable to the Board.

(10) PENALTY. If no acceptable plan is submitted or the plan is not implemented according to the timetable, a penalty of \$25 per day shall be enforced for 10 days; after that time a penalty of \$50 per day shall be enforced for a 10-day period; after that time a penalty of \$100 per day shall be enforced until the problem is remedied.

### **17.30 SIGNS AND BILLBOARDS.**

(1) PERMIT REQUIRED. No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a permit, and without being in conformity with the provisions of this section. Application for such permit shall be made to the Clerk-Treasurer, to be acted upon by the Building Inspector. Except as specifically indicated to the contrary, there shall be a \$10 fee for such permit. A permit shall be granted when a sign is consistent with this Section 17.30. These regulations are not intended to and do not apply to signs erected, maintained or otherwise posted, owned, or leased by the state of Wisconsin, the federal government or this City. Official signs such as traffic control and parking restrictions and information and notices constitute government speech. Additionally, a government sign, constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local

government either directly or to enforce a property owner's rights constitutes government speech.

(2) SIGNS IN RESIDENTIAL AND AGRICULTURAL DISTRICTS. Only those signs listed below are permitted in residential and agricultural districts. All other signs are prohibited.

(a) A single sign over the shop window of a nonconforming business or industrial establishment advertising an on-premises business, not to exceed 2 feet in height and 20 feet in length.

(b) A single sign, not to exceed 8 square feet in area, may be located on a property when that property is being offered for sale through a licensed real estate agent or by the owner and for a period of 30 days following the date on which a contract of sale has been executed by a person purchasing the property. No fee shall be required.

(c) A single sign per 8,000 square feet of lot area, not to exceed 2 square feet, advertising an on-premises business.

(d) Bulletin boards located on the premises of public or charitable institutions not to exceed 16 square feet in area.

(e) A sign that is embedded, extruded or carved into the material of a building façade. A sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade. No fee shall be required.

(f) Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property. If the federal, state or local regulation describes the form and dimensions of the sign, the property owner must comply with those requirements, otherwise, when not defined, the sign shall be no larger than two square feet and located in a place on the property to provide access to the notice that is required to be made.

(g) Temporary banners, pennants, posters or advertising displays constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appear to be intended or is determined by the Building Inspector to be displayed for a limited period of time (rather than permanently attached to the ground or a structure). No fee shall be required.

(h) Signs in residential districts shall have a minimum setback of 8 feet on interior or through lots and shall be set back according to the traffic visibility area requirements of this chapter for corner lots.

(3) **SIGNS IN BUSINESS AND INDUSTRIAL DISTRICTS.** For purposes of this subsection (3), an off-premises sign shall be defined as a sign advertising a business that is not located on the property of the business to be advertised; and an on-premises sign shall be defined as a sign advertising the business located on the property of the business to be advertised. Only signs listed below, when the signs conform with the restrictions below, are permitted in business and industrial districts:

(a) **Signs Prohibited in Public Ways.** Except for traffic signs and signals, signs specifically permitted to project into the public way by this section, or any other sign so authorized by law, no signs shall be placed upon, over or in any public way.

(b) **Signs Not to Constitute a Public Hazard.** No sign shall be erected at any location, where it may, by reason of its position, shape, color or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, traffic signal or other traffic device.

(c) **Ground Signs. On-Premises Signs (Ground).** On-premises signs (ground) located on the premises must extend from the ground or have support which places the bottom of the sign less than two feet from the ground, must not exceed 200 square feet on a single face or 400 square feet on all faces and must observe all applicable building setback lines and shall not exceed 25 feet in height if located at the property line and which height may be increased by one foot for each foot of setback from the property line up to a maximum of 35 feet in height. The surface area of a sign shall be determined by the smallest number of circles, squares, rectangles or triangles needed to include or cover the entire surface area of the sign within its outer perimeter. The bottom of the sign shall be at least 10 feet above the ground.

(d) **Off-premises Signs.** Except as hereafter authorized, no off-premises signs shall be permitted. Off-premises signs advertising a business located off the premises where such sign is located shall be permitted along and within 250 feet of the U.S. Highway 18 Expressway corridor. Such signs must not exceed 300 square feet in size, and no 2 structures shall be spaced less than 200 feet apart. All applicable building setback lines shall be observed and the bottom of any of such signs shall be at least 5 feet above ground level.

(e) **Off-premises Signs on Vacant Lots.** Vacant lots upon which off-premises signs now exist shall be maintained in an orderly fashion by the frequent and periodic removal of rubbish and maintenance of any verdure growing on the lot.

(f) **Signs Projecting Over Sidewalk.** No sign may extend more than 48 inches over any sidewalk nor closer than one foot to the sidewalk curb line, whichever is less.

(g) **Termination of a Business.** At the termination of a business, commercial, or industrial enterprise, all off-premises and on-premises signs advertising the business,

commercial, or industrial enterprise shall forthwith be removed from the public view. Responsibility for violation shall reside with the property owner where the sign is located, according to the latest official tax roll listing.”

(h) Shopping Centers or Industrial Parks. In a shopping center or industrial park, one free-standing on-premises sign may be permitted, showing the name of said center or park and the represented businesses or industries. The area of said sign shall not exceed 200 square feet on one face and 400 square feet on all faces. Said sign shall not be permitted within 20 feet of the right of way line of the street.

(i) Surface Display Area. The total surface display area of business or industrial signs on the front facade of a building shall not exceed 3 square feet per linear foot of width of the building frontage. In the case of a building located on a corner lot, such display area on the side facing the secondary street may be increased by one square foot per linear foot of the length of the building which faces the secondary street. Said increased permitted display area shall be used only for the erection of a permitted sign on the length of the building which faces the secondary street. Where the premises abut a parking lot, the total display area may be increased by 0.5 square foot per linear foot of width or length of the building fronting on such parking lot. Such increased display area shall only be utilized for the erection of a permitted sign on that part of the building which abuts said parking lot. In no case shall the wall area usable for sign display be in excess of 200 square feet on anyone side.

(j) Projection Beyond Building Line. Business and industrial signs mounted on buildings shall not be permitted to project more than 48 inches beyond the building line.

(k) Off-premises Signs (Wall). No off-premises sign shall be located on the front, rear or side walls of a building.

(l) Lighting. Business and industrial signs may be internally lighted or illuminated by a hooded reflector, provided, however, that such lighting shall be arranged to prevent glare, and no sign shall contain lighting of an intermittent or varying intensity. Animated flashing signs, or signs having moving parts except signs that scroll, or signs which may be mistaken for traffic signal devices, or which diminish the visibility or effectiveness of such traffic signal devices are prohibited.

(m) Obstruction of Openings. Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as means of ingress or egress, or for firefighting purposes, or placed so as to interfere with any opening required for legal ventilation is prohibited.

(n) Street Intersections. No sign or advertising device shall be erected or maintained at the intersection of streets in such a manner as to obstruct clear view of the intersection.

(o) Height. No sign shall be erected on the roof of a building nor shall the top of any sign in the City be more than 35 feet above the ground.

(p) Off-premises Signs. Except as otherwise provided in this section, any off-premises sign shall not be permitted in any district.

(q) Hanging Signs. Signs shall be permitted to hang over sidewalks in business and industrial districts, provided that there shall be only one sign, not to exceed 12 square feet in area, for each business and that the bottom of such sign shall be at least 10 feet above ground level over any sidewalk that is more than 4 feet in width and at least 12 feet above ground level over any sidewalk that is 4 feet in width or less.

(r) Sandwich Board Signs (Cr. Ord. #1210). Free standing, portable double faced "sandwich board signs" shall be permitted subject to the following requirements;

(i) Signs shall be of durable, high quality material and design.

(ii) Signs shall have no more than 2 faces and the surface area of each face shall not exceed 12 square feet.

(iii) Signs shall not obscure the public right of way.

(iv) Placement of signs shall comply with all present and future restrictions of the Americans with Disabilities Act.

(v) Signs on sidewalks or otherwise within the public right of way shall be placed so as to leave a pedestrian corridor not less than 42 inches in width.

(vi) No sign may be placed on, attached to, or rely upon a city, county or state owned feature such as a lamp post, traffic signal, street sign, tree, or other element of support.

(vii) Signs shall be displayed only when a business displaying the sign is open.

(viii) Signs shall be placed in such a location as not to interfere with parking and allow for access to the public sidewalk from a parked vehicle.

(ix) A permit shall be required, but no permit fee shall be charged.

(x) Prior to issuance of a sign permit, each sign shall be approved by the Design Review Committee in accordance with sec. 17.29(6)(i) of this Code. Sign review for signs in the Historic District are reviewed exclusively by the Historic Preservation Commission.

(4) EXISTING SIGNS. All signs existing as of the date of this section shall be permitted to be continued. Such signs may be maintained and repaired, but may not be replaced or enlarged. The advertising content of such signs may be changed from time to time.

(5) VARIANCE. The Board of Zoning Appeals is hereby authorized to grant variances to the provisions of this section consistent with Section 17.30 of this Code. The same procedures shall apply for appeals hereunder that apply for other appeals to the Board, and there shall be a filing fee for such appeals in an amount as provided under s. 25.045 of this Code.

(6) PENALTY. Any person convicted of a violation of any provision of this section shall forfeit the sum of not less than \$25 nor more than \$200 and, in case of nonpayment of such forfeiture, shall be imprisoned in the County Jail for not more than 10 days. Each day of noncompliance or violation shall constitute a separate offense.

**17.31 ZONING PERMIT REQUIRED.** No building or structure, or any part thereof, shall hereafter be built within the City unless a permit therefor shall first be obtained by the owner or his agent from the Building Inspector. No construction shall be commenced prior to the issuance of such permit. Commencement of construction shall include such acts as beginning excavation or constructing forms for cement work. See ch. 14 of this Code.

**17.32 CERTIFICATE OF OCCUPANCY.** (1) CERTIFICATE REQUIRED. No vacant land shall be used or occupied for other than a permitted use or other use for which a required permit has been obtained in the zoning district in which it is located and no building hereafter moved into or relocated within the City shall be so occupied or used until a certificate of occupancy shall have been issued by the Building Inspector. Such certificate shall show that the building or land or part thereof and the proposed use thereof are in conformity with the provisions of this chapter. Such certificate shall be issued only when the building or land and the proposed use thereof conform with all the requirements of this chapter. No such certificate shall be required for any property for which a valid zoning permit providing for such use or occupancy exists.

(2) APPLICATION FOR CERTIFICATE. Application for such certificate shall be made to the Building Inspector, in writing, on such form and containing such information as the applicant deems sufficient to advise such Inspector of his request. After reviewing such application, the Inspector may require such additional information as he deems necessary.

(3) TEMPORARY CERTIFICATE. The Board of Zoning Appeals is hereby authorized to hear and rule on appeals from the denial of such certificates by the Building Inspector and, upon such terms and with such conditions as it deems proper, may authorize the Building Inspector to issue a temporary certificate for a limited period of time.

(4) FEES. (Am. Ord. #2015-1343) There shall be deposited with such application for a certificate of occupancy a fee as provided under s. 25.045 of this Code, except that there shall be no fee charged for such a certificate when the application therefore covers property for which a

valid zoning permit then exists.

### **17.33 BOARD OF ZONING APPEALS.**

(1) MEMBERSHIP. See sec. 1.17 of this Code.

(2) POWERS OF ZONING BOARD OF APPEALS. In addition to these powers enumerated elsewhere in this Code of Ordinances and in the Wisconsin Statutes, the Board of Appeals shall have the following powers:

(a) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official of the City, including but not limited to the Zoning Administrator or Building Inspector.

(b) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and substantial justice done. Use variances shall not be granted.

(c) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts.

(d) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Common Council has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

(e) Unclassified Uses. To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Common Council has made a review and recommendation.

(f) Temporary Uses. To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed six (6) months.

(g) Public Utility. To permit, in appropriate cases and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the zoning code, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.

(h) To grant a permit for the extension of a district boundary for a distance of not more than 25 feet where the boundary of a district divides a lot in single ownership at the time of the adoption of this chapter.

(i) To permit the temporary storage, as defined herein, of an item otherwise prohibited under sec. 17.08 of this chapter.

(j) To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan as shown on the Official Map accompanying and made a part of this chapter where the street layout actually on the ground varies from the street layout on the aforesaid map.

(k) After public hearing, to grant a permit for the construction or erection of a building or structure located within 3 miles of the boundary line of any airport to a height greater than that permitted by this chapter, provided that the Board shall first have determined that the height, use and location of such building or structure will not constitute a hazard to the normal, safe operation of aircraft.

(l) The Board shall have the power to call on any other City department for assistance in the performance of its duties and it shall be the duty of such other department to render such assistance as may be reasonably required.

(3) POWERS LIMITED. Except as specifically provided, no action of the Board shall have the effect of permitting in any district uses prohibited in such district; nor shall such Board be permitted to take any action which would, in effect, create a buildable lot smaller than the minimum lot size or area otherwise required by the City; nor may such Board rule on conditional uses.

(4) VARIANCES.

(a) Purpose.

(i) A request for an area variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. For purposes of this Article, "area variance" means a modification to a dimensional, physical, or locational requirement such as a setback, frontage, height, bulk or density restriction for a structure; and "use variance" means an authorization for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance. The Board of Appeals may not grant use variances.

(ii) The Board of Appeals may authorize upon appeal, in specific cases,

such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed, public safety and welfare secured, and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.

(iii) The property owner bears the burden of proving “unnecessary hardship,” as that term is defined in section 62.23(7)(e)7.d of the Wisconsin Statutes, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome. The property owner also bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

(b) Application for Variance. The application for a variance shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:

(i) Name and address of applicant and all abutting and opposite property owners of record.

(ii) Statement that the applicant is the owner or the authorized agent of the owner of the property.

(iii) Address and description of the property.

(iv) A site plan showing an accurate depiction of the property.

(v) Additional information required by the City Engineer, Zoning Board of Appeals or Zoning Administrator.

(vi) Fee in an amount established by the Common Council.

(c) Notice of and Public Hearing on Application.

(i) (Cr. Ord. #886) In all cases in which a variance is applied for, the City Clerk shall promptly provide copies of the notice of appeal, the application for variance and supporting documents to each of the following City officials:

Director of Public Works  
Chair of Board of Appeals  
Building Inspector

(ii) The Board of Appeals shall conduct at least one (1) public hearing on the proposed variance. The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than five (5) days prior thereto and cause notice to be given to the applicant by regular mail or by personal delivery not less than five (5) days prior to the date of hearing. Notice shall also be mailed not less than five (5) days prior to the hearing to the fee owners of record of all land within one hundred (100) feet of any part of the subject building or premises involved in the application. At the hearing the appellant or applicant may appear in person, by agent or by attorney.

(d) Action of the Board. For the Board to grant a variance, it must find that:

(i) Denial of variance may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot, parcel or structure that do not apply generally to other properties in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.

(ii) The conditions upon which a petition for a variance is based are unique to the property for which variance is being sought.

(iii) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.

(iv) The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

(v) The proposed variance will not undermine the spirit and general and specific purposes of the Zoning Code.

(e) Conditions. The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

(5) APPEALS TO BOARD.

(a) Appeals to the Board of Zoning Appeals may be taken by any person

aggrieved or by any officer, department, board or other body of the City responsible for administration of this Chapter. Such appeal shall be taken within 30 days from either the date of actual notice of said decision to the person aggrieved or from the date of the mailing of a copy of said decision to him or her, whichever is earlier, by filing with the officer or body from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. Filing with the Board shall be accomplished by filing with the City Clerk.

(b) The officer or body from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(c) The Board shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof by publication once in the Dodgeville Chronicle, said publication to be not less than 5 days before said hearing nor more than 15 days before said hearing and shall give notice to the parties in interest and shall decide the same within a reasonable time.

(d) (Am. Ords. #1025, #2015-1343) A fee shall be paid as provided under s. 25.045 of this Code.

(e) The City Clerk shall promptly provide copies of the notice of appeal and supporting documents to the Building Inspector, Zoning Administrator and the Director of Public Works.

(f) An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal has been filed with that officer that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(6) DECISIONS OF BOARD OF APPEALS.

(a) Timeframe. The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.

(b) Conditions. Conditions may be placed upon any zoning permit ordered or authorized by this Board.

(c) Validity. Variances, substitutions or use permits granted by the Board shall

expire within six (6) months unless substantial work has commenced pursuant to such grant.

(d) **Methods.** In exercising its powers, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.

(e) **Listed Property.** In any action involving property listed on the national register of historic places in Wisconsin or the state register of historic places, the Board shall consider any suggested alternatives or recommended decision submitted by the Historic Preservation Commission (if any) or the Plan Commission.

(7) **REVIEW BY COURT OF RECORD.**

Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the City may, within 30 days after the filing of the decision in the office of the Board of Appeals, commence an action in circuit court seeking the remedy available by certiorari.

**17.34 CHANGES AND AMENDMENTS.** (1) **AUTHORITY.** Whenever the public necessity, convenience, general welfare or good zoning practice require, the City may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

(2) **INITIATION.** A change or amendment may be initiated by the Council, the Plan Commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed. A petition by a lessee must be co-signed by an owner.

(3) **PETITIONS.** Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the City Clerk and shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

(a) A plot plan showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.

(b) The owners' names and addresses of all properties lying within 200 feet of the area proposed to be rezoned.

(c) Additional information required by the Plan Commission.

(d) (Am. Ords. #1025, 2015-1343) A fee as provided under s. 25.045 of this Code.

(4) RECOMMENDATIONS. The Plan Commission shall hold a public hearing as provided for in §62.23(7)(d), Wis. Stats., and review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made at a meeting subsequent to the meeting at which the petition is first submitted and shall be made in writing to the Council.

(5) COUNCIL ACTION. (a) After careful consideration of the Plan Commission recommendations, the Council shall vote on the passage of the proposed change or amendment.

(b) If the Council denies the proposed change or amendment, a similar petition for such change or amendment may not be submitted for a period of one year.

(c) If the amendment qualifies as a “down zoning ordinance,” then approval of that amendment shall require a 2/3 vote of the full Common Council, except that if the down zoning ordinance is requested or agreed to by the person who owns the land affected by the proposed amendment, the down zoning may be approved by a simple majority of the full Common Council. “Down zoning ordinance” is defined in § 66.10015(3), Wis. Stats., as a zoning ordinance that affects an area of land in one of the following ways: (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage or (2) By reducing the permitted uses of the land, that are specified in a zoning ordinance or other land use regulation, to fewer uses than were allowed under its previous usage.

(6) PROTEST. In the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged by the owners of 20% or more of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the members of the Council voting on the proposed change.

**17.35 ENFORCEMENT.** It shall be the duty of the Building Inspector or designee, with the aid of the Police Department, to enforce the provisions of this chapter.

**17.36 VIOLATION AND PENALTIES.** Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter, shall forfeit a sum of not less than \$10 nor more than \$200, together with the costs of prosecution, and, in case of nonpayment of such forfeiture, shall be imprisoned in the Iowa County Jail for a term of not more than 30 days or until such judgment is paid, and each day of violation shall constitute a separate offense.