

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

3
4
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46

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

48 Sections:

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

57

58 **19.03.010 Title.**

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

62

63 **19.03.020 Authority.**

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

68

69 **19.03.030 Purpose.**

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

72

73 **19.03.040 Intent.**

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

85

86 **19.03.050 Abrogation and greater restrictions.**

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

92

93 **19.03.060 Interpretation.**

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

97 (Ord. 994 § 1.6, 1982).

98

99 **19.03.070 Severability and nonliability.**

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

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

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

109 (Ord. 1060 § 8, 1985).

110

111 **19.03.080 Effective date.**

112 This title was effective on June 24, 1982.

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

114

115 **Chapter 19.06 GENERAL PROVISIONS**

116 Sections:

117 19.06.010 Jurisdiction.

118 19.06.020 Plan and architectural review commission--Created.

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

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

121 19.06.050 Plan and architectural review commission--Organization.

122 19.06.060 Compliance required.

123 19.06.065 Municipalities and state agencies regulated.

124 19.06.070 Use restrictions.

125 19.06.080 Accessory uses and structures.

126 19.06.090 Unclassified or unspecified areas.

127 19.06.100 Temporary uses.

128 19.06.110 Height modifications.

129 19.06.120 Yard modifications.

130 19.06.130 Reduction or joint use.

131 19.06.140 Lots to abut street and frontage.

132 19.06.150 Structures to be located on a lot.

133 19.06.160 Lots on undedicated portion of street.

134 19.06.170 Private sewer and water service.

135 19.06.180 Average street yards.

136 19.06.190 Lots abutting more restrictive districts.

137 19.06.200 Animal raising.

138

139 **19.06.010 Jurisdiction.**

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

141 (Ord. 994 § 2.1, 1982).

142

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

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

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

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

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

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

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

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

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

183 (Ord. 994 § 2.2(part), 1982).

184
185 **19.06.060 Compliance required.**

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

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

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

197
198 **19.06.070 Use restrictions.**

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

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

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

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

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

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

219
220 **19.06.100 Temporary uses.**

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

226
227 **19.06.110 Height modifications.**

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

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

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

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

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

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

245

246 **19.06.120 Yard modifications.**

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

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

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

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

256 The finished face of the fence shall face outward to the street (for the front yard) and toward the outer
257 perimeter for side and rear yard fences.

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

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

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

278 The pool enclosure may be omitted:

279 a. for portable pools installed above ground that have a raised deck around the entire pool
280 perimeter with an attached enclosed railing a minimum of 36 inches high on the top, or if the

281 [side walls are unobstructed and a minimum of 36 inches high; such pool must have secure](#)
282 [access by use of self-closing/self-latching gates.](#)

283 [b. for aboveground pools in which the wall height is at least 48 inches and if the only access to the](#)
284 [pool is provided by a ladder or steps, provided that the ladder or steps shall be capable of being](#)
285 [secured, locked or removed to prevent access.](#)

286
287 F. Detached accessory structures in residential districts are permitted in side and rear yards only. They
288 shall not be closer than ten feet to the principal structure, shall not exceed fifteen feet in height, shall
289 not be larger than ten percent of the side and rear yard lot area (open space) and in no case shall exceed
290 eight hundred square feet in size. Detached accessory structures shall not be closer than five feet to any
291 lot line nor ten feet to any alley line. Any proposed detached accessory structure which is larger than the
292 requirements of this section may be allowed but shall require a conditional use permit. To determine
293 the size on corner lots, the side street yard shall be counted as part of the side and rear area. In non-
294 residential districts the size and location of detached accessory structures shall be treated as conditional
295 uses when the square footage exceeds 800 square feet.

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

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

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

304 (Ord. 1364 §§ 2 and 3, 1997; Ord. 1313 § 1, 1995; Ord. 1166 § 1, 1989; Ord. 1165, 1989; Ord. 1082 § 3,
305 1986; Ord. 994 § 2.5(B), 1982).

306
307 **19.06.130 Reduction or joint use.**

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

311 (Ord. 994 § 2.6, 1982).

312
313 **19.06.140 Lots to abut street and frontage.**

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

316 (Ord. 994 § 2.7, 1982).

317
318 **19.06.150 Structures to be located on a lot.**

319 Only one principal structure shall be located, erected or moved onto a lot [\(except for the M-1 and M-2](#)
320 [districts\)](#). This requirement may be waived as a conditional use under the highway commercial and light
321 industrial district (B-3), planned ~~residential~~ development (PD) ~~and planned community development~~
322 ~~(PD)~~ provisions of this title.

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

324
325 **19.06.160 Lots on undedicated portion of street.**

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

328 (Ord. 994 § 2.9, 1982).

329

330 **19.06.170 Private sewer and water service.**

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

335 (Ord. 994 § 2.10, 1982).

336

337 **19.06.180 Average street yards.**

338 A property owner may decrease the required street yard in any residential or business district to the
339 average of the existing street yards of the adjacent structures on each side. Where the setback of
340 existing adjacent structures is greater than setbacks required by this code, the setback for the
341 intervening lot shall be determined by the average of the setback of the structures on each side. On
342 corner lots, the required setback shall be determined by averaging the setback of the adjacent structure
343 with the required setback of the district in which it is located. The setback of any structure may be
344 increased or decreased by a conditional use permit if there are substantial reasons to vary from the
345 requirements of the district.

346 (Ord. 1446 § 1, 2000: Ord. 994 § 2.11, 1982).

347

348 **19.06.190 Lots abutting more restrictive districts.**

349 Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those
350 required in the more restrictive abutting district. The street yards on the less restrictive district shall be
351 modified for a distance of not more than one hundred feet from the district boundary line so as to equal
352 the average of the street yards required in both districts.

353 (Ord. 994 § 2.12, 1982).

354

355 **19.06.200 Animal raising.**

356 The raising of animals shall be permitted in any zoning district in compliance with Title 9 of this code.

357 (Ord. 994 § 2.13, 1982).

358

359 **Chapter 19.09 DEFINITIONS**

360 Sections:

361 19.09.010 Generally.

362 19.09.015 A Zones.

363 19.09.020 Accessory use or structure.

364 19.09.025 Adult-oriented establishments.

365 19.09.030 Alley.

366 19.09.035 Alternative support structure.

367 19.09.040 Apartment-style building.

368 19.09.050 Arterial street.

369 19.09.055 Base flood.

370 19.09.060 Basement.

371 19.09.063 Bed and breakfast establishment.

372 19.09.065 Block.

373 19.09.070 Building.

374 19.09.080 Building, accessory.

375 19.09.090 Building area.

376 19.09.100 Building height.
377 19.09.110 Building, principal.
378 19.09.113 Building scale.
379 19.09.114 Bulkhead line.
380 19.09.115 Campground.
381 19.09.116 Camping unit.
382 19.09.117 Certificate of compliance.
383 19.09.120 Classes of notice.
384 19.09.125 Channel.
385 19.09.128 Co-location.
386 19.09.130 Commercial use.
387 19.09.140 Commonly owned open space.
388 19.09.150 Community living arrangements.
389 19.09.155 Comprehensive (master) plan.
390 19.09.160 Conditional uses.
391 19.09.170 Corner lot.
392 19.09.171 Crawlways or crawlspace.
393 19.09.173 Day care center, adult.
394 19.09.177 Day care center, child.
395 19.09.178 Deck.
396 19.09.180 Development.
397 19.09.185 District, basic.
398 19.09.190 Drive-in establishment.
399 19.09.191 Driveway
400 19.09.195 Dryland access.
401 19.09.200 Dwelling.
402 19.09.210 Dwelling, attached.
403 19.09.220 Dwelling, detached.
404 19.09.230 Dwelling, multiple-family.
405 19.09.240 Dwelling, single-family.
406 19.09.250 Dwelling, two-family.
407 19.09.260 Dwelling unit.
408 19.09.270 Dwelling unit, efficiency.
409 19.09.275 Encroachment.
410 19.09.280 Essential services.
411 19.09.285 Existing manufactured home park or subdivision.
412 19.09.286 Expansion to existing mobile/manufactured home park.
413 19.09.290 Family.
414 19.09.295 Federal Emergency Management Agency.
415 19.09.296 Flood frequency.
416 19.09.300 First floor.
417 19.09.305 Flood.
418 19.09.306 Flood Insurance Rate Map.
419 19.09.307 Flood Insurance Study.
420 19.09.310 Flood Hazard Boundary Map.
421 19.09.312 Flood profile.
422 19.09.314 Flood protection elevation.
423 19.09.315 Floodplain.

424 19.09.316 Flood stage.
425 19.09.318 Floodlands.
426 19.09.320 Floodfringe.
427 19.09.321 Floodplain island.
428 19.09.322 Floodproofing.
429 19.09.323 Floodplain management.
430 19.09.324 Floodway.
431 19.09.326 Flood storage.
432 19.09.330 Fraternity or sorority house.
433 19.09.333 Freeboard.
434 19.09.335 Freestanding wireless telecommunications facility.
435 19.09.340 Garage, private.
436 19.09.350 Garage, public or commercial.
437 19.09.360 Group lodging facilities.
438 19.09.370 Group lodging house.
439 19.09.375 Habitable structure.
440 19.09.376 Hearing notice.
441 19.09.377 High flood damage potential.
442 19.09.380 Historic landmark.
443 19.09.385 Historic structure.
444 19.09.390 Household occupation or home occupation.
445 19.09.400 Incidental repairs.
446 19.09.401 Increase in regional flood height.
447 19.09.403 Land use.
448 19.09.405 Letter of Map Change (LOMC).
449 19.09.410 Living rooms.
450 19.09.420 Loading area.
451 19.09.430 Lodginghouse.
452 19.09.440 Lodging rooms.
453 19.09.450 Lot.
454 19.09.455 Lot width.
455 19.09.457 Major subdivision.
456 19.09.458 Manufactured home.
457 19.09.460 Maximum lot coverage.
458 19.09.470 Minor structures.
459 19.09.480 Mobile home.
460 19.09.490 Mobile home park.
461 19.09.495 Mobile recreational vehicle.
462 19.09.500 Modular home.
463 19.09.501 Motor vehicles.
464 19.09.502 Municipality or municipal.
465 19.09.504 National geodetic vertical datum.
466 19.09.505 Navigable water.
467 19.09.507 Neighborhood development plan.
468 19.09.508 New construction.
469 19.09.510 Nonconforming structure.
470 19.09.511 Nonconforming use.
471 19.09.520 Non-family household.

472 19.09.521 Obstruction to flow.
473 19.09.522 Official floodplain zoning map.
474 19.09.524 Open space use.
475 19.09.525 Ordinary high water mark.
476 19.09.527 Outdoor lighting fixture.
477 19.09.528 Overlay Permission Area Map
478 19.09.529 Overlay Zoning District
479 19.09.530 Parking lot.
480 19.09.540 Parking space or parking stall.
481 19.09.550 Parties of interest.
482 19.09.555 Person.
483 19.09.560 Planting screen.
484 19.09.570 Principal use or structure.
485 19.09.580 Private club or lodge.
486 19.09.585 Private sewage system.
487 19.09.590 Professional home offices.
488 19.09.600 Professional offices.
489 19.09.602 Public utilities.
490 19.09.604 Reach.
491 19.09.605 Reasonably safe from flooding.
492 19.09.608 Regional flood.
493 19.09.609 Start of construction.
494 19.09.610 Story.
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497 19.09.625 Shorelands.
498 19.09.630 Sign.
499 19.09.640 Sign, directional.
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501 19.09.660 Street.
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503 19.09.680 Structural alterations.
504 19.09.690 Structure.
505 19.09.700 Structure, accessory.
506 19.09.710 Structure, permanent.
507 19.09.720 Structure, principal.
508 19.09.730 Structure, temporary.
509 19.09.732 Substantial damage.
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511 19.09.740 Tourist home.
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514 19.09.765 Traditional Neighborhood Development (TND).
515 19.09.770 Trailer camp.
516 19.09.775 Unnecessary hardship.
517 19.09.780 Usable open space.
518 19.09.790 Use, accessory.
519 19.09.800 Use, legal nonconforming.

520 19.09.810 Use, permitted.

521 19.09.820 Use, principal.

522 19.09.830 Utilities.

523 19.09.833 Variance.

524 19.09.834 Vehicle.

525 19.09.835 Violation.

526 19.09.836 Watershed.

527 19.09.837 Water surface profile.

528 19.09.838 Well.

529 19.09.839 Wetland.

530 19.09.840 Wireless telecommunications facility.

531 19.09.841 Wireless telecommunications support facility.

532 19.09.845 Yard.

533 19.09.850 Yard, rear.

534 19.09.860 Yard, shore.

535 19.09.870 Yard, side.

536 19.09.880 Yard, street (front yard).

537

538 **19.09.010 Generally.**

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

543

544 **19.09.015 A Zones.**

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

550

551 **19.09.020 Accessory use or structure.**

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

556

557 **19.09.025 Adult-oriented establishments.**

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

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

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

565 3. "Adult bookstore" means an establishment having as a substantial or significant portion of its stock
566 and trade in books, magazines, and other periodicals which are distinguished or characterized by their
567 emphasis on matter depicting, describing, or relating to specified sexual activities or specified

568 anatomical areas as defined herein. The term includes an establishment having as its stock in trade, for
569 sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, compact discs, digital video
570 discs, computers or computer programs in any format, motion pictures, magazines or other periodicals
571 which are distinguished or characterized by their emphasis on matters depicting, describing or relating
572 to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for
573 the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or
574 other offered entertainment for observation by customers therein. The term includes a commercial
575 establishment that, as one of its principal business purposes, offers for sale or rental for any form of
576 consideration, instruments, devices, or paraphernalia that are designed for use in connection with
577 "specified sexual activities."

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

- 580 a. Persons who appear in a state of nudity or semi-nudity; or
- 581 b. Live performances that are characterized by sexual activities; or
- 582 c. Films, motion pictures, videocassettes, slides, or other photographic or computer reproductions or
583 depictions that are characterized by the depiction or description of sexual activities or nudity.

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

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

594 7. "Adult motel" means a hotel, motel, or similar commercial establishment which:

- 595 a. Offers accommodations to the public for any form of consideration; provides customers with closed-
596 circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic
597 reproductions which are characterized by the depiction or description of specified sexual activities or
598 specified anatomical areas; or
- 599 b. Offers a sleeping room for rent for a period of time that is less than ten hours; or
- 600 c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less
601 than ten hours.

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

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

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

613 11. "Miscellaneous adult-oriented establishment" means an establishment which includes, but is not
614 limited to, adult bookstores, adult motion picture theaters, outdoor adult motion picture theaters, adult
615 mini-motion theaters, adult theaters, adult bath houses, adult body painting studios, adult motels, adult

616 novelty shops or adult cabarets, sexual encounter centers, escort agencies, establishments featuring live
617 sexually explicit performances, and any premises to which public customers or members are invited or
618 admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments
619 or stalls separate from the common area of the premises for the purposes of viewing adult-oriented
620 motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a
621 customer or a member, whether or not such adult entertainment is held, conducted, operated or
622 maintained for profit, direct or indirect. An adult-oriented establishment further includes, without being
623 limited to, any adult entertainment studio or any premises that is physically arranged and used as such
624 whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio,
625 encounter studio, sensitivity studio, modeling studio or any other term of like import.

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

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

632 2. Any public or private school, as defined in Chapter 115, Wis. Stats., when instructing pupils as part of
633 its curriculum.

634 (Ord. 1614A § 1, 2006).

635

636 **19.09.030 Alley.**

637 "Alley" means a special public right-of-way affording only secondary access to abutting properties.

638 (Ord. 994 § 12.0(part), 1982).

639

640 **19.09.035 Alternative support structure.**

641 "Alternative support structure" means a water tower, silo, utility pole, light pole, smokestack, electrical
642 transmission tower, building or other similar structure of at least fifty feet in height, and used as a
643 structural base, stand, pedestal, or physical support for one or more wireless telecommunications
644 facilities.

645 (Ord. 1499 § 3(part), 2001).

646

647 **19.09.040 Apartment-style building.**

648 "Apartment-style building" means a building containing three or more attached dwelling units with a
649 majority of the units having primary access from a common entranceway or hallway. Units may be
650 attached either vertically or horizontally.

651 (Ord. 994 § 12.0(part), 1982).

652

653 **19.09.050 Arterial street.**

654 "Arterial street" means a public street or highway used or intended to be used primarily for fast or
655 heavy through traffic. For the purpose of this title, arterial streets shall include all county, state and
656 federal highways.

657 (Ord. 994 § 12.0(part), 1982).

658

659 **19.09.055 Base flood.**

660 "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given
661 year, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance
662 Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

663 (Ord. 1600 § 1(part), 2006).

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19.09.060 Basement.

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

19.09.063 Bed and breakfast establishment.

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

19.09.064 Bedroom

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

19.09.065 Block.

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

19.09.070 Building.

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

19.09.080 Building, accessory.

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

19.09.090 Building area.

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

19.09.100 Building height.

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

711
712 **19.09.110 Building, principal.**
713 "Principal building" means the building on a lot in which is conducted the principal use as permitted on
714 such lot by the regulations of the district in which it is located.
715 (Ord. 994 § 12.0(part), 1982).
716
717 **19.09.113 Building scale.**
718 "Building scale" means the relationship between the mass of a building and its surroundings, including
719 streets, open spaces, and surrounding buildings. Mass is the three-dimensional bulk of a structure:
720 height, width, and depth.
721 (Ord. 1511 § 1(part), 2002).
722
723 **19.09.114 Bulkhead line.**
724 "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by a
725 municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11,
726 Wisconsin Statutes and which allows limited filling between this bulkhead line and the original ordinary
727 high-water mark, except where such filling is prohibited by the floodway provisions of this title.
728 (Ord. 1600 § 1(part), 2006).
729
730 **19.09.115 Campground.**
731 "Campground" means any parcel of land which is designed, maintained, intended or used for the
732 purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is
733 advertised or represented as a camping area.
734 (Ord. 1600 § 1(part), 2006).
735
736 **19.09.116 Camping unit.**
737 "Camping unit" means any portable device, no more than four hundred square feet in area, used as a
738 temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck,
739 tent, or other mobile recreational vehicle.
740 (Ord. 1600 § 1(part), 2006).
741
742 **19.09.117 Certificate of compliance.**
743 "Certificate of compliance" means a certification that the construction and the use of land or a building,
744 the elevation of fill, or the lowest floor of a structure is in compliance with all of the floodplain
745 provisions of this title.
746 (Ord. 1600 § 1(part), 2006).
747
748 **19.09.120 Classes of notice.**
749 References in this title to Class 1 and Class 2 notices refer to Chapter 985 of the Wisconsin Statutes.
750 (Ord. 994 § 12.0(part), 1982).
751
752 **19.09.125 Channel.**
753 "Channel" means the floodlands normally occupied by a stream of water under average annual high-
754 water flow conditions while confined within general well-established banks.
755 (Ord. 1060 § 10(part), 1985).
756
757 **19.09.128 Co-location.**

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

762
763 **19.09.130 Commercial use.**

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

766
767 **19.09.140 Commonly owned open space.**

768 "Commonly owned open space" means publicly or privately owned undeveloped open space intended
769 for aesthetic, recreational or other conservation purpose, to be used by the owners or residents of a
770 particular development or the public in general.
771 (Ord. 994 § 12.0(part), 1982).

772
773 **19.09.150 Community living arrangements.**

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

783
784 **19.09.155 Comprehensive (master) plan.**

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

790
791 **19.09.160 Conditional uses.**

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

795
796 **19.09.170 Corner lot.**

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

802
803 **19.09.171 Crawlways or crawlspace.**

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

806 (Ord. 1600 § 1(part), 2006).

807

808 **19.09.173 Day care center, adult.**

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

811 (Ord. 1452 § 3(part), 2000).

812

813 **19.09.177 Day care center, child.**

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

817 (Ord. 1452 § 3(part), 2000).

818

819 **19.09.178 Deck.**

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

822 (Ord. 1600 § 1(part), 2006).

823

824 **19.09.180 Development.**

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

829 (Ord. 994 § 12.0(part), 1982).

830

831 **19.09.185 District, basic.**

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

834 (Ord. 1060 § 10(part), 1985).

835

836 **19.09.190 Drive-in establishment.**

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

842 (Ord. 994 § 12.0(part), 1982).

843

844 **19.09.191 Driveway**

845 An improved access which is used primarily to connect off-street parking spaces to the public right-of-
846 way. All areas intended to be utilized as a driveway shall be surfaced with materials to control dust and
847 drainage, except in the case of farm dwellings and operations. ~~New or substantially improved areas~~
848 ~~intended to be utilized as driveways shall be surfaced with bituminous, concrete, or pavers to control~~
849 ~~dust and drainage, except in the case of farm dwellings and operations.~~ In all cases, permeable or
850 pervious materials are preferred. Plans for surfacing and drainage of driveways shall be submitted to
851 the ~~Neighborhood Services Department~~ City for review and approval.

852

853 **19.09.195 Dryland access.**

854 "Dryland access" means a vehicular access route which is above the regional flood elevation and which
855 connects land located in the floodplain to land which is outside the floodplain, such as a road with its
856 surface above the regional flood elevation and wide enough to accommodate wheeled vehicles.
857 (Ord. 1196 § 1(part), 1990).

858
859 **19.09.200 Dwelling.**

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

864
865 **19.09.210 Dwelling, attached.**

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

869
870 **19.09.220 Dwelling, detached.**

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

874
875 **19.09.230 Dwelling, multiple-family.**

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

879
880 **19.09.240 Dwelling, single-family.**

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

883
884 **19.09.250 Dwelling, two-family.**

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

887
888 **19.09.260 Dwelling unit.**

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

896
897 **19.09.270 Dwelling unit, efficiency.**

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

901
902 **19.09.275 Encroachment.**
903 "Encroachment" means any fill, structure, equipment, building, use or development in the floodway.
904 (Ord. 1600 § 1(part), 2006).
905
906 **19.09.280 Essential services.**
907 "Essential services" means services provided by public and private utilities, necessary for the exercise of
908 the principal use or service of the principal structure. These services include underground, surface, or
909 overhead gas, electrical, television, steam, water, sanitary sewerage, storm water drainage, and
910 conventional, non-wireless telephonic communication systems and accessories thereto, such as poles,
911 towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, water storage tanks,
912 conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but
913 not including buildings, wireless telecommunications facilities, or wireless telecommunications support
914 facilities.
915 (Ord. 1499 § 2, 2001: Ord. 994 § 12.0(part), 1982).
916
917 **19.09.285 Existing manufactured home park or subdivision.**
918 "Existing manufactured home park or subdivision" means a parcel of land, divided into two or more
919 manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is
920 completed before January 1, 2006. At a minimum, this would include the installation of utilities, the
921 construction of streets and either final site grading or the pouring of concrete pads.
922 (Ord. 1600 § 1(part), 2006).
923
924 **19.09.286 Expansion to existing mobile/manufactured home park.**
925 "Expansion to existing mobile/manufactured home park" means the preparation of additional sites by
926 the construction of facilities for servicing the lots on which the manufactured homes are to be affixed.
927 This includes installation of utilities, construction of streets and either final site grading, or the pouring ~~of~~
928 [of](#) concrete pads.
929 (Ord. 1600 § 1(part), 2006).
930
931 **19.09.290 Family.**
932 "Family" means an individual or a group of two or more individuals who are related by blood, marriage,
933 adoption, domestic partnership, or civil union, (limited to immediate family members, grandparents,
934 aunts, uncles, nieces, nephews, and first cousins) together with not more than two additional persons
935 not so related ([with the exception of the R-O overlay district](#)), living as a single household in a dwelling
936 unit. (For the purposes of this title, "family" includes "non-family households.")
937 (Ord. 994 § 12.0(part), 1982).
938
939 **19.09.295 Federal Emergency Management Agency.**
940 "Federal Emergency Management Agency" means the federal agency that administers the National
941 Flood Insurance Program. Also referred to as FEMA.
942 (Ord. 1600 § 1(part), 2006).
943
944 **19.09.296 Flood frequency.**
945 "Flood frequency" means the probability of a flood occurrence which is determined from statistical
946 analyses. The frequency of a particular flood event is usually expressed as occurring, on the average,
947 once in a specified number of years or as a percent chance of occurring in any given year.
948 (Ord. 1600 § 1(part), 2006).

949
950 **19.09.300 First floor.**
951 "First floor" means that floor located at ground level and having one-half or more of its windows above
952 the lot grade at the building line.

953 (Ord. 994 § 12.0(part), 1982).

954
955 **19.09.305 Flood.**

956 "Flood" means a general and temporary condition of partial or complete inundation of normally dry land
957 caused by the overflow or rise of inland waters; or the rapid accumulation or runoff of surface waters
958 from any source; or inundation caused by waves or currents of water exceeding cyclical levels along the
959 shores of Lake Michigan or Lake Superior; or a sudden increase caused by an unusually high water level
960 in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such
961 as a seiche, or by some similarly unusual event.

962 (Ord. 1196 § 1(part), 1990).

963
964 **19.09.306 Flood Insurance Rate Map.**

965 "Flood Insurance Rate Map" means a map of a community on which the Federal Insurance [and](#)
966 [Mitigation](#) Administration has delineated both special flood hazard areas (the floodplain) and the risk
967 premium zones applicable to the community. This map can only be amended by the Federal Emergency
968 Management Agency. Also referred to as FIRM.

969 (Ord. 1600 § 1(part), 2006).

970
971 **19.09.307 Flood Insurance Study.**

972 "Flood Insurance Study" means a technical engineering examination, evaluation, and determination of
973 the local flood hazard areas. It provides maps designating those areas affected by the regional flood,
974 provides both flood insurance rate zones and base flood elevations, and may provide floodway lines.
975 The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate
976 Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the
977 insurance aspects of the National Flood Insurance Program (NFIP).

978 (Ord. 1600 § 1(part), 2006).

979
980 **19.09.310 Flood Hazard Boundary Map.**

981 "Flood Hazard Boundary Map" means a map designating approximate flood hazard areas. Flood hazard
982 areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood
983 elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood
984 Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

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

986
987 **19.09.312 Flood profile.**

988 "Flood profile" means a graph showing the relationship of the floodwater surface elevation of a flood
989 event of a specified recurrence interval to the stream bed and other significant natural and manmade
990 features along a stream.

991 (Ord. 1060 § 10(part), 1985).

992
993 **19.09.314 Flood protection elevation.**

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

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

1000

1001 **19.09.315 Floodplain.**

1002 "Floodplain" means land which has been or may be covered by flood water during the regional flood. It
1003 includes the floodway and the floodfringe, and may include other designated floodplain areas for
1004 regulatory purposes.

1005 (Ord. 1600 § 1(part), 2006).

1006

1007 **19.09.316 Flood stage.**

1008 "Flood stage" means the elevation of the floodwater surface above an officially established datum plan,
1009 which is Mean Sea Level 1929 Adjustment.

1010 (Ord. 1060 § 10(part), 1985).

1011

1012 **19.09.318 Floodlands.**

1013 For the purpose of this title, the "floodlands" are all lands contained in the "regional flood" or one-
1014 hundred-year recurrence interval flood.

1015 (Ord. 1600 § 1(part), 2006; Ord. 1196 § 1(part), 1990).

1016

1017 **19.09.320 Floodfringe.**

1018 "Floodfringe" means that a portion of the one-hundred-year recurrence interval floodplain located
1019 beyond the limits of the floodway. The floodfringe is generally associated with standing water rather
1020 than rapidly flowing water.

1021 (Ord. 1600 § 1(part), 2006; Ord. 1196 § 1(part), 1990).

1022

1023 **19.09.321 Floodplain island.**

1024 "Floodplain island" means a natural geologic land formation within the floodplain that is surrounded,
1025 but not covered, by floodwater during the regional flood.

1026 (Ord. 1600 § 1(part), 2006).

1027

1028 **19.09.322 Floodproofing.**

1029 "Floodproofing" means measures designed to prevent and reduce flood damage for those uses which
1030 cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from
1031 structural modifications through installation of special equipment or materials to operation and
1032 management safeguards, such as the following: reinforcing of basement walls; underpinning of floors;
1033 permanent sealing of all exterior openings; use of masonry construction; erection of permanent
1034 watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable
1035 utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of
1036 sump pumps; placement of automatic swing check valves; installation of sealtight windows and doors;
1037 installation of wire-reinforced glass; location and elevation of valuable items; waterproofing,
1038 disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable
1039 areas; temporary removal or waterproofing of merchandise; operation of emergency pump equipment;
1040 closing of backwater sewer valves; placement of plugs and flood drain pipes; placement of movable
1041 watertight bulkheads; and the shoring of weak walls or structures. Floodproofing of structures shall be
1042 extended at least to a point two feet above the elevation of the regional flood. Any structure that is
1043 located entirely or partially below the flood protection elevation shall be anchored to protect it from
1044 larger floods.

1045 (Ord. 1060 § 10(part), 1985).

1046

1047 **19.09.323 Floodplain management.**

1048 "Floodplain management" means policy and procedures to ensure wise use of floodplains, including
1049 mapping and engineering, mitigation, education, and administration and enforcement of floodplain
1050 regulations.

1051 (Ord. 1600 § 1(part), 2006).

1052

1053 **19.09.324 Floodway.**

1054 "Floodway" means a designated portion of the one-hundred-year recurrence interval flood that will
1055 safely convey the regulatory flood discharge into small, acceptable upstream and downstream increases,
1056 limited in Wisconsin to 0.01 foot unless special legal measures are provided. The floodway, which
1057 includes the channel, is that portion of the floodplain needed to convey the regional flood discharges
1058 and is not suited for human habitation. All fill, structures and other development that would impair
1059 floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to
1060 flood damage should be prohibited in the floodway.

1061 (Ord. 1196 § 1(part), 1990).

1062

1063 **19.09.326 Flood storage.**

1064 "Flood storage" means those floodplain areas where storage of floodwaters has been taken into account
1065 during analysis in reducing the regional flood discharge.

1066 (Ord. 1600 § 1(part), 2006).

1067

1068 **19.09.330 Fraternity or sorority house.**

1069 "Fraternity or sorority house" means a building containing sleeping rooms, bathrooms, common rooms
1070 and a central kitchen and dining room maintained exclusively for fraternity or sorority members and
1071 their guests or visitors and affiliated with an institution of higher learning.

1072 (Ord. 1668A § 1, 2007; Ord. 994 § 12.0(part), 1982).

1073

1074 **19.09.333 Freeboard.**

1075 "Freeboard" means a safety factor expressed in terms of a specified number of feet above a calculated
1076 flood level. Freeboard compensates for any factors that cause flood heights greater than those
1077 calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and
1078 floodways, the effects of watershed urbanization, loss of flood storage areas due to development and
1079 aggregation of the river or stream bed.

1080 (Ord. 1600 § 1(part), 2006).

1081

1082 **19.09.335 Freestanding wireless telecommunications facility.**

1083 "Freestanding wireless telecommunications facility" means a self-supporting telecommunications tower
1084 or other self-supporting wireless telecommunications facility that is not mounted, or otherwise attached
1085 to, an alternative support structure. A tower using guy wires shall be considered a freestanding wireless
1086 telecommunications facility.

1087 (Ord. 1499 § 3(part), 2001).

1088

1089 **19.09.340 Garage, private.**

1090 "Private garage" means a structure primarily intended for and used for the enclosed storage or shelter
1091 of the private motor vehicles of the families resident upon the premises. Carports shall be considered
1092 garages within this definition.

1093 (Ord. 994 § 12.0(part), 1982).

1094

1095 **19.09.350 Garage, public or commercial.**

1096 "Public or commercial garage" means any garage not falling within the definition of a "private garage" as
1097 established in this chapter.

1098 (Ord. 994 § 12.0(part), 1982).

1099

1100 **19.09.360 Group lodging facilities.**

1101 "Group lodging facilities" means buildings or parts of buildings designed, occupied or intended to be
1102 occupied as living quarters on a basis other than described in this ordinance under the defined terms:
1103 dwelling, dwelling unit, hotel or motel.

1104 (Ord. 994 § 12.0(part), 1982).

1105

1106 **19.09.370 Group lodging house.**

1107 "Group lodging house" means a group lodging facility containing several lodging rooms without kitchen
1108 facilities that are offered for rent or comparable compensation on a monthly or longer basis. Meals or
1109 access to common meal preparation facilities may be offered as part of the service to occupants.
1110 Facilities commonly known as dormitories are group lodging houses for purposes of this title.

1111 (Ord. 994 § 12.0(part), 1982).

1112

1113 **19.09.375 Habitable structure.**

1114 "Habitable structure" means any structure or portion thereof used or designed for human habitation.

1115 (Ord. 1600 § 1(part), 2006).

1116

1117 **19.09.376 Hearing notice.**

1118 "Hearing notice" means a publication or posting meeting the requirements of Chapter 985, Statutes. For
1119 appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required.
1120 For all zoning ordinance text and map amendments, a Class 2 notice, published twice, once each week
1121 consecutively, the last at least a week (seven days) before the hearing, is required.

1122 (Ord. 1600 § 1(part), 2006).

1123

1124 **19.09.377 High flood damage potential.**

1125 "High flood damage potential" means damage that could result from flooding that includes any danger
1126 to life or health or any significant economic loss to a structure or building and its contents.

1127 (Ord. 1600 § 1(part), 2006).

1128

1129 **19.09.380 Historic landmark.**

1130 "Historic landmark" means any building or structure which has a special historic, architectural or cultural
1131 interest, significance or value as part of the heritage, development or cultural characteristics of the city,
1132 state or nation and which has been designated as a landmark under this title.

1133 (Ord. 994 § 12.0(part), 1982).

1134

1135 **19.09.385 Historic structure.**

1136 For the purposes of the floodplain regulations in this title, "historic structure" means any structure that
1137 is either: listed individually in the National Register of Historic Places or preliminarily determined by the
1138 Secretary of the Interior as meeting the requirements for individual listing on the National Register,
1139 certified or preliminarily determined by the Secretary of the Interior as contributing to the historical
1140 significance of a registered historic district or a district preliminarily determined by the Secretary to

1141 qualify as a registered historic district; individually listed on a state inventory of historic places in states
1142 with historic preservation programs which have been approved by the Secretary of the Interior; or
1143 individually listed on a local inventory of historic places in communities with historic preservation
1144 programs that have been certified either by an approved state program, as determined by the Secretary
1145 of the Interior, or by the Secretary of the Interior in states without approved programs.
1146 (Ord. 1600 § 1(part), 2006).

1147
1148 **19.09.390 Household occupation or home occupation.**
1149 "Household occupation" or "home occupation" means an occupation for gain or support that is
1150 traditionally or customarily conducted within a residential building by resident occupants, and which
1151 meets all of the following criteria:

- 1152 A. Home occupation is incidental to the principal residential use of the premises.
- 1153 B. Space used for the home occupation(s) does not exceed either twenty-five percent of the usable
1154 floor area of the principal building or fifty percent of an accessory building.
- 1155 C. No article or service shall be sold or offered for sale on the premises except articles or services that
1156 are produced by such occupation.
- 1157 D. There shall be no exterior alterations that change the character of the dwelling or accessory
1158 building, or exterior evidence of the home occupation, other than permitted signage under Chapter
1159 19.54.
- 1160 E. There shall not be more than one employee other than members of the resident family.
- 1161 F. No home occupation shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small
1162 electrical interference, or any other nuisance not normally associated with the average residential use in
1163 the district.
- 1164 G. There shall be no exterior display or storage of any materials, supplies, equipment, or product
1165 produced or used by such occupation.
1166 (Ord. 1605A § 1, 2006; Ord. 994 § 12.0(part), 1982).

1167
1168 **19.09.400 Incidental repairs.**
1169 "Incidental repairs" are not considered structural repairs, modifications, or additions; incidental repairs
1170 include internal and external painting, decoration, paneling, and the replacement of doors, windows,
1171 and other nonstructural components.
1172 (Ord. 994 § 12.0(part), 1982).

1173
1174 **19.09.401 Increase in regional flood height.**
1175 "Increase in regional flood height" means a calculated upward rise in the regional flood elevation, equal
1176 to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions
1177 which is directly attributable to development in the floodplain but not attributable to manipulation of
1178 mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
1179 (Ord. 1600 § 1(part), 2006).

1180
1181 **19.09.403 Land use.**
1182 For the purposes of the floodplain regulations in this title, "use" means any nonstructural use made of
1183 unimproved or improved real estate.
1184 (Ord. 1600 § 1(part), 2006; Ord. 1452 § 3(part), 2000).

1185
1186 **19.09.405 Letter of Map Change (LOMC).**
1187 "Letter of Map Change" or "LOMC" means official notification from the Federal Emergency Management
1188 Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

1189 (Ord. 1600 § 1(part), 2006: Ord. 1060 § 10(part), 1985).

1190

1191 **19.09.410 Living rooms.**

1192 "Living rooms" means all rooms within a dwelling except closets, foyers, storage areas, utility rooms and
1193 bathrooms.

1194 (Ord. 994 § 12.0(part), 1982).

1195

1196 **19.09.420 Loading area.**

1197 "Loading area" means a completely off-street space or berth on the same lot for the loading or
1198 unloading of freight carriers, having adequate ingress and egress to a public street or alley.

1199 (Ord. 994 § 12.0(part), 1982).

1200

1201 **19.09.430 Lodginghouse.**

1202 "Lodginghouse" means a building other than a hotel, restaurant or a dormitory where lodging is
1203 regularly furnished by prearrangement for a definite period for compensation for six or more persons
1204 not members of a family, but not exceeding twelve persons (individual) and not open to transient
1205 customers. A lodginghouse shall maintain a minimum green space area of three hundred fifty square
1206 feet per allowed occupant.

1207 (Ord. 1364 § 4, 1997: Ord. 994 § 12.0(part), 1982).

1208

1209 **19.09.440 Lodging rooms.**

1210 "Lodging rooms" means rooms within group lodging facilities that are rented as sleeping and living
1211 quarters, or spaces within a suite of rooms in a group lodging facility that provide sleeping
1212 accommodations. For purposes of this title any lodging room that is designed or intended to be
1213 occupied by one or two persons shall be counted as one lodging room.

1214 (Ord. 994 § 12.0(part), 1982).

1215

1216 **19.09.450 Lot.**

1217 "Lot" means a single parcel of contiguous land abutting and having frontage on a public street, being a
1218 part of a platted recorded subdivision, or recorded CSM, or a parcel of land for which the deed is
1219 recorded, with the respective county register of deeds on or before June 24, 1982, the effective date of
1220 the ordinance codified in this title, occupied or intended to be occupied by a principal structure or
1221 principal group of structures or use and sufficient in size to meet the lot width, lot frontage, lot area,
1222 yard parking area, and other open space provisions of this title.

1223 ~~Lot Types~~

1224 ~~GRAPHIC LINK: [Click here](#)~~

1225 ~~(Ord. 994 § 12.0(part), 1982).~~

1226

1227 **19.09.455 Lot width.**

1228 "Lot width" means the horizontal distance between side lot lines as measured at the minimum front
1229 yard setback required in the zoning district in which the lot is located or through a recorded ~~d~~ final plat or
1230 certified survey map.

1231 (Ord. 1511 § 1(part), 2002).

1232

1233 **19.09.457 Major subdivision.**

1234 "Major subdivision" means the division of a lot or parcel, or tract of land by the owners thereof, or their
1235 agents, for the purpose of transfer of ownership or building development where a single act of division
1236 creates five or more parcels or building sites, each less than five acres in size; or an act of division results

1237 in the creation of five or more parcels or building sites by successive divisions within a period of five
1238 years, where at least five of the parcels or sites are less than one and one-half acres in size in the M-I
1239 general manufacturing district, or less than five acres in size in all other zoning districts.
1240 (Ord. 1600 § 1(part), 2006: Ord. 1580A § 1(part), 2005).

1241
1242 **19.09.458 Manufactured home.**

1243 "Manufactured home" means a type of single-family dwelling as defined in Wisconsin Statutes, Section
1244 101.91(2), fabricated in an off-site manufacturing facility for installation or assembly at the building site,
1245 and bearing a Department of Housing and Urban Development (HUD) label or insignia certifying that it
1246 was built in compliance with the Federal Manufactured ~~Housing~~ Home Construction and Safety
1247 Standards under 42 U.S.C. Chapter 70 Sections 5401 to 5426. For the purposes of the floodplain
1248 regulations in this title only, the term "manufactured home" includes a mobile home but does not
1249 include a "mobile recreational vehicle."
1250 (Ord. 1600 § 1(part), 2006: Ord. 1511 § 1(part), 2002).

1251
1252 **19.09.460 Maximum lot coverage.**

1253 "Maximum lot coverage" is the total buildable area that can be occupied by principal accessory
1254 structures. Parking areas, drives, sidewalks and similar at-grade structures shall not be included when
1255 figuring maximum lot coverage.
1256 (Ord. 994 § 12.0(part), 1982).

1257
1258 **19.09.470 Minor structures.**

1259 "Minor structures" are small structures, less than 6' in height and less than 100 square feet in area (such
1260 as doghouses, birdhouses, small storage sheds, play structures, mailboxes, or similar structures) and are
1261 either permanently affixed to a foundation or portable. ~~meets all regulations for conventional~~
1262 ~~construction, sections of which are built in a factory and joined on a permanent foundation.~~
1263 (Ord. 994 § 12.0(part), 1982).

1264
1265 **19.09.480 Mobile home.**

1266 "Mobile home" means a transportable factory built structure as is defined in Wisconsin Statutes Section
1267 101.91(2)(k), designed for long term occupancy by one family and built prior to June 15, 1976, the
1268 effective date of the Federal Manufactured ~~Housing~~ Home Construction and Safety Standards Act. A
1269 mobile home is not considered to be a type of single-family dwelling for the purposes of this title.
1270 (Ord. 1600 § 1(part), 2006: Ord. 994 § 12.0(part), 1982).

1271
1272 **19.09.490 Mobile home park.**

1273 "Mobile home park" means a site with required improvements and utilities for the long-term parking of
1274 mobile homes, which may include services and facilities for the residents.
1275 (Ord. 994 § 12.0(part), 1982).

1276
1277 **19.09.495 Mobile recreational vehicle.**

1278 "Mobile recreational vehicle" means a vehicle which is built on a single chassis; is four hundred square
1279 feet or less when measured at the largest horizontal projection; is designed to be self-propelled; is
1280 carried or permanently towable by a licensed, light-duty vehicle; is licensed for highway use if
1281 registration is required; and is designed primarily not for use as a permanent dwelling, but as temporary
1282 living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or
1283 carried onto a parcel of land, but do not remain capable of being towed or carried, including park model

1284 homes, do not fall within the definition of a "mobile recreational vehicle." Also referred to as
1285 "Recreational Vehicle" or "RV."
1286 (Ord. 1600 § 1(part), 2006).

1287
1288 **19.09.500 Modular home.**
1289 "Modular home" means a dwelling unit which meets all regulations for conventional construction,
1290 sections of which are built in a factory and joined on a permanent foundation.
1291 (Ord. 994 § 12.0(part), 1982).

1292
1293 **19.09.501 Motor vehicles.**
1294 "Motor vehicle" means a vehicle, including a combination of two or more vehicles or an articulated
1295 vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. "Motor vehicle" includes,
1296 without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power
1297 obtained from overhead trolley wires but not operated on rails. A snowmobile and an all-terrain vehicle
1298 shall only be considered motor vehicles for purposes made specifically applicable by ordinance.
1299 (Ord. 1364 § 5, 1997).

1300
1301 **19.09.502 Municipality or municipal.**
1302 "Municipality" or "municipal" means the City of Whitewater, Wisconsin. Also referred to as "City."
1303 (Ord. 1600 § 1(part), 2006).

1304
1305 **19.09.504 National geodetic vertical datum.**
1306 "National geodetic vertical datum" or NGVD means elevations referenced to mean sea level datum,
1307 1929 adjustment.
1308 (Ord. 1600 § 1(part), 2006).

1309
1310 **19.09.505 Navigable water.**
1311 "Navigable water" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all
1312 rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state,
1313 including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.
1314 The Wisconsin Supreme Court has declared navigable all bodies of water with a bed differentiated from
1315 adjacent uplands and with levels or flow sufficient to support navigation by a recreational craft of the
1316 shallowest draft on an annually recurring basis. [Muench v. Public Service Commission, 261 Wis. 492
1317 (1952), and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]

1318
1319 For the purpose of this title, rivers and streams will be presumed to be navigable if they are designated
1320 as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps
1321 until such time that the Wisconsin Department of Natural Resources has made a determination that the
1322 waterway is not, in fact, navigable.
1323 (Ord. 1196 § 1(part), 1990).

1324
1325 **19.09.507 Neighborhood development plan.**
1326 "Neighborhood development plan" means a city, developer, or property owner prepared plan for the
1327 future development of a part of the community, and including the proposed land use pattern, zoning,
1328 street alignments, lot patterns, locations of utilities and public buildings, parks, open spaces,
1329 environmental corridors, trails, and a development phasing timetable.
1330 (Ord. 1511 § 1(part), 2002).

1331
1332 **19.09.508 New construction.**
1333 For floodplain management purposes, "new construction" means structures for which the start of
1334 construction commenced on or after the effective date of the original floodplain zoning regulations
1335 adopted by the city and includes any subsequent improvements to such structures. For the purpose of
1336 determining flood insurance rates, it includes any structures for which the "start of construction"
1337 commenced on or after the effective date of an initial Flood Insurance Rate Map (FIRM) or after
1338 December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
1339 (Ord. 1600 § 1(part), 2006).

1340
1341 **19.09.510 Nonconforming structure.**
1342 A "nonconforming structure" means a structure, or portion thereof, that was legally established prior to
1343 the effective date of this title, or subsequent amendments thereto, which does not conform with one or
1344 more of the dimensional requirements applicable within the zoning district in which the structure is
1345 located.
1346 (Ord. 1600 § 1(part), 2006; Ord. 994 § 12.0(part), 1982).

1347
1348 **19.09.511 Nonconforming use.**
1349 A "nonconforming use" means an active and actual use of land, structure, or both that was legally
1350 established prior to the effective date of this title, or subsequent amendments thereto, which has
1351 continued the same use to the present, and which does not conform to the use regulations applicable
1352 within the zoning district in which the use is located. Also referred to as "nonconforming land use."
1353 (Ord. 1600 § 1(part), 2006).

1354
1355 **19.09.520 Non-family household.**
1356 "Non-family household" means a group of individuals who do not constitute a family under the terms of
1357 this title and who live as a single household in a dwelling unit. ~~Within the R-1 and R-2 districts, a non-~~
1358 ~~family household shall be limited to three unrelated persons. Within the R-3 district, a non family~~
1359 ~~household shall be limited to five unrelated persons.~~ This ~~section definition~~ is ~~meant intended~~ to
1360 facilitate application of regulations that ensure the right of quiet enjoyment of each property owner, or
1361 resident of their home. The constant or consistent presence of visitors to a particular residence can
1362 constitute the equivalent of additional persons living there, for land use purposes, regardless if they are
1363 listed as residents on a lease or deed, if the "quiet enjoyment" of others' property rights is affected. For
1364 the purposes of this section, actions that affect quiet enjoyment shall ~~mean include~~ actions by
1365 occupants or visitors which unreasonably disturb other property owners' or occupants' enjoyment of
1366 their premises.
1367 (Ord. 994 § 12.0(part), 1982).
1368 (Ord. No. 1689A, 6-17-2008; Ord. No. 1694A, 8-5-2008)

1369
1370 **19.09.521 Obstruction to flow.**
1371 "Obstruction to flow" means any development which blocks the conveyance of floodwaters such that
1372 this development alone or together with any future development will cause an increase in regional flood
1373 height.
1374 (Ord. 1600 § 1(part), 2006).

1375
1376 **19.09.522 Official floodplain zoning map.**

1377 "Official floodplain zoning map" means that map, adopted and made part of this title, as described in
1378 Section 19.46.010(E)(2), which has been approved by the Department of Natural Resources and the
1379 Federal Emergency Management Agency (FEMA).
1380 (Ord. 1600 § 1(part), 2006).

1381
1382 **19.09.524 Open space use.**

1383 "Open space use" means those land uses having a relatively low flood damage potential, and not
1384 involving structures when in a floodplain.
1385 (Ord. 1600 § 1(part), 2006).

1386
1387 **19.09.525 Ordinary high water mark.**

1388 "Ordinary high water mark" means the point on the bank or shore up to which the presence and action
1389 of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or
1390 prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized
1391 characteristics.
1392 (Ord. 1196 § 1(part), 1990).

1393
1394 **19.09.527 Outdoor lighting fixture.**

1395 "Outdoor lighting fixture" means an outdoor artificial illuminating device, either permanent or portable,
1396 used for illumination or advertisement of parking lots, architecture, signage, landscaping, entryways, or
1397 areas requiring security.
1398 (Ord. 1452 § 3(part), 2000).

1399
1400 **19.09.528 Overlay Permission Area Map**

1401 A map depicting the boundary lines within which applications are allowed for changing the zoning
1402 district designation to that of a specific overlay zone [\(with the exception of the R-O overlay district\)](#)

1403
1404 **19.09.529 Overlay Zoning District**

1405 A type of zoning district that offers alternative regulations for an existing zoning district. The properties
1406 which can apply for an overlay zoning district map change are limited by boundaries as depicted in an
1407 Overlay Permission Area Map [\(with the exception of the R-O overlay which is applicable anywhere](#)
1408 [within the City\)](#). The procedures for changing and amending a property to overlay zoning status are
1409 described in section 19.69 and in each of the overlay districts.

1410
1411 **19.09.530 Parking lot.**

1412 "Parking lot" means a structure or premises containing parking spaces open to the public. Curb cut
1413 openings shall be designed to facilitate traffic safety and pedestrian movement.
1414 (Ord. 994 § 12.0(part), 1982).

1415
1416 **19.09.540 Parking space or parking stall.**

1417 "Parking space" or "parking stall" means a graded and paved area of not less than one hundred eighty
1418 square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress
1419 and egress to a public street or alley except as additionally provided for in Section 19.50.010. [All areas](#)
1420 [intended to be utilized as a driveway shall be surfaced with materials to control dust and drainage,](#)
1421 [except in the case of farm dwellings and operations. ~~New or substantially improved areas intended to~~](#)
1422 [be utilized for parking and driveways shall be surfaced with bituminous, concrete, or pavers to control](#)
1423 [dust and drainage, except in the case of farm dwellings and operations. In all cases, permeable or
1424 pervious materials are preferred. Plans for surfacing and drainage of stalls and driveways ~~for five or~~](#)

1425 ~~more vehicles~~ shall be submitted to the ~~Neighborhood Services Department~~ City for review and
1426 approval.

1427 (Ord. 994 § 12.0(part), 1982).

1428

1429 **19.09.550 Parties of interest.**

1430 "Parties of interest" includes all abutting property owners, all property owners within three hundred
1431 feet, and all property owners of opposite frontage. For purposes of this title, property ownership shall
1432 be determined from property tax billing records available within municipal records at the time the
1433 notification is sent.

1434 (Ord. 994 § 12.0(part), 1982).

1435

1436 **19.09.555 Person.**

1437 "Person" means an individual, or group of individuals, corporation, partnership, association, municipality
1438 or state agency.

1439 (Ord. 1600 § 1(part), 2006).

1440

1441 **19.09.560 Planting screen.**

1442 "Planting screen" means an arrangement of living vegetation reaching an anticipated height of four feet
1443 or more, which may or may not be accompanied by materials used to construct fences and the like,
1444 which is intended to provide a reasonable separation of vision between abutting lots or the lot and the
1445 street line.

1446 (Ord. 994 § 12.0(part), 1982).

1447

1448 **19.09.570 Principal use or structure.**

1449 "Principal use or structure" means a use or structure specified as a principal use under the district
1450 regulations of this title; such uses or structures must occur or be built prior to or concurrently with any
1451 accessory uses or structures.

1452 (Ord. 994 § 12.0(part), 1982).

1453

1454 **19.09.580 Private club or lodge.**

1455 "Private club or lodge" means a structure or grounds used for regular or periodic meetings or gatherings
1456 of a group of persons organized for a nonprofit purpose, but not groups organized to render a service
1457 customarily carried on as a business.

1458 (Ord. 994 § 12.0(part), 1982).

1459

1460 **19.09.585 Private sewage system.**

1461 "Private sewage system" means a sewage treatment and disposal system serving one structure with a
1462 septic tank and soil absorption field located on the same parcel as the structure. It also means an
1463 alternative sewage system approved by the Department of Commerce, including a substitute for the
1464 septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system
1465 located on a different parcel than the structure. Also referred to as "septic system" or "private on-site
1466 waste treatment system."

1467 (Ord. 1600 § 1(part), 2006).

1468

1469 **19.09.590 Professional home offices.**

1470 "Professional home offices" means residences of doctors of medicine, practitioners, dentists, clergymen,
1471 architects, landscape architects, professional engineers, real estate and insurance offices, registered
1472 land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions, used to

1473 conduct their professions, where the office does not exceed one-half of the area of only one floor of the
1474 residence and only one nonresident person is employed.
1475 (Ord. 994 § 12.0(part), 1982).

1476
1477 **19.09.600 Professional offices.**

1478 "Professional offices" means doctors of medicine, practitioners, dentists, clergymen, architects,
1479 landscape architects, professional engineers, real estate and insurance offices, registered land
1480 surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions not able to
1481 meet professional home office requirements.
1482 (Ord. 994 § 12.0(part), 1982).

1483
1484 **19.09.602 Public utilities.**

1485 "Public utilities" means those utilities using underground or overhead transmission lines such as electric,
1486 telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and
1487 storm sewer.
1488 (Ord. 1600 § 1(part), 2006).

1489
1490 **19.09.604 Reach.**

1491 "Reach" means longitudinal segment of a stream, generally including those floodlands wherein flood
1492 stages are primarily and commonly controlled by the same manmade or natural obstructions to flow.
1493 (Ord. 1060 § 10(part), 1985).

1494
1495 **19.09.605 Reasonably safe from flooding.**

1496 "Reasonably safe from flooding" means base flood waters will not inundate the land or damage
1497 structures to be removed from the special flood hazard area and that any subsurface waters related to
1498 the base flood will not damage existing or proposed buildings.
1499 (Ord. 1600 § 1(part), 2006: Ord. 1580A § 1(part), 2005).

1500
1501 **19.09.608 Regional flood.**

1502 "Regional flood" means a flood determined to be representative of large floods known to have generally
1503 occurred in Wisconsin and which may be expected to occur on a particular stream because of like
1504 physical characteristics. The flood frequency of the regional flood is once in every one hundred years;
1505 this means that in any given year, there is a one percent chance that the regional flood may occur or be
1506 exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent
1507 chance of occurrence.
1508 (Ord. 1060 § 10(part), 1985).

1509
1510 **19.09.609 Start of construction.**

1511 "Start of construction" means the date the building or zoning permit was issued, provided the actual
1512 start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement
1513 was within six months of the permit date. The actual start means either the first placement of
1514 permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the
1515 construction of columns, or any work beyond initial excavation, or the placement of a manufactured or
1516 mobile home on a foundation. Permanent construction does not include land preparation, such as
1517 clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it
1518 include excavation for a basement, footings, piers or foundations or the erection of temporary forms,
1519 nor does it include the installation on the property of accessory buildings, such as garages or sheds not
1520 occupied as dwelling units or not part of the main structure. For an alteration, the actual start of

1521 construction means the first alteration of any wall, ceiling, floor or other structural part of a building,
1522 whether or not that alteration affects the external dimensions of the building.
1523 (Ord. 1600 § 1(part), 2006).

1524
1525 **19.09.610 Story.**

1526 "Story" means that portion of a building included between the surface of a floor and the surface of the
1527 floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next
1528 above it. A basement or cellar having one-half or more of its height above grade shall be deemed a story
1529 for purposes of height regulation.
1530 (Ord. 994 § 12.0(part), 1982).

1531
1532 **19.09.620 Public or semipublic uses.**

1533 For purposes of this title, the following uses shall be considered "public and semipublic uses":
1534 government office buildings, fire and police stations, public garages, libraries, museums, community
1535 centers, churches, cemeteries, public and private elementary and secondary schools, colleges and
1536 universities, and similar uses not specifically listed but similar in character.
1537 (Ord. 994 § 12.0(part), 1982).

1538
1539 **19.09.623 Shielded light fixture.**

1540 "Shielded light fixture" means an outdoor lighting fixture which through design is shielded in such a
1541 manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture,
1542 are projected at least fifteen degrees below a horizontal plane running through the lowest point on the
1543 fixture where light is emitted. Except for ground and sign mounted light fixtures, that horizontal plane
1544 shall be parallel to the surface of the ground.
1545 (Ord. 1452 § 3(part), 2000).

1546
1547 **19.09.625 Shorelands.**

1548 "Shorelands" are those lands lying within the following distances from the ordinary high water mark of
1549 navigable waters: one thousand feet from a lake, pond or flowage; and three hundred feet from a river
1550 or stream; or to the landward side of the floodplain, whichever distance is greater. Shorelands shall not
1551 include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a
1552 navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were not
1553 navigable streams before ditching or had no previous stream history; and (c) such lands are maintained
1554 in nonstructural agricultural use.
1555 (Ord. 1196 § 1(part), 1990).

1556
1557 **19.09.630 Sign.**

1558 "Sign" means any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs,
1559 pictures, symbols, trade names or trademarks by which anything is made known, and which are used to
1560 advertise or promote an individual, firm, association, corporation, profession, business, commodity or
1561 product, located outside a structure or incorporated into the structure or in windows, and which are
1562 visible from any public street or highway.
1563 (Ord. 994 § 12.0(part), 1982).

1564
1565 **19.09.640 Sign, directional.**

1566 "Directional sign" means a sign intended solely for the purpose of directing patrons or customers to an
1567 establishment off the main-traveled road, and not including promotional advertising unnecessary to
1568 such directional purpose.

1569 (Ord. 994 § 12.0(part), 1982).

1570

1571 **19.09.650 Sign, nonaccessory.**

1572 "Nonaccessory sign" means a sign related to commercial or similar activities other than those actually
1573 engaged in on the site on which such nonaccessory sign is located.

1574 (Ord. 994 § 12.0(part), 1982).

1575

1576 **19.09.660 Street.**

1577 "Street" means a public right-of-way not less than sixty feet wide providing primary access to abutting
1578 properties. Existing streets with rights-of-way less than sixty feet shall also be included in this definition.

1579 (Ord. 994 § 12.0(part), 1982).

1580

1581 **19.09.670 Street line.**

1582 "Street line" means a dividing line between a lot, tract, or parcel of land and a contiguous street.

1583 (Ord. 994 § 12.0(part), 1982).

1584

1585 **19.09.680 Structural alterations.**

1586 "Structural alterations" means the erection, strengthening, removal or other change of the supporting
1587 elements of a building or structure. Such elements shall include, but shall not be limited to, footings,
1588 foundations, bearing walls, columns, beams, girders, joists and decking. The enlargement of an existing
1589 building or structure shall be considered a structural alteration for the purpose of this title.

1590 (Ord. 994 § 12.0(part), 1982).

1591

1592 **19.09.690 Structure.**

1593 "Structure" means any erection or construction, above or below grade, to form a shelter, enclosure,
1594 retainer, container, support or decoration, such as, but not limited to, buildings, towers, tanks, masts,
1595 poles, booms, signs, sculpture, carports, tents, machinery and equipment (excluding driveways and on-
1596 grade parking lots).

1597 (Ord. 994 § 12.0(part), 1982).

1598

1599 **19.09.700 Structure, accessory.**

1600 "Accessory structure" means a structure or portion of a structure customarily incident to any permitted
1601 principal use of such lot and located on the same lot as such principal use.

1602 (Ord. 994 § 12.0(part), 1982).

1603

1604 **19.09.710 Structure, permanent.**

1605 "Permanent structure" means a structure placed on or in the ground or attached to another structure in
1606 a fixed and determined position, and intended to remain in place for a period more than nine months.

1607 (Ord. 994 § 12.0(part), 1982).

1608

1609 **19.09.720 Structure, principal.**

1610 "Principal structure" means a structure used or intended to be used for the principal use as permitted
1611 on such lot by the regulations of the district in which it is located.

1612 (Ord. 994 § 12.0(part), 1982).

1613

1614 **19.09.730 Structure, temporary.**

1615 "Temporary structure" means any structure other than a permanent structure.

1616 (Ord. 994 § 12.0(part), 1982).

1617
1618 **19.09.732 Substantial damage.**
1619 "Substantial damage" means damage of any origin sustained by a structure, whereby the cost of
1620 restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the
1621 equalized assessed value of the structure before the damage occurred.
1622 (Ord. 1600 § 1(part), 2006).
1623
1624 **19.09.735 Substantial improvement.**
1625 "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of
1626 which equals or exceeds fifty percent of the present equalized assessed value of the structure either
1627 before the improvement or repair is started or, if the structure has been damaged and is being restored,
1628 before the damage occurred. The term does not, however, include either: (a) any project for
1629 improvement of a structure to comply with existing state or local health, sanitary or safety code
1630 specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a
1631 structure or site documented as deserving preservation by the Wisconsin State Historical Society or
1632 listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered
1633 structural repairs, modifications or additions; such ordinary maintenance repairs include internal and
1634 external painting, decorating, paneling, and the replacement of doors, windows and other nonstructural
1635 components.
1636 (Ord. 1060 § 10(part), 1985).
1637
1638 **19.09.740 Tourist home.**
1639 "Tourist home" means a building in which lodging, with or without meals, is offered to transient guests
1640 for compensation and having no more than five sleeping rooms for this purpose, with no cooking
1641 facilities in any such individual room or apartment.
1642 (Ord. 994 § 12.0(part), 1982).
1643
1644 **19.09.750 Townhouse.**
1645 "Townhouse" means a building having three or more attached dwelling units with each unit having
1646 separate primary ground level access to the outside, each unit having a first floor at ground level, and
1647 the units being attached by vertical common walls.
1648 (Ord. 994 § 12.0(part), 1982).
1649
1650 **19.09.760 Townhouse dwelling units.**
1651 "Townhouse dwelling units" means attached single-family dwellings having direct outside access from
1652 each unit. Units may be attached either vertically or horizontally.
1653 (Ord. 994 § 12.0(part), 1982).
1654
1655 **19.09.765 Traditional Neighborhood Development (TND).**
1656 "Traditional Neighborhood Development" means a compact, mixed-use neighborhood where
1657 residential, commercial and civic buildings are within close proximity to each other; with interconnected
1658 pedestrian and vehicular circulation and public open space systems; and with careful attention to the
1659 design, layout, and relationships between different land uses.
1660 (Ord. 1511 § 1(part), 2002).
1661
1662 **19.09.770 Trailer camp.**

1663 "Trailer camp" means any tract or parcel of land upon which two or more trailers, camp cabins, house
1664 cars, or other mobile homes are located, or trailer or camp sites are provided for the purpose of either
1665 temporary or permanent habitation.
1666 (Ord. 994 § 12.0(part), 1982).

1667
1668 **19.09.775 Unnecessary hardship.**

1669 "Unnecessary hardship" is that circumstance where special conditions, which are not self-created, affect
1670 a particular property and make strict conformity with the restrictions governing dimensional standards
1671 (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome
1672 or unreasonable in light of the purpose of the ordinance. Unnecessary hardship is present only where, in
1673 the absence of a variance, no feasible use can be made of the property.
1674 (Ord. 1196 § 1(part), 1990).

1675
1676 **19.09.780 Usable open space.**

1677 "Usable open space" means land used for recreation, resource protection, amenity or buffers, is freely
1678 accessible to all residents, and is protected by the provisions of this title to ensure that it remains in such
1679 uses. Usable open space does not include land occupied by buildings, roads, road right-of-ways or
1680 drives, nor does it include the yards of single, two-family or multifamily dwellings used for parking areas.
1681 (Ord. 994 § 12.0(part), 1982).

1682
1683 **19.09.790 Use, accessory.**

1684 "Accessory use" means a use customarily incident to the permitted principal use of property and on the
1685 same lot as the principal permitted use.
1686 (Ord. 994 § 12.0(part), 1982).

1687
1688 **19.09.800 Use, legal nonconforming.**

1689 "Legal nonconforming use" means a use not in compliance with the regulations of this title, but which
1690 existed lawfully in April, 1982.
1691 (Ord. 994 § 12.0(part), 1982).

1692
1693 **19.09.810 Use, permitted.**

1694 "Permitted use" means that utilization of land by occupancy, activity, building or other structure which is
1695 specifically enumerated as permissible by the regulations of the zoning district in which the land is
1696 located.
1697 (Ord. 994 § 12.0(part), 1982).

1698
1699 **19.09.820 Use, principal.**

1700 "Principal use" means the main or primary use of property or structures as permitted on such lot by the
1701 regulations of the district in which it is located.
1702 (Ord. 994 § 12.0(part), 1982).

1703
1704 **19.09.830 Utilities.**

1705 "Utilities" means public and private facilities such as water wells, water and sewage pumping stations,
1706 water storage tanks, power and communication transmission lines, electrical power substations, static
1707 transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation
1708 stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and
1709 storage yards.
1710 (Ord. 994 § 12.0(part), 1982).

1711
1712 **19.09.833 Variance.**
1713 "Variance" means an authorization granted by the zoning board of appeals to construct, alter, or use a
1714 building or structure in a manner that deviates from the dimensional standards of this title. A variance
1715 may not permit the use of a property that is otherwise prohibited by the ordinance codified in this title
1716 or allow floodland construction that is not protected to the flood protection elevation.
1717 (Ord. 1196 § 1(part), 1990).
1718
1719 **19.09.834 Vehicle.**
1720 "Vehicle" means every device in, upon or by which any person or property is or may be transported or
1721 drawn upon a highway, except railroad trains. A snowmobile [or an all terrain vehicle \(ATV\)](#) shall not be
1722 considered a vehicle except for purposes made specifically applicable by ordinance.
1723 (Ord. 1364 § 6, 1997).
1724
1725 **19.09.835 Violation.**
1726 With respect to the floodplain regulations of this chapter, "violation" means the failure of a structure or
1727 other development to be fully compliant with the floodplain zoning provisions of this title. A structure or
1728 other development without required permits, lowest floor elevation documentation, floodproofing
1729 certificates or required floodway encroachment calculations is presumed to be in violation until such
1730 time as that documentation is provided.
1731 (Ord. 1600 § 1(part), 2006).
1732
1733 **19.09.836 Watershed.**
1734 "Watershed" means the entire region contributing runoff or surface water to a watercourse or body of
1735 water.
1736 (Ord. 1600 § 1(part), 2006: Ord. 1196 § 1(part), 1990).
1737
1738 **19.09.837 Water surface profile.**
1739 "Water surface profile" means a graphical representation showing the elevation of the water surface of
1740 a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface
1741 profile of the regional flood is used in regulating floodplain areas.
1742 (Ord. 1600 § 1(part), 2006: Ord. 1499 § 3(part), 2001).
1743
1744 **19.09.838 Well.**
1745 "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or other
1746 methods, to obtain groundwater regardless of its intended use.
1747 (Ord. 1600 § 1(part), 2006: Ord. 1499 § 3(part), 2001).
1748
1749 **19.09.839 Wetland.**
1750 "Wetland" means an area where water is at, near, or above the land surface long enough to be capable
1751 of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.
1752 (Ord. 1600 § 1(part), 2006).
1753
1754 **19.09.840 Wireless telecommunications facility.**
1755 "Wireless telecommunications facility" means a facility that consists of or includes one or more
1756 antennas, antenna arrays, telecommunications towers, microwave relay systems, satellite dish antennas
1757 of at least thirty-six inches in diameter, or other similar communications devices used for transmitting,
1758 receiving, or relaying radio, microwave, digital, cellular, or other wireless telecommunications signals.

1759 For the purposes of this title, wireless telecommunications facilities shall not include conventional, non-
1760 wireless telephone poles (unless also serving as an alternative support structure), residential satellite
1761 dishes less than thirty-six inches in diameter, residential television antennas, and amateur radio
1762 facilities.

1763 (Ord. 1600 § 1(part), 2006; Ord. 994 § 12.0(part), 1982).

1764

1765 **19.09.841 Wireless telecommunications support facility.**

1766 "Wireless telecommunications support facility" means any and all ancillary structures, mechanicals,
1767 shelters, devices, or equipment, other than attached antennas, that are incidental or accessory to the
1768 operation of a wireless telecommunications facility.

1769 (Ord. 1600 § 1(part), 2006).

1770

1771 **19.09.845 Yard.**

1772 "Yard" means the space on the same lot with a principal structure, between such structure and the
1773 street line and the lot lines, unoccupied and unobstructed from the ground upward except for
1774 vegetation, and with the exception of allowed accessory structures.

1775 (Ord. 1600 § 1(part), 2006).

1776

1777 **19.09.850 Yard, rear.**

1778 "Rear yard" means a yard extending across the full width of the lot, the depth of which shall be the
1779 minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest
1780 point of the principal structure.

1781 (Ord. 994 § 12.0(part), 1982).

1782

1783 **19.09.860 Yard, shore.**

1784 "Shore yard" means a yard extending across the full width or depth of a lot, the depth of which shall be
1785 the minimum horizontal distance between a line intersecting both side lots at the same angle and
1786 containing the point of the high-water elevation of a pond, stream or lake nearest the principal structure
1787 and a line parallel thereto containing the point of the principal structure nearest the high-water line.

1788 (Ord. 994 § 12.0(part), 1982).

1789

1790 **19.09.870 Yard, side.**

1791 "Side yard" means a yard extending from the street yard to the rear yard of the lot, the width of which
1792 shall be the minimum horizontal distance between the side lot line and a line parallel thereto through
1793 the nearest point of the principal structure.

1794 (Ord. 994 § 12.0(part), 1982).

1795

1796 **19.09.880 Yard, street (front yard).**

1797 "Street yard (front yard)" means a yard extending across the full width of the lot, the depth of which
1798 shall be the minimum horizontal distance between the existing or proposed street or highway line and a
1799 line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such
1800 yards.

1801 (Ord. 994 § 12.0(part), 1982).

1802

1803

1804 **Title 19 ZONING***

1805

1806

1807
 1808 **Chapter 19.12 ZONING DISTRICTS**

1809 Sections:

1810 19.12.010 Districts--Established.

1811 19.12.020 Districts--Boundaries.

1812 19.12.030 Vacation of streets and alleys.

1813 19.12.040 Annexations and consolidations.

1814 19.12.050 Zoning map.

1815

1816 **19.12.010 Districts--Established.**

1817 For the purpose of this title, the city is divided into the following zoning districts:

1818 TABLE INSET[LW2]:

1819

R-1	One-family residence district
<u>R-1x</u>	<u>One-family residence district</u>
R-2	One and two-family residence district
R-2A	Residential occupancy overlay district
R-3	Multifamily residence district
R-3A	University residential density west overlay district
R-3B	University residential density south overlay district
R-4	Mobile home district
R-O	Non-Family Residential Restriction Overlay District
B-1	General business district
B-1A	University mixed-use neighborhood overlay district
B-2	Central business district
B-2A	Downtown housing overlay district
B-3	Commercial service and light manufacturing district
M-1	General manufacturing district
PD	Planned community development district
AT	Agricultural transition district
I	Institutional district
C-1	Shoreland wetland district
C-2	Nonshoreland wetland district
FW	Floodway district
FWW	Floodway/wetland district

FFO	Floodplain fringe overlay district.
-----	-------------------------------------

1820 (Ord. 1196 § 1(part), 1990).

1821

1822 **19.12.020 Districts--Boundaries.**

1823 A. Boundaries of all districts shall be as shown on the map entitled "Zoning Map, City of Whitewater,
 1824 Wisconsin," which accompanies and is a part of the ordinance codified in this title. The district
 1825 boundaries in all districts, except the C-1 shoreland wetland district, the C-2 nonshoreland wetland
 1826 district, FW floodway district, the FWW floodway/wetland district, and the FFO floodplain fringe overlay
 1827 district, shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines;
 1828 centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended.

1829 B. Boundaries of the FW floodway district ~~and shall be determined by use of the scale contained on the~~
 1830 ~~map.~~ The boundaries of the FFO floodplain fringe overlay district shall be determined by the floodland
 1831 limits shown on the map entitled, "Flood Hazard Investigation--Whitewater Creek, Spring Brook-City of
 1832 Whitewater," dated May 1979, which accompanies and is made a part of the ordinance codified in this
 1833 title, and are superseded by more current versions of that map. The flood stages, under floodway
 1834 conditions, contained in the Flood Hazard Investigation map were developed from technical data
 1835 contained in the "Flood Insurance Study--City of Whitewater, Walworth County, Wisconsin," published
 1836 by the Federal Emergency Management Agency (FEMA) and dated December 1, 1981 and are
 1837 superseded by more current versions of that map. The information contained in the flood insurance
 1838 study is further illustrated in FEMA "Floodway and Flood Boundary Map" and "Flood Insurance Rate
 1839 Map," both maps dated June 1, 1982 and are superseded by more current versions of that map. Where
 1840 a conflict exists between the floodland limits as shown on the flood hazard investigation map and actual
 1841 field conditions, the elevations from the one hundred year recurrence interval flood profile shall be the
 1842 governing factor in locating the regulatory floodland limits.

1843 C. Boundaries of the C-1 shoreland wetland district, the C-2 nonshoreland wetland district, and the
 1844 FWW floodway/wetland district are based on the Wisconsin Wetland Inventory Maps for the City of
 1845 Whitewater, dated July 2, 1987, and stamped "FINAL." The C-1 district includes all shoreland wetlands,
 1846 five acres or greater in area shown on those maps.

1847 (Ord. 1196 § 1(part), 1990).

1848

1849 **19.12.030 Vacation of streets and alleys.**

1850 Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same
 1851 district as the abutting side to which the vacated land reverts.

1852 (Ord. 994 § 3.3, 1982).

1853

1854 **19.12.040 Annexations and consolidations.**

1855 A. Annexations to or consolidations with the city subsequent to June 24, 1982, the effective date of the
 1856 ordinance codified in this title shall be placed in the AT agricultural transition district, unless the
 1857 annexation ordinance temporarily places the land in another district. Within one year, the city plan
 1858 commission shall evaluate and recommend a permanent classification to the common council.

1859 B. Annexations containing floodlands and shorelands shall be governed in the following manner:

1860 1. Annexations containing floodlands shall be governed by the provisions of the Walworth County
 1861 floodplain zoning ordinance until such time that the Wisconsin Department of Natural Resources (DNR)
 1862 certifies that amendments to the City of Whitewater zoning ordinance meet the requirements of
 1863 Chapter NR 116 of the Wisconsin Administrative Code.

1864 2. Annexations containing shorelands. Pursuant to Section 59.971(7) of the Wisconsin Statutes, any
 1865 annexation of land after May 7, 1982, which lies within shorelands, as defined in this title, shall be

1866 governed by the provisions of the Walworth County shoreland zoning ordinance until such time that the
1867 City of Whitewater adopts an ordinance which is at least as restrictive as the Walworth County
1868 shoreland zoning ordinance. Said regulations shall be administered and enforced by the City of
1869 Whitewater building inspector.
1870 (Ord. 1196 § 1(part), 1990).

1871
1872 **19.12.050 Zoning map.**

1873 A certified copy of the zoning map shall be adopted and approved with the text as part of this title, and
1874 shall bear upon its face the attestation of the city manager and city clerk and shall be available to the
1875 public in the office of the city clerk. Changes thereafter to the districts shall be entered and attested on
1876 this certified copy.
1877 (Ord. 994 § 3.5, 1982).

1878
1879
1880 **Chapter 19.15 R-1 ONE-FAMILY RESIDENCE DISTRICT**

1881 Sections:

1882 19.15.010 Purpose.

1883 19.15.020 Permitted uses.

1884 19.15.030 Conditional uses.

1885 19.15.040 Lot area.

1886 19.15.050 Lot width.

1887 19.15.060 Yards.

1888 19.15.070 Coverage.

1889 19.15.080 Building height.

1890 19.15.090 Park fees.

1891
1892 **19.15.010 Purpose.**

1893 The R-1 one-family residence district is established to stabilize and protect the essential characteristics
1894 of low-density residential areas. A non-family household in R-1 shall be limited to three unrelated
1895 persons [unless otherwise modified by an overlay district](#).
1896 (Ord. 994 § 3.6(part), 1982).

1897
1898 **19.15.020 Permitted uses.**

1899 Permitted uses in the R-1 district include:

1900 A. One-family detached dwellings;

1901 B. The second or greater wireless telecommunications facility located on an alternative support
1902 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
1903 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
1904 accessory uses, all per the requirements of Chapter 19.55.

1905 C. Home occupations/professional home offices for non-retail goods and services (defined in this
1906 district as businesses that do not require customer access).
1907 (Ord. 1499 § 4, 2001; 1149 § 1, 1988; Ord. 994 § 3.6(A), 1982).

1908
1909 **19.15.030 Conditional uses.**

1910 Conditional uses in the R-1 district include:

1911 A. Public and semipublic uses, to include public and private schools; churches and religious institutions;
1912 government facilities; active recreational parks; museums, hospitals, public transportation terminals,
1913 and similar uses;

1914 | B. Planned ~~residential~~ developments such as townhouses, condominiums and cluster housing. In order
1915 to allow increasing the intensity of use, the plan commission may allow as a conditional use the
1916 following variations from the district requirements:

1917 1. In an approved planned residential development, each dwelling structure need not have an
1918 individual lot or parcel having the requisite size and dimensions normally required in the districts.
1919 However, the size and the entire development parcel divided by the number of dwellings shall be equal
1920 to or larger than the minimum lot area for the district where the site is located,

1921 2. The yard requirements between buildings shall be fixed by the plan commission. Building setbacks
1922 from the perimeter of the site shall comply with the front yard, rear yard and side yard requirements of
1923 the district,

1924 3. Private streets may be approved to serve uses within the site, provided that the site proposed for PD
1925 has frontage on a public street;

1926 C. Home occupations/professional home offices. (Subject to issuance of zoning permit.)

1927 D. The first wireless telecommunications facility located on an alternative support structure only, per
1928 the requirements of Chapter 19.55.

1929 E. Real estate sales offices, subject to the following requirements:

1930 1. May only be placed within a major subdivision with twenty or more lots;

1931 2. Shall occupy a maximum of one building within any major subdivision;

1932 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
1933 ninety days from the date when ninety percent of the lots or units within the subdivision or
1934 development are initially sold or leased, or five years from the date of initial establishment of the use,
1935 whichever comes first;

1936 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
1937 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
1938 sales office is removed or converted to a permitted use in the district;

1939 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
1940 uses open to the public;

1941 6. Shall be compatible in character, materials, placement, and design with other existing and planned
1942 buildings within the subdivision;

1943 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
1944 19.54.052 of this title.

1945 F. Bed and breakfast establishments.

1946 G. Keeping of horses, subject to the standards in Section 19.57.160 of this title.

1947 (Ord. 1589A § 1, 2005; Ord. 1580A § 2, 2005; Ord. 1499 § 5, 2001; Ord. 1149 § 5, 1988; Ord. 1082 § 5,
1948 1986; Ord. 994 § 3.6(B), 1982).

1949
1950 **19.15.040 Lot area.**

1951 Minimum lot area in the R-1 district is ten thousand square feet.

1952 (Ord. 1174 § 1, 1990; Ord. 994 § 3.6(C), 1982).

1953
1954 **19.15.050 Lot width.**

1955 Minimum lot width in the R-1 district is eighty feet.

1956 (Ord. 994 § 3.6(D), 1982).

1957
1958 **19.15.060 Yards.**

1959 Minimum yard requirements in the R-1 district are as follows:

1960 | A. Front, twenty-five feet; (not more than 40% of the front yard may be an ~~impervious-paved~~ surface
1961 except as a conditional use).

- 1962 B. Side, ten feet, corner lot, twenty-five feet; (not more than 40% of the front yard may be an
- 1963 impervious surface except as a conditional use).
- 1964 C. Rear, thirty feet; (not more than 40% of the front yard may be an impervious surface except as a
- 1965 conditional use).
- 1966 D. Shore, seventy-five feet (not more than 40% of the yard may be an impervious surface).
- 1967 (Ord. 994 § 3.6(E), 1982).
- 1968

NOTE: OPTION TO ADD AN ADDITIONAL 10% FOR PATIOS, DECKS AND SIMILAR ITEMS WAS DISCUSSED, IN SOME, BUT NOT ALL RESIDENTIAL DISTRICTS. IT HAS NOT BEEN INCLUDED IN THIS DRAFT.

19.15.070 Coverage.

Maximum lot coverage in the R-1 district is thirty percent.
(Ord. 994 § 3.6(F), 1982).

19.15.080 Building height.

Maximum building height in the R-1 district is two and one-half stories or thirty-five feet.
(Ord. 994 § 3.6(G), 1982).

19.15.090 Park fees.

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

Chapter 19.16 R-1X DISTRICT

Sections:

19.16.010 R-1 district provisions--Applicability.

19.16.020 Lot area.

19.16.021 Maximum lot coverage.

19.16.030 Lot width.

19.16.040 Yards.

19.16.050 Park fees.

19.16.005 Purpose.

The R-1x one-family residence district is established to stabilize and protect the essential characteristics of residential areas whose density is lower than R-1. A non-family household in R-1 shall be limited to three unrelated persons.
(Ord. 994 § 3.6(part), 1982).

19.16.010 R-1x district provisions--Applicability.

All of the provisions of the R-1 district not in conflict with the requirements of this chapter shall apply in the R-1X district.
(Ord. 1174 § 2(part), 1990).

2009

2010 **19.16.020 Lot area.**

2011 Minimum lot area in the R-1X district is twelve thousand square feet.

2012 (Ord. 1174 § 2(part), 1990).

2013

2014 **19.16.021 Maximum lot coverage.**

2015 Maximum lot coverage by buildings in the R-1X district shall be twenty percent.

2016 (Ord. 1364 § 7, 1997).

2017

2018 **19.16.030 Lot width.**

2019 Minimum lot width in the R-1X district is one hundred feet.

2020 (Ord. 1174 § 2(part), 1990).

2021

2022 **19.16.040 Yards.**

2023 Minimum yard requirements in the R-1X district are:

2024 A. Front, thirty feet; (not more than 40% of the ~~front~~ yard may be an impervious paved surface except

2025 as a conditional use);

2026 B. Side, fifteen feet; corner lot, thirty feet (not more than 40% of the yard may be an impervious

2027 surface except as a conditional use);

2028 C. Rear, thirty feet (not more than 40% of the yard may be an impervious surface except as a

2029 conditional use);

2030 D. Shore, seventy-five feet (not more than 40% of the yard may be an impervious surface except as a

2031 conditional use).

2032 (Ord. 1174 § 2(part), 1990).

2033

2034

2035 **19.16.050 Park fees.**

2036 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a

2037 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. ~~The~~

2038 ~~amount of these fees may be reduced by any fee amount previously paid or credited at the time of~~

2039 ~~subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or~~

2040 ~~remodeling of a preexisting building.~~ The park acquisition fee may also be reduced if sufficient land area

2041 was provided for park purposes at the time of subdivision, based on the calculations in Section

2042 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

2043

2044 **Chapter 19.18 R-2 ONE- AND TWO-FAMILY RESIDENCE DISTRICT**

2045 Sections:

2046 19.18.010 Purpose.

2047 19.18.020 Permitted uses.

2048 19.18.030 Conditional uses.

2049 19.18.040 Lot area.

2050 19.18.050 Lot width.

2051 19.18.060 Yard requirements.

2052 19.18.070 Lot coverage.

2053 19.18.080 Building height.

2054 19.18.090 Park fees.

2055

2056 **19.18.010 Purpose.**

2057 The R-2 two-family residence district is established to provide medium-density residential areas. A
2058 non-family household in R-2 shall be limited to three unrelated persons.
2059 (Ord. 994 § 3.7(part), 1982).

2060

2061 **19.18.020 Permitted uses.**

2062 Permitted uses in the R-2 district include:

2063 A. One-family detached dwellings;

2064 B. Two-family attached dwellings [\(except for conversions of single-family to two family dwellings\)](#);

2065 C. Home occupations/professional home offices for non-retail goods and services (defined in this
2066 district as businesses that do not require customer access);

2067 D. The second or greater wireless telecommunications facility located on an alternative support
2068 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
2069 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
2070 accessory uses, all per the requirements of Chapter 19.55.

2071 (Ord. 1499 § 6, 2001; Ord. 1174 § 3(A), 1990; Ord. 1149 § 2, 1988; Ord. 994 § 3.7(A), 1982).

2072

2073 **19.18.030 Conditional uses.**

2074 Conditional uses in the R-2 district include:

2075 A. Attached townhouse dwellings, up to four units per building: minimum lot area requirements for
2076 such uses shall be regulated by Chapter 19.21;

2077 B. [Conversion of existing single-family dwellings to two-family attached dwellings](#) ~~(new construction~~
2078 ~~only)~~;

2079 C. Planned ~~residential~~ developments (See Section 19.15.030);

2080 D. Public and semipublic uses;

2081 E. Home occupations/professional home offices for retail goods and services (defined in this district as
2082 businesses requiring customer access),

2083 F. The first wireless telecommunications facility located on an alternative support structure only, per
2084 the requirements of Chapter 19.55;

2085 G. Real estate sales offices, subject to the following requirements:

2086 1. May only be placed within a major subdivision with twenty or more lots or a multiple-family
2087 residential development with forty or more dwelling units,

2088 2. Shall occupy a maximum of one building within any major subdivision, or one unit within any
2089 multiple-family residential development,

2090 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
2091 ninety days from the date when ninety percent of the lots or units within the subdivision or
2092 development are initially sold or leased, or five years from the date of initial establishment of the use,
2093 whichever comes first,

2094 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
2095 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
2096 sales office is removed or converted to a permitted use in the district,

2097 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
2098 uses open to the public,

2099 6. Shall be compatible in character, materials, placement, and design with other existing and planned
2100 buildings within the subdivision or development,

2101 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
2102 19.54.052 of this title;

2103 H. Bed and breakfast establishments;

2104 I. Keeping of horses, subject to the standards in Section 19.57.160 of this title.

2105 (Ord. 1589A § 2, 2005; Ord. 1580A § 3, 2005; Ord. 1499 § 7, 2001; Ord. 1299 § 1, 1994; Ord. 1174 § 3(B),
2106 1990; Ord. 1149 § 6, 1988; Ord. 1082 § 6, 1986; Ord. 994 § 3.7(b), 1982).

2107

19.18.040 Lot area.

2109 Minimum lot area in the R-2 district is:

2110 A. Eight thousand square feet for single-family;

2111 B. Twelve thousand square feet for two-family.

2112 (Ord. 1174 § 3(C), 1990; Ord. 994 § 3.7(C), 1982).

2113

19.18.050 Lot width.

2115 Minimum lot width in the R-2 district is:

2116 A. Sixty-six feet for all lots of record at the time of adoption of the ordinance codified in this section;

2117 B. Seventy feet for all new single-family development after the adoption of the ordinance codified in
2118 this section;

2119 C. One hundred feet for all duplexes developed after the adoption of the ordinance codified in this
2120 section.

2121 (Ord. 1174 § 3(D), 1990; Ord. 994 § 3.7(D), 1982).

2122

19.18.060 Yard requirements.

2124 Minimum yard requirements in the R-2 district are:

2125 A. Front, twenty-five feet; (not more than ~~50~~40% of the ~~front~~ yard may be an impervious paved
2126 surface)

2127 B. Side, ten feet for one family, fifteen feet for two family and multifamily; corner lots, twenty-five feet
2128 (not more than 40% of the yard may be an impervious surface);

2129 C. Rear, thirty feet (not more than 40% of the yard may be an impervious surface);

2130 D. Shore, seventy-five feet (not more than 40% of the yard may be an impervious surface);

2131 E. For all structures larger than a one-family dwelling unit, the building setback standards established in
2132 the R-3 multifamily residence district shall apply.

2133 (Ord. 1174 § 3E, 1990; Ord. 994 § 3.7(E), 1982).

2134

19.18.065 Off-street Parking.

2136 Off-street parking, including both surface parking and enclosed parking, shall conform to City guidelines
2137 for parking areas which include materials, access, visibility, potential impact on abutting properties,
2138 drainage, stormwater management, screening, and economic viability of the associated use.

2139

2140

19.18.070 Lot coverage.

2142 Maximum lot coverage in the R-2 district is thirty percent.

2143 (Ord. 994 § 3.7(F), 1982).

2144

19.18.080 Building height.

2146 Maximum building height in the R-2 district is thirty-five feet, or two and one-half stories.

2147 (Ord. 994 § 3.7(G), 1982).

2148

19.18.090 Park fees.

2150 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a

2151 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. ~~The~~

2152 ~~amount of these fees may be reduced by any fee amount previously paid or credited at the time of~~

2153 ~~subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or~~
2154 ~~remodeling of a preexisting building.~~ The park acquisition fee may also be reduced if sufficient land
2155 area was provided for park purposes at the time of subdivision, based on the calculations in Section
2156 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.
2157

2158 **Chapter 19.19 R-2A Residential Increased Occupancy Overlay District**

2159 Sections:

2160 19.19.010 Purpose and intent.

2161 19.19.015 Relationship to underlying zoning district classification 19.19.020 Overlay district application.

2162 19.19.030 Non-family residential overlay district permissions and conditions.

2164 19.19.050 Exceptions.

2166 **19.19.010 Purpose and intent.**

2167 The purpose and intent of the residential occupancy overlay district is to allow increased occupancy in a
2168 focused area near campus where housing structures can accommodate higher occupancy.

2169 **19.19.015 Relationship to underlying zoning district classification.**

2170 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
2171 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
2172 zoning is applied unless specifically described in this overlay district.

2174 **19.19.020 Overlay zoning district application.**

2175 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2176 R-2A designation. No party other than the owner of the property, City Manager or Common Council may
2177 apply for the R-2A residential occupancy overlay zoning. Permission will require conformance with the
2178 requirements established for the duties of the zoning administrator (section 19.75.061) Applications
2179 may also require a conditional use permit. This overlay district is restricted to structures that were in
2180 existence as of the adoption date of the creation of this overlay district. Procedures for zoning changes
2181 and amendments are further elaborated in section 19.69
2182

2184 **19.19.030 Residential occupancy overlay district permitted and conditional uses.**

2185 Three unrelated occupants are a permitted use in the R-2A overlay district with no conditional use
2186 permit required. A conditional use permit is required for four or five unrelated individuals. The
2187 conditional use permit shall take into consideration, among other issues, the size of the building and the
2188 original character of the building when bedrooms are being added as part of an internal remodeling or
2189 external addition. Occupancy by more than five unrelated individuals requires both a conditional use
2190 permit and inspection by the zoning administrator of the property and its surrounding area (section
2191 19.75.061
2192

2193 **NOTE: ADDITIONAL AMENDMENT MAY BE INSERTED (PER DISCUSSION BASED ON ALDERMAN**
2194 **WINSHIP'S PROPOSAL). IT HAS NOT BEEN INCLUDED IN THIS DRAFT.**
2195

2196 **19.19.050 Exceptions.**

2197 The limitations in this district overlay for maximum occupancy and parking shall not apply to community
2198 living arrangements allowed by federal and state law (such as foster homes and adult family homes for
2199 the disabled) and those allowed under Wis. Stats. § 62.23 (7) (I)
2200 (Ord. No. 1788A, § 1, 6-1-2010)

2201
2202 **Chapter 19.21 R-3 MULTIFAMILY RESIDENCE DISTRICT**

2203 Sections:

2204 19.21.010 Purpose.

2205 19.21.020 Permitted uses.

2206 19.21.030 Conditional uses.

2207 19.21.040 Lot area.

2208 19.21.050 Lot width.

2209 19.21.060 Yard Requirements.

2210 19.21.070 Lot coverage.

2211 19.21.080 Building height.

2212 19.21.090 Park fees.

2213

2214 **19.21.010 Purpose.**

2215 The R-3 multifamily residence district is established to provide high-density residential areas, and to
2216 allow mixing of certain compatible land uses. A non-family household in R-3 shall be limited to five
2217 unrelated persons.

2218 (Ord. 994 § 3.8(part), 1982).

2219

2220 **19.21.020 Permitted uses.**

2221 Permitted uses in the R-3 district include:

2222 A. One-family detached dwellings;

2223 B. Two-family attached dwellings (new construction);

2224 C. Multi-family dwellings and attached dwellings, up to four units per building. "Attached dwelling"
2225 means a one-family dwelling attached to two or more one-family dwellings by common vertical walls;

2226 D. Home occupations/professional home offices for non-retail (goods and services for businesses that
2227 do not require customer access);

2228 E. The second or greater wireless telecommunications facility located on an alternative support
2229 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
2230 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
2231 accessory uses, all per the requirements of Chapter 19.55.

2232 (Ord. 1499 § 8, 2001; 1174 § 4A, 1990; Ord. 1149 § 3, 1988; Ord. 994 § 3.8(A), 1982).

2233

2234 **19.21.030 Conditional uses.**

2235 Conditional uses in the R-3 district include:

2236 A. Professional business offices in a building where the principal use is residential;

2237 B. Multifamily dwellings and attached dwellings, over four units, ~~(=new construction only);~~ and two-
2238 family attached dwellings (existing construction).

2239 C. Walk-in type retail trade (food stores, bookstores, gift shops, galleries, beauty shops and similar
2240 uses) located in a building where the principal use is residential and fronts on an arterial street;

2241 (Conditional use approval under this provision shall be granted for a specified use. Any subsequent
2242 change in use or expansion shall require additional conditional use approval.)

2243 D. Fraternity or sorority houses and group lodging facilities;

2244 E. Any building over forty feet;

2245 F. Planned ~~residential~~ developments (see Section 19.15.030);

2246 G. Conversions of existing structures resulting in more ~~than four~~ dwelling units ~~;~~ and conversion of
2247 existing units with less than 5 bedrooms to 5 or more bedrooms.

2248 H. Dwelling units with occupancy of six or more unrelated persons

- 2249 ~~H~~. Public and semipublic uses;
- 2250 ~~J~~. Home occupations/professional home office for retail goods and services (businesses requiring
- 2251 customer access),
- 2252 ~~K~~. Bed and breakfast establishments;
- 2253 ~~L~~. The first wireless telecommunications facility located on an alternative support structure only, per
- 2254 the requirements of Chapter 19.55;
- 2255 ~~M~~. Real estate sales offices, subject to the following requirements:
- 2256 1. May only be placed within a major subdivision with twenty or more lots or a multiple-family
- 2257 residential development with forty or more dwelling units,
- 2258 2. Shall occupy a maximum of one building within any major subdivision, or one unit within any
- 2259 multiple-family residential development,
- 2260 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
- 2261 ninety days from the date when ninety percent of the lots or units within the subdivision or
- 2262 development are initially sold or leased, or five years from the date of initial establishment of the use,
- 2263 whichever comes first,
- 2264 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
- 2265 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
- 2266 sales office is removed or converted to a permitted use in the district,
- 2267 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
- 2268 uses open to the public,
- 2269 6. Shall be compatible in character, materials, placement, and design with other existing and planned
- 2270 buildings within the subdivision or development,
- 2271 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
- 2272 19.54.052 of this title.
- 2273 (Ord. 1668A § 2, 2007; Ord. 1580A §§ 4, 5, 2005; Ord. 1499 § 9, 2001; Ord. 1174 § 4B, 1990; Ord. 1149 §
- 2274 7, 1988; Ord. 994 § 3.8(B), 1982).

2275

2276 **19.21.040 Lot area.**

2277 A. Minimum lot area in the R-3 district is as follows:

2278 TABLE INSET:

2279

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

2280 Provided, however, that minimum parcel sizes for multifamily dwellings and group lodging facilities may

2281 be increased if the following ratios indicate a larger parcel size.

2282 B. Ratios to determine minimum parcel size, (to be used if operation of the table indicates parcel size in

2283 excess of twelve thousand square feet):

2284 TABLE INSET:

2285

<u>Type of Unit</u>	<u>Square Feet</u>
Efficiency	2,000
One-bedroom	2,500

Two-bedroom	3,000
Three-bedroom and over	3,500 plus 300 additional square feet for each bedroom over three

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

19.21.050 Lot width.

Minimum lot width in the R-3 district is:

- A. One-family and two-family dwellings, sixty-six feet for all improved lots existing at the time of adoption of the ordinance codified in this section;
- B. One family, sixty-six feet for all new single-family dwellings constructed after the adoption of the ordinance codified in this section;
- C. Two-family, eighty-feet for all newly constructed two-family dwellings;
- D. Multifamily dwellings, one hundred feet.
(Ord. 1174 § 4D, 1990; Ord. 994 § 3.8(D), 1982).

19.21.060 Yard Requirements.

- A. Front, thirty feet first floor; (not more than ~~50~~40% of the ~~front~~ yard may be ~~Aan impervious paved surface~~)
- B. Side, fifteen feet; corner lots twenty-five feet (not more than 40% of the yard may be an impervious surface);
- C. Rear, thirty feet (not more than 40% of the yard may be an impervious surface);
- D. Shore, seventy-five feet (not more than 40% of the yard may be an impervious surface);
E
(Ord. 1174 § 4E, 1990; Ord. 994 § 3.8(E), 1982).

19.21.070 Lot coverage.

- A. Three hundred fifty square feet of usable open space shall be required for each dwelling unit for structures with two or more units.
- B. Usable Open Space. Usable open space is that part of the ground level of a zoning lot, other than in a required front or corner side yard, which is unoccupied by driveways, drive aisles, service drives, off-street parking spaces and/or loading berths and is unobstructed to the sky. This space of minimum prescribed dimension shall be available to all occupants of the building and shall be usable for greenery, drying yards, recreational space, gardening and other leisure activities normally carried on outdoors. Where and to the extent prescribed in these regulations, balconies and roof areas, designed and improved for outdoor activities, may also be considered as usable open space. The usable open space shall be planned as an assemblage or singularly designed area that maximizes the size for open space usage. The only exception to this standard is where the required open space is designed to be a part of the individual living units in the form of patios or decks.
(Ord. 1174 § 4F, 1990; Ord. 994 § 3.8(F), 1982).

19.21.080 Building height.

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

2331
2332 **19.21.090 Park fees.**
2333 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2334 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. ~~The~~
2335 ~~amount of these fees may be reduced by any fee amount previously paid or credited at the time of~~
2336 ~~subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or~~
2337 ~~remodeling of a preexisting building.~~ The park acquisition fee may also be reduced if sufficient land area
2338 was provided for park purposes at the time of subdivision, based on the calculations in Section
2339 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.
2340

2341 **Chapter 19.22 R-3A University Residential Density Overlay District**

2342 Sections:

2343 19.22.010 Purpose and intent.

2344 19.22.020 Overlay district application.

2345 19.22.030 Non-family residential overlay district permissions and conditions.

2346 19.22.040 Lot area

2347 19.22.050 Exceptions.

2348

2349 **19.22.010 Purpose and intent.**

2350 The purpose and intent of the university residential density overlay district is to allow increased density
2351 for new housing in a focused area near campus, and therefore reduce the impact of student housing on
2352 lower density neighborhoods.
2353

2354 **19.22.015 Relationship to underlying zoning district classification.**

2355 Requirements for permitted uses, conditional uses, lot width, yards, building height, signage, and park
2356 fees remain the same as the underlying zoning district to which the overlay zoning is applied unless
2357 specifically described in this overlay district. At least 10% of the lot should be usable open space.
2358

2359

2360 **19.22.020 Overlay district application.**

2361 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2362 R-3A designation. To the extent there is a conflict between the restrictions or requirements associated
2363 with the district, the requirements that most restrictively limit the use of the site shall apply. No party
2364 other than the owner of the property may apply for the R-3A university residential density overlay
2365 zoning. Permission will require conformance with the requirements established for the duties of the
2366 zoning administrator (section 19.75.061) Applications may also require a conditional use permit.
2367 Procedures for zoning changes and amendments are further elaborated in section 19.69
2368

2369

2370 **19.22.030 University residential density overlay district permitted and conditional uses.**

2371 Within this district, a multifamily building with up to sixteen units is a permitted use for new
2372 construction. More than 16 units per building and up to 32 units per building may be requested as a
2373 conditional use. Among other issues, conditional use permits should consider long term impacts of the
2374 proposal on the surrounding area. More than 32 units per building are not allowed in the district but
2375 may be considered as part of a PD district. Architectural quality shall be subject to the review of the
2376 plan and architectural commission and include consideration of any design and planning criteria as
2377 established by the City, for buildings in this zoning district.
2378

2379
2380 **19.22.040 Lot area.**
2381 The minimum lot area in the R-3A district is the same as R-3. The minimum parcel sizes for multifamily
2382 dwellings and group lodging facilities may be increased if the following ratios indicate a larger parcel
2383 size. The ratios to determine minimum parcel size, (to be used if operation of the table indicates parcel
2384 size in excess of twelve thousand square feet) shall be the same as indicated in R-3 except that the
2385 number of square feet shall be reduced by 50% for each type of unit.

2386
2387 **NOTE: OPTION TO ELIMINATE RATIOS WAS DISCUSSED. IT HAS NOT BEEN INCLUDED IN THIS DRAFT.**
2388

2389 **19.22.050 Exceptions.**
2390 This limitation shall not apply to community living arrangements allowed by federal and state law (such
2391 as foster homes and adult family homes for the disabled) and those allowed under Wis. Stats. § 62.23.
2392 (Ord. No. 1788A, § 1, 6-1-2010 (7)(l))
2393
2394
2395
2396

2397
2398 **Chapter 19.24 R-4 MOBILE HOME DISTRICT**

2399 Sections:

2400 19.24.010 Purpose.

2401 19.24.020 Permitted uses.

2402 19.24.030 Conditional uses.

2403 19.24.040 Lot area.

2404 19.24.050 Lot width.

2405 19.24.060 Yard requirements.

2406 19.24.065 Parking

2407 19.24.070 Lot coverage.

2408 19.24.080 Wrecked or damaged homes.

2409 19.24.090 Park fees.

2410

2411 **19.24.010 Purpose.**

2412 The R-4 mobile home district is established to provide areas for placing mobile homes and associated
2413 service facilities.

2414 (Ord. 994 § 3.9(part), 1982).
2415

2416

2417 **19.24.020 Permitted uses.**

2418 Permitted uses in the R-4 district include:

2419 A. Single-family mobile home dwellings, and the sanitary, washing, recreational, and office facilities to
2420 service mobile home dwellings;

2421 B. The second or greater wireless telecommunications facility located on an alternative support
2422 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
2423 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
2424 accessory uses, all per the requirements of Chapter 19.55.

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

2425 [C. Home occupations/professional home offices for non-retail goods and services \(defined in this](#)
2426 [district as businesses that do not require customer access\);](#)

2427
2428 **19.24.030 Conditional uses.**
2429 Conditional uses in the R-4 district include:
2430 A. Public and semipublic uses;
2431 B. Home occupations; [/professional home office for retail goods and services \(businesses requiring](#)
2432 [customer access\);](#)

2433 C. The first wireless telecommunications facility located on an alternative support structure only, per
2434 the requirements of Chapter 19.55;

2435 D. Real estate sales offices, subject to the following requirements:
2436 1. May only be placed within a manufactured or mobile home development with twenty or more home
2437 sites,
2438 2. Shall occupy a maximum of one building within any mobile home development,
2439 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
2440 ninety days from the date when ninety percent of the lots or units within the subdivision or
2441 development are initially sold or leased, or five years from the date of initial establishment of the use,
2442 whichever comes first,
2443 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
2444 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
2445 sales office is removed or converted to a permitted use in the district,
2446 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
2447 uses open to the public,
2448 6. Shall be compatible in character, materials, placement, and design with other existing and planned
2449 buildings within the development,
2450 7. Signage shall be in accordance with standards in the district, per Section 19.54.052 of this title.
2451 (Ord. 1580A § 6, 2005; Ord. 1499 § 11, 2001; Ord. 1149 § 8, 1988; Ord. § 3.9(B), 1982).

2452
2453 **19.24.040 Lot area.**
2454 Minimum lot area in the R-4 district is:
2455 A. Exterior boundaries, four acres;
2456 B. Mobile home space, three thousand, six hundred square feet.

2457
2458 **19.24.050 Lot width.**
2459 Minimum lot width in the R-4 district is:
2460 A. Exterior boundaries, two hundred feet;
2461 B. Mobile home space, thirty-six feet.
2462 (Ord. 994 § 3.9(D), 1982).

2463
2464 **19.24.060 Yard requirements.** Minimum yard requirements in the R-4 district are:
2465 TABLE INSET:
2466

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

2467 (Ord. 994 § 3.9(E), 1982).

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19.24.070 Lot coverage.

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

19.24.080 Wrecked or damaged homes.

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

(Ord. 994 § 3.9(G), 1982).

19.24.090 Park fees.

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

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

Sections:

- 19.25.010 Purpose and intent.
- 19.25.020 Overlay district application.
- 19.25.030 Non-family residential overlay district additional restrictions.
- 19.25.035 Parking
- 19.25.040 Exceptions.
- 19.25.050 Non-conforming use and registration.

19.25.010 Purpose and intent.

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

(Ord. No. 1788A, § 1, 6-1-2010)

19.25.020 Overlay district application.

2514 There is no separate Overlay Permission Area Map for the R-O overlay. Applications for the R-O district
2515 may be made in any residential zoning district. The restrictions set forth herein are in addition to the
2516 restrictions and requirements of the basic district applicable to a particular site. To the extent there is a
2517 conflict between the restrictions or requirements associated with the district, the requirements that
2518 most restrictively limit the use of the site shall apply. ~~No party other than the owner of the property may
2519 initiate an action for the imposition of R-O non-family residential zoning on any particular property if
2520 such a petition has been made within the previous twelve months.~~ Procedures for zoning changes and
2521 amendments are further elaborated in section 19.69 (Ord. No. 1788A, § 1, 6-1-2010)

2522

2523 **NOTE: THE REGULATION REGARDING R-O OVERLAYS IS CONTAINED IN SECTION 19.69.20.**

2524

2525 **19.25.030 Non-family residential overlay district additional restrictions.**

2526 In all non-family residential overlay districts, the non-family household limitation set forth in
2527 Whitewater Municipal Ordinance [Section] 19.09.520 is reduced from three to two. Therefore, in any
2528 non-family residential overlay district, a non-family household shall be limited to two unrelated persons.
2529 (Ord. No. 1788A, § 1, 6-1-2010)

2530

2531 **19.25.035 Parking**

2532 Parking spaces permitted for units with R-O zoning shall be limited to the number of parking spaces
2533 allowed for the underlying zoning.

2534

2535 **19.25.040 Exceptions.**

2536 This limitation shall not apply to community living arrangements allowed by federal and state law (such
2537 as foster homes and adult family homes for the disabled) and, in particular, those allowed under Wis.
2538 Stats. § 62.23.

2539 (Ord. No. 1788A, § 1, 6-1-2010 (7)(l))

2540

2541 **19.25.050 Non-conforming use and registration.**

2542 In order to assist the enforcement of this zoning classification, the owner of any property claiming non-
2543 conforming use status regarding the unrelated persons limitation imposed by R-O zoning shall register
2544 with the city clerk on a form provided by the clerk within ninety days of the imposition of the zoning on
2545 the property. The information required on the registration form shall include the history of the property
2546 that supports its designation as a non-conforming use which shall include the three letter initials and
2547 dates of residency of current tenants (or most recent tenants if not currently occupied), and the three
2548 letter initials and dates of residency of all tenants who resided at the premises for the last one hundred
2549 twenty days. The party claiming the non-conforming use status shall also have a continuing requirement
2550 to update the registration information to provide the initials of current tenants. Failure to register within
2551 ninety days of the imposition of the R-O zoning classification shall cause the non-conforming use status
2552 to terminate. The city shall mail a notice of this requirement to the address on the property's real estate
2553 tax statement within fifteen days of the imposition of the zoning on the property. The non-conforming
2554 use status of any property under this chapter will be subject to the provisions contained in City of
2555 Whitewater Ordinance [Section] 19.60.010, existing non-conforming uses.

2556 (Ord. No. 1788A, § 1, 6-1-2010)

2557

2558 **Chapter 19.27 B-1 COMMUNITY BUSINESS DISTRICT**

2559 Sections:

2560 19.27.010 Purpose.

2561 19.27.020 Permitted uses.

2562 19.27.025 Permitted accessory uses.

2563 19.27.030 Conditional uses.

2564 19.27.040 Lot area.

2565 19.27.050 Lot width.

2566 19.27.060 Yard requirements.

2567 19.27.070 Lot coverage.

2568 19.27.080 Building height.

2569 19.27.090 Plan review.

2570 19.27.100 Park fees.

2571

2572 **19.27.010 Purpose.**

2573 The B-1 community business district is established to accommodate retail shopping and service needs in
2574 a manner compatible with the desired community character. The district should be located in relative
2575 proximity to residential areas and major traffic routes.

2576 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(part), 1982).

2577

2578 **19.27.020 Permitted uses.**

2579 Permitted uses in the B-1 district include:

2580 A. Art, music and school supply stores and galleries;

2581 B. Antique, hobby and craft shops;

2582 C. Automotive and related parts stores, without servicing;

2583 D. Hotels and motels;

2584 E. Small appliance repair stores, computer or software sales and service;

2585 F. Barbershops and beauty parlors;

2586 G. Banks and other financial institutions without drive-through facilities;

2587 H. Camera and photographic supply stores;

2588 I. Caterers;

2589 J. Clothing and shoe stores and repair shops;

2590 K. Clinics, medical and dental;

2591 L. Department stores;

2592 M. Drugstores;

2593 N. Florist shops;

2594 O. Food and convenience stores without gasoline pumps;

2595 P. Furniture stores;

2596 Q. Hardware stores;

2597 R. Insurance agencies;

2598 S. Jewelry stores;

2599 T. Liquor stores without drive-through facilities;

2600 U. Meat markets;

2601 V. Resale shops;

2602 W. Paint, wallpaper, interior decorating and floor covering stores;

2603 X. Professional offices;

2604 Y. Restaurants without drive-through facilities;

2605 Z. Self-service laundries and drycleaning establishments;

2606 AA. Sporting goods stores;

2607 BB. Stationery stores, retail office supply stores;

2608 CC. Variety stores;

2609 DD. Movie theaters;

- 2610 EE. Charitable or nonprofit institutions and facilities;
- 2611 FF. Tourist homes and bed and breakfasts;
- 2612 GG. Existing residences regulated by R-2 dimensional ~~standards; HH~~standards; HH. New residential
 2613 uses meeting the standards of the R-3 district, when mixed with permitted uses in a unified project;
- 2614 II. Any other similar uses not specifically listed above that are consistent with the purpose of this
 2615 district;
- 2616 JJ. The second or greater wireless telecommunications facility located on an alternative support
 2617 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
 2618 telecommunications facility, per the requirements of Chapter 19.55.
 2619 (Ord. 1499 § 12, 2001; 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(A), 1982).
- 2620 KK. Light assembly uses including electronics, pottery, printing, contractor shops (heating, electrical,
 2621 plumbing, general contracting) provided that there are no significant environmental emissions (odor and
 2622 waste)
- 2623
- 2624 **19.27.025 Permitted accessory uses.**
- 2625 Permitted accessory uses in the B-1 district include:
- 2626 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
 2627 principal use on the lot;
- 2628 B. Off-street parking and loading areas, subject to landscaping and screening requirements where
 2629 applicable;
- 2630 C. Outside storage and trash dumpsters where located outside of the required yards in Section
 2631 19.27.060 of this chapter and enclosed by a decorative opaque fence, wall or landscaping designed to
 2632 provide a total visual screen;
- 2633 D. Outside display of merchandise, which may be subject to limitations as part of site plan review;
- 2634 E. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
 2635 the sale, repair or servicing of such motor vehicles. No vehicle in inoperable condition shall be stored for
 2636 greater than thirty days;
- 2637 F. Up to two vending machines for dispensing of a product, but only if accessory to a commercial
 2638 business use. Vending machines may be lit only when the principal use on the lot is in operation, unless
 2639 such machines are screened from the public right-of-way and adjacent properties;
- 2640 G. Outdoor seating for restaurants within designated areas;
- 2641 H. Temporary retail uses, such as seasonal and special event sales, subject to the approval of the zoning
 2642 administrator, who may set specific time and area limitations;
- 2643 I. Essential services;
- 2644 J. Wireless telecommunications support facilities, per the requirements of Chapter 19.55.
 2645 (Ord. 1499 § 13, 2001; 1452 § 1(part), § 4(part), 2000).
- 2646
- 2647
- 2648 **19.27.030 Conditional uses.**
- 2649 Conditional uses in the B-1 district include:
- 2650 A. Entertainment establishments, including clubs, but excluding adult entertainment;
- 2651 B. All uses with drive-in and drive-through facilities; (for which the conditions shall, among other issues,
 2652 maintain visual continuity and attractive pedestrian movement along the ~~primary~~street frontfronts)
- 2653 C. Automobile and small engine vehicle sales or rental facilities, including incidental repair and service
 2654 within the principal building;
- 2655 D. Automobile repair and service within the principal building;
- 2656 E. Car washes;
- 2657 F. Private recreation uses;

- 2658 G. Public and semipublic uses;
- 2659 H. Taverns and other places selling alcoholic beverages by the drink; for which consideration shall be
- 2660 given but is not limited to [conditions regarding](#), the following issues:
- 2661 1. parking
- 2662 2. type of business
- 2663 3. signage
- 2664 4. outdoor seating
- 2665 5. provisions for avoiding noise and lighting nuisances
- 2666 6. buffering and fencing;
- 2667 7. compatibility with the immediately surrounding neighborhood or district
- 2668 I. New residential uses meeting the standards of the R-3 district, when mixed with conditional uses in a
- 2669 unified project;
- 2670 J. Light assembly/retail uses not permitted elsewhere in this district
- 2671 subject to the following restrictions:
- 2672 a. No environmental emission (noise, odor, waste),
- 2673 b. All truck delivery during weekdays,
- 2674 c. All of the requirements of Chapter 19.51, Traffic, Parking and Access, and Chapter 19.57, General
- 2675 Performance Standards, to be met;
- 2676 K. Gasoline service stations, including incidental repair and service within the principal building;
- 2677 L. Day care centers, adult and child;
- 2678 M. Funeral homes and crematory services;
- 2679 N. Veterinary clinics, provided that no service including animal boarding is offered outdoors;
- 2680 O. More than one principal structure on a lot;
- 2681 P. Large retail and commercial service developments, as described and regulated in Chapter 19.485.
- 2682 Q. The first wireless telecommunications facility located on an alternative support structure only, per
- 2683 the requirements of Chapter 19.55.
- 2684 (Ord. 1499 § 14, 2001; 1452 § 1(part), § 4(part), 2000: Ord. 1379 § 1, 1997; Ord. 1314 § 1, 1995; Ord.
- 2685 1296 § 2(part), 1994; Ord. 994 § 13.10(B), 1982).
- 2686 (Ord. No. 1796A, § 1, 8-3-2010)
- 2687
- 2688 **19.27.040 Lot area.**
- 2689 Minimum lot area in the B-1 district is seven thousand square feet for lots existing at the time of
- 2690 adoption of the ordinance codified in this chapter, and fifteen thousand square feet for all other lots.
- 2691 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(C), 1982).
- 2692
- 2693 **19.27.050 Lot width.**
- 2694 Minimum lot width in the B-1 district is fifty feet
- 2695 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.19(D), 1982).
- 2696
- 2697 **19.27.060 Yard requirements.**
- 2698 Minimum required yards for principal buildings, outside storage, and dumpsters in the B-1 district are:
- 2699 A. Front and street side, fifteen feet (but may be greater if needed to meet fire safety requirements);
- 2700 B. Interior side, ten feet, except that no side yard will be required for buildings designed for common
- 2701 wall construction;
- 2702 C. Rear, twenty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
- 2703 feet under a conditional use;
- 2704 D. Shore yard, seventy-five feet;

2705 E. Any yard abutting a residential district or residential use, thirty feet or the height of the nearest
2706 principal building or structure on the lot being developed, whichever is greater. Such yards shall be
2707 subject to the landscape buffer yard requirements of Section 19.57.140, except where abutting a
2708 railroad right-of-way with the approval of the plan and architectural review commission;

2709 F. There shall be no parking areas, circulation drives or accessory buildings within the required front
2710 yard setback.

2711 (Ord. 1460 § 2, 2000; Ord. 1452 § 1(part), § 4(part), 2000; Ord. 994 § 3.10(E), 1982).

2712

2713

2714 **19.27.070 Lot coverage.**

2715 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
2716 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations
2717 must still conform to the other regulations including stormwater management. Landscape and
2718 environmental features shall follow principles of sustainability and environmental quality and ~~shall~~ give
2719 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
2720 include canopy trees, understory and/or evergreen trees, and shrubs.

2721 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(F), 1982).

2722

2723 **19.27.080 Building height.**

2724 Maximum building height in the B-1 district is five stories or 100 feet (whichever is greater), with the
2725 exception that the maximum building height is three stories within 100' of a residential use or a
2726 property zoned ~~R-1, R1-x, R-2, or R-4,~~ as a residential district. The maximum building height is also
2727 subject to fire safety limitations. The maximum building height may be increased under the provisions
2728 of a conditional use permit which will include, but is not limited to, consideration of issues regarding
2729 shadows cast by buidlings, views, impacts on neighbors, and microclimate. =

2730 (Ord. 1580A § 7, 2005: Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(G), 1982).

2731

2732 **19.27.090 Plan review.**

2733 Plan review in accordance with Chapter 19.63 shall be required for any development in the B-1 district.
2734 Building design shall be consistent with the recommendations of the city's comprehensive (master) plan;
2735 contribute to the uniqueness and character of the neighborhood, district and community; and include
2736 materials, colors, styles and features tailored to the building's site and context. Substantial modifications
2737 to standardized prototype and corporate franchise designs may be required to meet these criteria.
2738 Landscaping shall be consistent with the recommendations of the city's comprehensive (master) plan;
2739 generous in quantity; aesthetically pleasing; appropriate to the site, community and region; and in
2740 accordance with accepted professional standards.

2741 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(H), 1982).

2742

2743 **19.27.100 Park fees.**

2744 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2745 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
2746 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
2747 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
2748 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
2749 was provided for park purposes at the time of subdivision, based on the calculations in Section
2750 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

2751

2752 **Chapter 19.28 B-1A University Mixed-Use Neighborhood Overlay District**

- 2753 Sections:
- 2754 19.28.010 Purpose and intent.
- 2755 19.28.020 Overlay district application.
- 2756 19.28.030 Non-family residential overlay district permissions and conditions.
- 2757 19.28.040 Parking.

2758

2759 **19.28.010 Purpose and intent.**

2760 The purpose and intent of the university mixed-use neighborhood overlay district is to provide multi-
 2761 family housing options within an active, pedestrian friendly neighborhood, and with residential units
 2762 located on upper floors while the ground level contains non-residential uses. Development and uses
 2763 should attract university students on a daily basis and provide year-round activities to encourage
 2764 students to remain in the City on weekends and summers. The district provides an opportunity for
 2765 mixed housing and commercial uses, serving both students and adjacent residents.

2766

2767 **19.28.015 Relationship to underlying zoning district classification.**

2768 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
 2769 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
 2770 zoning is applied unless specifically described in this overlay district.

2771

2772 **19.28.020 Overlay district application.**

2773 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
 2774 B-1A designation. No party other than the owner of the property, City Manager or Common Council may
 2775 apply for the B-1A university mixed-use neighborhood overlay zoning. Applications may also require a
 2776 conditional use permit. Procedures for zoning changes and amendments are further elaborated in
 2777 section 19.69

2778

2779 **19.28.030 University mixed-use neighborhood overlay district permitted and conditional uses.**

2780 Within this district, In addition to the permitted and conditional uses for B-1 a multifamily residential
 2781 building or a mixed-use building (a) with up to twelve residential units is a permitted use for new
 2782 construction and (b) more than twelve residential units per building and up to twenty-four residential
 2783 units per building may be requested as a conditional use. More than twenty-four residential units per
 2784 building are not allowed in the district. Residential units shall be limited to no more than four bedrooms
 2785 and have a minimum of two bathrooms. Architectural quality shall be subject to the architectural
 2786 review of the plan and architectural commission and include application of any architectural standards
 2787 as established by the City, for buildings in this zoning district.

2788

2789

2790 **Chapter 19.30 B-2 CENTRAL BUSINESS DISTRICT***

- 2791 Sections:
- 2792 19.30.010 Purpose.
- 2793 19.30.020 Permitted uses.
- 2794 19.30.025 Permitted accessory uses.
- 2795 19.30.030 Conditional uses.
- 2796 19.30.040 Development standards.
- 2797 19.30.050 Park fees.

2798 * Prior ordinance history: Ords. 994, 1296 and 1481.

2799

2800 **19.30.010 Purpose.**

2801 The B-2 district is established in the city's historic downtown area to accommodate retail, service, office,
2802 community, and support residential uses for citywide and regional benefit; and to advance the city's
2803 downtown revitalization objectives as expressed in adopted city plans.
2804 (Ord. 1611A § 1(part), 2006).

2805
2806

2807 **19.30.020 Permitted uses.**

2808 Permitted uses in the B-2 district include:

- 2809 A. Art and school supply stores;
- 2810 B. Arts and crafts galleries;
- 2811 C. Automotive parts sales stores, automobile sales lot and show rooms and lots;
- 2812 D. Antique or collectible shops;
- 2813 E. Bakeries or candy stores, with products for sale on premises only;
- 2814 F. Catalog and e-commerce sales outlets;
- 2815 G. Hotels and motels;
- 2816 H. Appliance repair stores, including computer sales and service;
- 2817 I. Barbershops, day spas, and beauty parlors;
- 2818 J. Banks and other financial institutions;
- 2819 K. Bookstores, stationery stores, retail office supply stores, and newsstands;
- 2820 L. Caterers;
- 2821 M. Clothing and shoe sales and repair shops;
- 2822 N. Clinics, medical and dental;
- 2823 O. Coffee shops;
- 2824 P. Cultural arts centers and museums;
- 2825 Q. Department stores;
- 2826 R. Drug stores;
- 2827 S. Florist or garden shops;
- 2828 T. Gift shops;
- 2829 U. Grocery stores;
- 2830 V. Hardware stores;
- 2831 W. Insurance, real estate, or similar agencies;
- 2832 X. Interior decorating shops;
- 2833 Y. Jewelry stores;
- 2834 Z. Paint stores;
- 2835 AA. Offices;
- 2836 BB. Post offices;
- 2837 CC. Public parking lots;
- 2838 DD. Restaurants, ice cream shops, and cafes;
- 2839 EE. Sporting goods shops;
- 2840 FF. Tourist information and hospitality centers;
- 2841 GG. Toy stores;
- 2842 HH. Travel agencies;
- 2843 II. Variety stores;
- 2844 JJ. Dance studios;
- 2845 KK. Movie theaters;
- 2846 LL. Charitable or nonprofit institutions and facilities; MM. Tourist homes and bed and breakfasts;
- 2847 NN. Residential uses above the first floor, limited to non-family household sizes applicable in the R-1
2848 and R-2 districts (see Section 19.09.520);

2849 OO. Existing residences regulated by R-2 standards;
2850 PP. Any other similar uses not specifically listed above.
2851 (Ord. 1611A § 1(part), 2006).

2852
2853 **19.30.025 Permitted accessory uses.**

2854 Permitted accessory uses in the B-2 district include:

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

2868
2869 **19.30.030 Conditional uses.**

2870 Conditional uses in the B-2 district include:

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

- 2897 4. Printing,
2898 5. Contractor shops (heating, electrical, plumbing, general contractor office),
2899 6. Lumberyards,
2900 7. Other similar uses,

2901
2902 Subject to the following restrictions:

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

2914
2915 **19.30.040 Architectural design standards.**

2916 Within the B-2 district, there shall be no minimum required ordinance design and dimensional standards
2917 or setbacks. This is being done to allow the most flexibility in the reuse and redevelopment of the
2918 downtown. Because of the lack of predefined architectural design standards, all proposed construction
2919 and remodeling activities requiring a zoning permit shall require the design review and approval of the
2920 city plan and architectural review commission in compliance with Chapter 19.63, Plan Review. Also
2921 within the B-2 district, all uses are exempted from the parking requirements of Section 19.51.130,
2922 except if off-street parking is specifically required for a particular conditional use under Section
2923 19.30.030.
2924 (Ord. 1611A § 1(part), 2006).

2925
2926 **19.30.050 Park fees.**

2927 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
2928 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
2929 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
2930 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
2931 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
2932 was provided for park purposes at the time of subdivision, based on the calculations in Section
2933 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

2934
2935 **Chapter 19.31 B-2A Downtown Housing Overlay District**

2936 Sections:

2937 19.31.010 Purpose and intent.

2938 19.31.020 Overlay district application.

2939 19.31.030 Non-family residential overlay district permissions and conditions.

2940 19.31.040 Parking.

2941
2942 **19.31.010 Purpose and intent.**

2943 The purpose and intent of downtown housing overlay district is to provide multi-family housing options
2944 adjacent to downtown that can spur additional investment in the area.

2945
2946 **19.31.015 Relationship to underlying zoning district classification.**
2947 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
2948 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
2949 zoning is applied unless specifically described in this overlay district.

2950
2951 **19.31.020 Overlay district application.**
2952 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2953 B-2A designation. No party other than the owner of the property, City Manager or Common Council may
2954 apply for the B-2A downtown housing overlay zoning. Permission will require conformance with the
2955 requirements established for the duties of the zoning administrator (section 19.75.061) Applications
2956 may also require a conditional use permit. Procedures for zoning changes and amendments are further
2957 elaborated in section 19.69

2958
2959 **19.31.030 Downtown housing overlay district permitted and conditional uses**
2960 Multi-family buildings with up to four units per building are a permitted use for new construction
2961 provided that the units shall be limited to no more than four bedrooms, have a minimum of two
2962 bathrooms, and have individual entries. Multi-family building plans shall demonstrate the inclusion or
2963 availability of adequate parking for the occupants and building users. In addition, the design of such
2964 units shall be reviewed by the Plan and Architectural Review Commission as limited to the following
2965 issues: the design can easily accommodate both student and non-student housing; the design
2966 exemplifies high quality site planning and architecture; quality open space features, or garden yards
2967 are integrated to serve as an amenity for residents.

2968
2969
2970
2971 **Chapter 19.33 B-3 HIGHWAY COMMERCIAL AND LIGHT INDUSTRIAL DISTRICT**

2972 Sections:

2973 19.33.010 Purpose.

2974 19.33.020 Permitted uses.

2975 19.33.025 Permitted accessory uses.

2976 19.33.030 Conditional uses.

2977 19.33.040 Lot area.

2978 19.33.050 Lot width.

2979 19.33.060 Yard requirements.

2980 19.33.070 Lot coverage.

2981 19.33.080 Building height.

2982 19.33.090 Plan review.

2983 19.33.100 Park fees.

2984
2985 **19.33.010 Purpose.**

2986 The B-3 highway commercial and light industrial district is established to accommodate nonnuisance
2987 type industrial commercial uses that are highway oriented or have large land area requirements. To
2988 ensure a minimum of disruption to residential neighborhoods, no development within this district shall
2989 take direct access to a local residential street, except by conditional use permit. N
2990 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(part), 1982).

2991
2992 **19.33.020 Permitted uses.**

- 2993 Permitted uses in the B-3 district include:
2994 A. All uses listed as permitted uses in the B-1 district;
2995 B. Agricultural services;
2996 C. General contracting shops;
2997 D. Lumberyards, building supply stores, and greenhouses;
2998 E. Private recreation facilities;
2999 F. Mini-warehouses;
3000 G. Public and semipublic uses;
3001 H. Other similar uses not specifically listed in this section that are consistent with the purpose of this
3002 district;
3003 I. The second or greater wireless telecommunications facility located on an alternative support
3004 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
3005 telecommunications facility, per the requirements of Chapter 19.55.
3006 (Ord. 1499 § 15, 2001; Ord. 1452 § 1(part), § 5(part), 2000; Ord. 1082 § 7, 1986; Ord. 994 § 3.12(A),
3007 1982).

- 3008
3009 **19.33.025 Permitted accessory uses.**
3010 Permitted accessory uses in the B-3 district include:
3011 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
3012 principal use on the lot;
3013 B. Off-street parking and loading areas, subject to landscaping and screening requirements if
3014 applicable;
3015 C. Outside storage and trash dumpsters, which may be subject to screening as part of site plan review;
3016 D. Outside display of merchandise, which may be subject to limitations as part of site plan review;
3017 E. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
3018 the sale, repair, or servicing of such motor vehicles. No vehicle in inoperable condition shall be stored
3019 for greater than thirty days;
3020 F. Outdoor seating for restaurants within designated areas;
3021 G. Temporary retail uses, such as seasonal and special event sales, subject to the approval of the zoning
3022 administrator, who may require specific time and area limitations;
3023 H. Vending machines for dispensing of a product, but only if accessory to a commercial business use. If
3024 more than two vending machines are accessory to one business use, such vending machines shall be
3025 screened from the public right-of-way and adjacent properties. Vending machines may be lit only when
3026 the principal use on the lot is in operation, unless such machines are completely screened from the
3027 public right-of-way and adjacent properties;
3028 I. Essential services;
3029 J. Wireless telecommunications support facilities, per the requirements of Chapter 19.55.
3030 (Ord. 1499 § 16, 2001; 1452 § 1(part), § 5(part), 2000).

- 3031
3032 **19.33.030 Conditional uses.**
3033 Conditional uses in the B-3 district include:
3034 A. Taverns and other establishments selling alcoholic beverages by the drink;
3035 for which consideration shall be given but is not limited to, [conditions regarding](#) the following issues:
3036 1. parking
3037 2. type of business
3038 3. signage
3039 4. outdoor seating
3040 5. provisions for avoiding noise and lighting nuisances

- 3041 6. buffering and fencing;
- 3042 7. compatibility with the immediately surrounding neighborhood or district
- 3043 B. All uses with drive-through facilities;
- 3044 C. More than one principal structure on a lot;
- 3045 D. New residential uses in conformance with the standards of the R-3 multifamily residence district;
- 3046 E. Automobile repair and service within a principal or accessory building;
- 3047 F. Automobile, boat, trailer and small engine vehicle sales and rental facilities, including incidental
- 3048 repair and service within a principal or accessory building;
- 3049 G. Car washes;
- 3050 H. Entertainment establishments, including clubs, but excluding adult entertainment;
- 3051 I. Funeral homes and crematory services;
- 3052 J. Gasoline service stations, including incidental repair and service within the principal building;
- 3053 K. Light industry;
- 3054 L. Motor freight transportation;
- 3055 M. Veterinary clinics, provided that no service including animal boarding is offered outdoors;
- 3056 N. Warehousing;
- 3057 O. Wholesale trade of durable and nondurable goods;
- 3058 P. Large retail and commercial service developments, as described and regulated in Chapter 19.485.
- 3059 Q. Light manufacturing and retail uses
- 3060 R. All nonresidential uses with vehicular access onto a local (not a collector or arterial) street that is
- 3061 intended to provide access to mostly residential uses;
- 3062 S. The first wireless telecommunications facility located on an alternative support structure only, per
- 3063 the requirements of Chapter 19.55.
- 3064 (Ord. 1499 § 17, 2001; 1452 § 1(part), § 5(part), 2000: Ord. 1380 § 1, 1997; Ord. 994 § 3.12(B), 1982).
- 3065 (Ord. No. 1796A, § 2, 8-3-2010)
- 3066
- 3067 **19.33.040 Lot area.**
- 3068 Minimum lot area in the B-3 district is ten thousand square feet.
- 3069
- 3070 **19.33.050 Lot width.**
- 3071 Minimum lot width in the B-3 district is one hundred feet.
- 3072 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(D), 1982).
- 3073
- 3074 **19.33.060 Yard requirements.**
- 3075 Minimum required yards for principal buildings, outside storage, and dumpsters in the B-3 district are:
- 3076 A. Front and street side, fifteen feet (but may be greater if needed to meet fire safety requirements);
- 3077 B. Interior side, fifteen feet; (but may be greater if needed to meet fire safety requirements); C. Rear,
- 3078 twenty feet, except the rear yard setback to any railroad right-of-way shall be fifteen feet under a
- 3079 conditional use;
- 3080 (but may be greater if needed to meet fire safety requirements);
- 3081
- 3082 D. Shore yard, seventy-five feet;
- 3083 E. Any yard abutting a residential district or use, thirty feet or the height of the nearest principal
- 3084 building or structure being developed, whichever is greater. Such yards shall be subject to the landscape
- 3085 buffer yard requirements of Section 19.57.140, except where abutting a railroad right-of-way with the
- 3086 approval of the plan and architectural review commission.
- 3087 (Ord. 1460 § 1, 2000; Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(E), 1982).

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19.33.070 Lot coverage.

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

19.33.080 Building height.

Maximum building height in the B-3 district is five stories or 100 feet (whichever is greater), with the exception that the maximum building height is three stories within 100' of a residential use or property zoned as a residential district.~~R-1, R1-x, R-2, or R-4,~~ The maximum building height is also subject to fire safety limitations. The maximum building height may be increased under the provisions of a conditional use permit which will include, but is not limited to, consideration of issues regarding shadows cast by buidlings, views, impacts on neighbors, and microclimate.

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

19.33.090 Plan review.

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

19.33.100 Park fees.

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

Chapter 19.36 M-1 GENERAL MANUFACTURING DISTRICT

Sections:

- 19.36.010 Purpose.
- 19.36.020 Permitted uses.
- 19.36.030 Conditional uses.
- 19.36.040 Lot area.
- 19.36.050 Lot width.
- 19.36.060 Yard requirements.
- 19.36.070 Lot coverage.
- 19.36.080 Building height.
- 19.36.090 Buffer screening.

3135
3136 **19.36.010 Purpose.**
3137 The M-1 general manufacturing district is established to accommodate a wide range of
3138 industrial uses, and to preserve and protect lands for future industrial use.
3139 (Ord. 994 § 3.13(part), 1982).

3140
3141 **19.36.020 Permitted uses.**
3142 Permitted uses in the M-1 district include:
3143 A. Manufacturing, fabrication, packing, packaging and assembly of products from furs, glass, leather,
3144 metals, paper, plaster, plastics, textiles, clays and woods, and similar materials;
3145 B. Freight terminals, truck servicing and parking, warehousing and inside storage;
3146 C. Research facilities;
3147 D. Offices;
3148 E. Retail sales and services that are linked to a manufacturing or warehousing use;
3149 ~~F. Public and semipublic uses;~~
3150 ~~H.F.~~ More than one principal structure on a lot when the additional building is a material and direct part
3151 of the primary business
3152 ~~H.G.~~ Any similar uses not specifically listed that can comply with the performance standards listed in
3153 Chapter 19.57;
3154 ~~H.H.~~ The second or greater wireless telecommunications facility located on an alternative support
3155 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
3156 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
3157 accessory uses, all per the requirements of Chapter 19.55.
3158 (Ord. 1499 § 18, 2001; Ord. 994 § 3.13(A), 1982).

3159
3160 **19.36.030 Conditional uses.**
3161 Conditional uses in the M-1 district include:
3162 ~~A.B.~~ Wireless telecommunications facilities, per the requirements of Chapter 19.55.
3163 (Ord. 1499 § 19, 2001; Ord. 1315 § 1, 1995; Ord. 994 § 3.13(B), 1982).
3164 ~~C.B.~~ Salvage yards;
3165 C. Day care facilities

3166
3167 **19.36.040 Lot area.**
3168 Minimum lot area in the M-1 district is twenty thousand square feet.
3169 (Ord. 994 § 3.13(C), 1982).

3170
3171 **19.36.050 Lot width.**
3172 Minimum lot width in the M-1 district is one hundred fifty feet.
3173 (Ord. 994 § 3.13(D), 1982).

3174
3175 **19.36.060 Yard requirements.**
3176 Minimum yard requirements for the M-1 district are:
3177 A. Front, thirty feet;
3178 B. Side, fifteen feet, corner lots thirty feet;
3179 C. Rear, thirty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
3180 feet under a conditional use;
3181 D. Shore, seventy-five feet.
3182 (Ord. 1460 § 3, 2000; Ord. 994 § 3.13(E), 1982).

3183
3184 **19.36.070 Lot coverage.**
3185 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
3186 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations
3187 must still conform to the other regulations including stormwater management. Landscape and
3188 environmental features shall follow principles of sustainability and environmental quality and shall give
3189 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
3190 include canopy trees, understory and/or evergreen trees, and shrubs.
3191 (Ord. 994 § 3.13(F), 1982).

3192
3193 **19.36.080 Building height.**
3194 Maximum building height in the M-1 district is 100 feet., with the exception that the maximum building
3195 height is three stories within 100' of a residential use or a property zoned as a residential district.~~R-1,~~
3196 ~~R-1-x, R-2, or R-4,~~ The maximum building height is also subject to fire safety limitations. The maximum
3197 building height may be increased under the provisions of a conditional use permit. which will include,
3198 but is not limited to, consideration of issues regarding shadows cast by buidlings, views, impacts on
3199 neighbors, and microclimate.
3200
3201 (Ord. 994 § 3.13(G), 1982).

3202
3203 **19.36.090 Buffer screening.**
3204 Where the M-1 district boundaries adjoin any residential district boundary, a screen or buffer yard as
3205 described in Section 19.57.140 shall be required. This provision shall be applied to new construction and
3206 alterations to existing structures or uses that result in an increase in the level of nuisance. Only the area
3207 of the nuisance shall require screening.
3208 (Ord. 994 § 3.13(H), 1982).

3209
3210 **19.36.100 Architectural review.**
3211 No building or improvements shall be erected, placed or altered on any building site in an M-1 district
3212 park until the plans and use for such building or improvements (including site plans, landscaping plans,
3213 accommodation of environmental features, building plans, and specifications) have been approved
3214 through the architectural review process. The plan and architectural review commission's functions
3215 under Chapter 19.63 shall be delegated to the Community Development Authority or its designee as
3216 approved by the City Council.

3217 3218 **Chapter 19.37 M-2 MANUFACTURING AND MISCELLANEOUS USE DISTRICT**

3219 Sections:

3220 19.37.010 Purpose.

3221 19.37.020 Permitted uses.

3222 19.37.030 Conditional uses.

3223 19.37.040 Lot area.

3224 19.37.050 Lot width.

3225 19.37.060 Yard requirements.

3226 19.37.070 Lot coverage.

3227 19.37.080 Building height.

3228 19.37.090 Buffer screening.

3229
3230 **19.37.010 Purpose.**

3231 The M-2 manufacturing and miscellaneous use district is established to accommodate a wide range of
3232 industrial uses, to preserve and protect lands for future industrial use, and to provide an opportunity for
3233 miscellaneous uses set forth herein which are not specifically allowed in other districts. Adult-oriented
3234 establishments shall only be allowed in the M-2 district.
3235 (Ord. 1613A § 1(part), 2006).

3236
3237 **19.37.020 Permitted uses.**

3238 Permitted uses in M-2 district include:

- 3239 A. All uses listed as permitted uses in the M-1 district;
3240 B. Adult-oriented establishments as defined in Section 19.09.025.
3241 (Ord. 1613A § 1(part), 2006).

3242
3243 **19.37.030 Conditional uses.**

3244 Conditional uses in the M-2 district include:

- 3245 A. All uses listed as conditional uses in the M-1 district.
3246 (Ord. 1613A § 1(part), 2006).

3247
3248 **19.37.040 Lot area.**

3249 Minimum lot area in the M-2 district is twenty thousand square feet. The Community
3250 Development Authority can decrease the minimum lot area for adult-oriented establishments if it finds
3251 that a decrease is appropriate.
3252 (Ord. 1613A § 1(part), 2006).

3253
3254 **19.37.050 Lot width.**

3255 Minimum lot width in the M-2 district is one hundred fifty feet. The Community Development
3256 Authority can decrease the minimum lot width for adult-oriented establishments if it finds that a
3257 decrease is appropriate.
3258 (Ord. 1613A § 1(part), 2006).

3259
3260 **19.37.060 Yard requirements.**

3261 Minimum yard requirements for the M-2 district are:

- 3262 A. Front, thirty feet;
3263 B. Side, fifteen feet; corner lots, thirty feet;
3264 C. Rear, thirty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
3265 feet under a condition use;
3266 D. Shore, seventy-five feet.
3267 (Ord. 1613A § 1(part), 2006).

3268
3269 **19.37.070 Lot coverage.**

3270 There is no maximum percentage lot coverage for buildings with the exception of the provisions needed
3271 for landscape, circulation, and other site planning considerations. . Building size, coverage, and locations
3272 must still conform to the other regulations including stormwater management. Landscape and
3273 environmental features shall follow principles of sustainability and environmental quality and shall give
3274 locate landscape elements in highly visible locations, especially in the fronts of buildings, and should
3275 include canopy trees, understory and/or evergreen trees, and shrubs.

3276 **19.37.080 Building height.**

3277 Maximum building height in the M-2 district is 100 feet, with the exception that the maximum building
3278 height is three stories within 100' of a [residential use or a](#) property zoned [as a residential district.](#) ~~R-1,~~

3279 ~~R-1, R-2, or R-4~~, The maximum building height is also subject to fire safety limitations. The maximum
3280 building height may be increased under the provisions of a conditional use permit= which will include,
3281 but is not limited to, consideration of issues regarding shadows cast by buidlings, views, impacts on
3282 neighbors, and microclimate.
3283 (Ord. 1613A § 1(part), 2006).
3284

3285 **19.37.090 Buffer screening.**

3286 Where the M-2 district boundaries adjoin any residential district boundary, a screen or buffer
3287 yard as described in Section 19.57.140 shall be required. This provision shall be applied to new
3288 construction and alterations to existing structures or uses that result in an increase in the level of
3289 nuisance. Only the area of the nuisance shall require screening.
3290 (Ord. 1613A § 1(part), 2006).
3291

3292 **19.37.100 Architectural review.**

3293 No building or improvements shall be erected, placed or altered on any building site in an M-~~1~~2 district
3294 park until the plans and use for such building or improvements (including site plans, landscaping plans,
3295 accommodation of environmental features, building plans, and specifications) have been approved
3296 through the architectural review process. The plan and architectural review commission's functions
3297 under Chapter 19.63 shall be delegated to the Community Development Authority or its designee as
3298 approved by the City Council.
3299
3300

3301 **Chapter 19.38 WHITEWATER UNIVERSITY TECHNOLOGY PARK DISTRICT (WUTP DISTRICT)**

3302 19.38.010 Purpose.

3303 19.38.020 Creation of architectural review committee.

3304 19.38.030 Permitted uses.

3305 19.38.040 Conditional uses.

3306 19.38.050 Lot area and lot width requirements.

3307 19.38.060 Floor area ratio.

3308 19.38.070 Yard requirements.

3309 19.38.090 Lot coverage.

3310 19.38.100 Building height.

3311 19.38.110 Development standards.
3312

3313 **19.38.010 Purpose.**

3314 The WUTP district is established to provide an aesthetically attractive working environment exclusively
3315 for and conducive to the development and protection of offices; research, testing, and development
3316 institutions; and certain specialized manufacturing establishments compatible with an office and
3317 research setting, all of a non-nuisance-type and public parks. The essential purpose of this district is to
3318 achieve development which is practical, feasible and economical and an asset to the owners, neighbors
3319 and the community and to promote and maintain desirable economic development activities in a park
3320 like setting with well designed sites and buildings.
3321 (Ord. No. 1747A, § 1, 9-15-2009)
3322

3323 **19.38.020 Creation of architectural review committee.**

3324 Upon the mapping of any WUTP district, there shall be established an architectural review committee
3325 for the district. No building or improvements shall be erected, placed or altered on any building site in
3326 the technology park until the plans and use for such building or improvements, including site plans,

3327 landscaping plans, building plans, and specifications have been approved by the WUTP architectural
3328 review committee (ARC). Zoning permit applicants in the WUTP district are subject to all plan review
3329 requirements set forth in Chapter 19.63 of the Whitewater Municipal Code. The plan and architectural
3330 review commission's functions under Chapter 19.63 shall be delegated to the architectural review
3331 commission. The ARC shall consist of one city council member, a member of the plan and architectural
3332 review commission of the City of Whitewater to be appointed annually by the plan commission, the City
3333 Manager of the City of Whitewater, the Chancellor of the University of Wisconsin-Whitewater, two
3334 members appointed by the Chancellor of the University of Wisconsin-Whitewater, two citizens of the
3335 City of Whitewater appointed by the city council of the City of Whitewater, and one member of the
3336 community development authority of the City of Whitewater to be appointed by the CDA. The ARC shall
3337 organize and adopt rules for its own governance. Officers shall be elected from the membership for
3338 terms of one year. Meetings shall be open to the public unless closed for appropriate legal reasons, and
3339 shall be held at the call of the chairman. Minutes shall be kept showing actions taken, and shall be a
3340 public record. Quorum shall be five members, and all actions shall require the concurring vote of at least
3341 five members. In cases where the ARC has not been formed or is unable to act on the matter, all actions
3342 normally assigned to the ARC shall be reassigned to the City of Whitewater Plan and Architectural
3343 Review Commission. The City of Whitewater Plan and Architectural Review Commission shall retain the
3344 exclusive authority to grant and review or deny conditional use permits in the WUTP district, where
3345 required.

3346 (Ord. No. 1747A, § 1, 9-15-2009)

3347

3348 **19.38.030 Permitted uses.**

3349 Permitted uses in the WUTP district include:

- 3350 1. Production, or processing, cleaning, servicing, testing or repair of materials, goods or products,
3351 limited to the following uses, products, components, or circumstances:
- 3352 a. Electronic and electrical products and instruments, such as transistors, semiconductors, small
3353 computers, scanners, monitors and compact communication devices.
 - 3354 b. High technology products related to the fields of physics, oceanography, astrophysics, metallurgy,
3355 chemistry, biology, or other scientific field offered for study at the University of Wisconsin-Whitewater.
 - 3356 c. Laser technology, radiology, X-ray and ultrasound products, manufacturing and assembly.
 - 3357 d. Medical and dental supplies.
 - 3358 e. Optical, fiber optical and photographic products and equipment.
 - 3359 f. Orthopedic and medical appliances, such as artificial limbs, brace supports and stretchers.
 - 3360 g. Products related to process design, process simulation, computer hardware and software
3361 development, and safety engineering.
 - 3362 h. Scientific and precision instruments and components, including robotics.
- 3363 2. Research, development and testing laboratories, including testing facilities and equipment.
- 3364 3. Business and professional offices.
- 3365 4. Pilot plants or other facilities for the testing of manufacturing, processing or fabrication methods, or
3366 for the testing of products or materials.
- 3367 5. Telecommunication centers (not including wireless telecommunication facilities as regulated in
3368 Section 19.55).
- 3369 6. Accessory uses, (which shall be accessory uses to principal use on-site), including the following:
- 3370 a. Educational or training centers or institutions.
 - 3371 b. Nursery schools or day care centers for children of employees on the site.
 - 3372 c. Temporary buildings for construction purposes, for a period not to exceed the duration of such
3373 construction.

- 3374 d. Reproduction processes related to a primary function including printing, blueprinting, photostating,
- 3375 lithographing, engraving, stereotyping, publishing and bookbinding.
- 3376 e. Wholesaling of goods and merchandise manufactured or produced on the premises.
- 3377 f. The generation of power via a local energy system, with the primary purpose of supplying energy to
- 3378 the principal use being conducted on the lot.
- 3379 g. The fabrication of products in conjunction with a research, development, or testing laboratory as the
- 3380 principal use.
- 3381 h. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
- 3382 principal use on the lot;
- 3383 i. Off-street parking and loading areas, subject to landscaping and screening requirements where
- 3384 applicable;
- 3385 j. Trash dumpsters where located outside of the required yards in Section 19.38.070 of this chapter and
- 3386 enclosed by a decorative opaque fence, wall or landscaping designed to provide a total visual screen;
- 3387 k. Outdoor seating for restaurants within designated areas;
- 3388 l. Outdoor eating and recreation areas;
- 3389 m. Essential services;
- 3390 n. Health clubs, banks and other financial institutions, medical, dental and optical clinics, barbershops,
- 3391 beauty parlors, or similar retail establishments;
- 3392 o. Conference centers.
- 3393 7. Restaurants, without drive-up or drive-through service.
- 3394 8. Colleges and universities (not including housing or residential uses).
- 3395 9. Public parks and public recreation use facilities, including but not limited to Morraine View Park and
- 3396 the planned athletic facilities, trail and possible playground therein.
- 3397 (Ord. No. 1747A, § 1, 9-15-2009)

3398
3399 **19.38.040 Conditional uses.**

3400 Conditional uses in the WUTP district include:

- 3401 1. Parking facilities, open and accessory, for the storage of private passenger automobiles only, when
- 3402 located elsewhere than on the same zoning lot as the principal use served.
- 3403 2. Public utility and public service uses as follows:
- 3404 a. Bus turnarounds (off-street), bus transfer points.
- 3405 b. Electric substations.
- 3406 c. Gas regulator stations, mixing stations and gate stations.
- 3407 d. Radio, television, and telecommunication towers and wireless telecommunication facilities meeting
- 3408 the standards of Section 19.55.
- 3409 e. Railroad passenger stations.
- 3410 f. Railroad rights-of-way.
- 3411 g. Sewerage system lift stations.
- 3412 h. Telephone exchanges, microwave relay towers, telephone transmission equipment buildings and
- 3413 service yards.
- 3414 i. Electric generator which serves a principal use located on the zoning lot and is capable of providing
- 3415 electricity for off-site use provided:
- 3416 | (a). The electric output is less than three thousand kilowatts and said generator is operated no more
- 3417 | than two hundred hours per year;
- 3418 | (b). The location of every generator shall be not less than twenty feet from any zoning lot which
- 3419 | permits residential uses; and,
- 3420 | (c). Said generator shall be located and screened so as to reduce the visual impact of the generator
- 3421 | from neighboring property and to be compatible with neighboring structures and the character of the

3422 community. This may include screening with materials similar in appearance to those used for the
3423 principal structure on the zoning lot, and landscaping or fencing as approved by the architectural review
3424 committee.

3425 j. Water pumping stations and reservoirs.

3426 3. Any production, or processing, cleaning, servicing, testing or repair of materials, goods or products,
3427 limited to the following uses, products, components, or circumstances:

3428 a. Cameras and other photographic equipment.

3429 b. Ceramic products, such as pottery, figurines and small glazed tiles.

3430 c. Cosmetics and toiletries, drugs, perfumes, and perfumed soaps.

3431 d. Drugs and pharmaceutical products.

3432 e. Electrical appliances, such as lighting fixtures, irons, fans and toasters.

3433 f. Electrical equipment assembly, such as home radio and television receivers and home movie
3434 equipment, but not including electrical machinery.

3435 g. Electrical supplies manufacturing and assembly, such as wire and cable assembly, switches, lamps,
3436 insulation and dry cell batteries.

3437 h. Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork,
3438 feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious and semiprecious stones,
3439 rubber, shell, wood (but not including a planing mill) and yarn.

3440 i. Products related to material research and development in such areas as prepared glass, ceramics,
3441 carbon fiber, metals, textiles, polymers, plastics, chemical foams and inorganic chemicals such as liquid
3442 crystals, and synthetic fuels.

3443 j. Small-scale products (finished weight not exceeding fifty pounds) related to energy, environmental,
3444 telecommunications, or satellite applications.

3445 k. Small-scale products (finished weight not exceeding fifty pounds) related to the resource industries
3446 of agriculture and food production, forestry, petrochemicals and mining.

3447 l. Specific products not listed above but similar in intent and character and which may be defined as
3448 being produced or assembled manually or by a light industrial process by virtue of the use of only light
3449 machinery; being conducted entirely within enclosed substantially constructed buildings; in which the
3450 open area around such buildings is not used for storage of raw materials or manufactured products, or
3451 for any industrial purpose other than loading and unloading operations; which are not noxious or
3452 offensive by reason of emission of smoke, dust, fumes, odors, noise, or vibrations beyond the confines
3453 of the building.

3454 5. Outside storage areas, subject to the development standards in Section 19.38.110.

3455 6. Day care centers.

3456 7. Other uses substantially consistent with or linked to the goals of the WUTP including
3457 retail sales and services and food and beverage sales and services.

3458 (

3459 Ord. No. 1747A, § 1, 9-15-2009)

3460

3461 **19.38.050 Lot area and lot width requirements.**

3462 In the WUTP district, there shall be provided a lot area of not less than one acre and a lot width
3463 of not less than one hundred feet.

3464 (Ord. No. 1747A, § 1, 9-15-2009)

3465

3466 **19.38.060 Floor area ratio.**

3467 In the WUTP district, the floor area ratio shall not exceed 3.0.

3468 (Ord. No. 1747A, § 1, 9-15-2009)

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19.38.070 Yard requirements.

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

1. Front yard twenty-five feet, except as indicated on the city's official map.
2. Side yard--Each side, fifteen feet. On corner lots, twenty-five feet for side yard adjoining an arterial highway and twenty-five feet for side yard adjoining other streets.
3. Rear yard--Thirty feet.
4. Environmental corridor or wetland yard. Adjacent to any mapped environmental corridor, as defined by the Southeastern Wisconsin Regional Planning Commission, or a delineated wetland as approved by the agency with jurisdiction--Thirty feet.
5. Parking lots and associated circulation drive aisles may extend into normal interior side or rear yard setbacks, but not into front or street side yard setbacks.

(Ord. No. 1747A, § 1, 9-15-2009)

19.38.090 Lot coverage.

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

(Ord. No. 1747A, § 1, 9-15-2009)

19.38.100 Building height.

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

(Ord. No. 1747A, § 1, 9-15-2009)

19.38.110 Development standards.

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

1. Building design and materials. The exterior appearance of any building constructed in this district shall be compatible with that of adjoining structures within the district, especially as it relates to rooflines and building materials. Permitted materials shall include masonry, concrete, stone, Exterior Insulation and Finish System (EIFS), Dry-vit, glass, and decorative architectural grade metal as a design detail, except where other quality materials are also allowed by the architectural review committee.
2. Accessory off-street parking and loading. Accessory off-street parking lots, loading berths, and access driveways shall be located, designed and improved so as to provide for safe and convenient access from adjoining streets, safe and convenient circulation within the site, and an aesthetically pleasing site design. Parking lots and access driveways shall be designed and located so that such facilities do not provide a direct unlandscaped view from the street to the parking lot or access driveway.
3. Landscaping and site development. To provide a park-like setting, all lots shall be landscaped, including the provision of canopy-type shade trees. When adjacent, connected, or within 30 feet of an environmental corridor or environmental corridor buffer : all existing mature, healthy trees shall be retained and protected, where possible, during construction as per City of Whitewater Forestry Guidelines. All land areas not covered by buildings, structures, storage areas, parking lots, loading areas

3517 and driveways, shall be landscaped and maintained. Landscaping shall mean decorative plazas, mounds,
3518 environmental preserves, enhancements of wetlands, stormwater features designed as landscape
3519 enhancements, features incorporated into the landscape for the purpose of improving sustainability of
3520 the site, pools or the planting of grass, shrubs, trees and other plant materials or other comparable
3521 surface cover.

3522 4. Storage areas. All storage, except for licensed motor vehicles in operable condition, shall be within
3523 completely enclosed buildings or effectively screened from adjoining properties and public rights-of-way
3524 by an opaque screening wall or fence with such wall or fence not less than six feet nor more than eight
3525 feet in height, and no materials stored shall exceed the height of such screening wall or fence. All
3526 outside storage areas shall be located to the rear of buildings and shall be limited to not more than five
3527 percent of the total lot area. Landscaping shall be required on the outside of the opaque screen wall or
3528 fence.

3529 5. Signs. All signs shall meet applicable standards in Chapter 19.54, and the specific requirements set
3530 forth for the M-1 district in the table contained in 19.54.052.

3531 a. No ground sign shall exceed a maximum height of eight feet and a maximum gross area of forty-eight
3532 square feet. All ground signs shall be incorporated in the landscape plan, including the provision of plant
3533 materials at the base of such signs.

3534 6. Prohibited site uses. No use shall be so conducted as to cause the harmful discharge of any waste
3535 materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any
3536 water system or water, or into the atmosphere. All uses shall be conducted in such a manner so as to
3537 preclude any nuisance, hazard, or commonly recognized offensive conditions or characteristics,
3538 including creation or emission of dust, gas, smoke, noise, fumes, odors, vibrations, particulate matter,
3539 chemical compounds, electrical disturbance, humidity, heat, cold, glare, or night illumination. 7. Uses
3540 required to be enclosed. All business, servicing, or processing shall be conducted within completely
3541 enclosed buildings, except for the following:

3542 a. Off-street parking and off-street loading;

3543 b. Drive-up service windows for banks and other financial institutions.

3544 8. Truck parking. Parking of trucks as an accessory use, when used in the operation of a permitted
3545 business, shall be limited to vehicles of not over one and one-half tons of capacity when located within
3546 one hundred fifty feet of a residential district boundary line.

3547 (Ord. No. 1747A, § 1, 9-15-2009)

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3549

3550 **Chapter 19.39 PD PLANNED DEVELOPMENT DISTRICT***

3551 Sections:

3552 19.39.010 Purpose and intent.

3553 19.39.020 Permitted uses.

3554 19.39.030 Lot, building, yard and parking requirements.

3555 19.39.040 Proposed developments--Criteria for approval.

3556 19.39.050 Procedures for rezoning, general development plan (GDP), and specific implementation plan
3557 approval.

3558 19.39.060 Modifications and changes.

3559 19.39.070 Park fees.

3560 * Prior Ordinance History: Ords. 994, 1452, and 1481.

3561

3562 **19.39.010 Purpose and intent.**

3563 A. The planned development (PD) district is established to promote improved environmental design
3564 and innovative uses of land in the city. To this intent, this district allows variation in the relationship of

3565 uses, structures and open spaces in developments conceived and implemented as cohesive, unified
3566 projects.

3567 B. The PD District is intended to allow desirable innovative development activities that demonstrate
3568 cohesive site planning higher quality urban design, architectural design, and public places. This district is
3569 also intended to facilitate developments which would add substantially to the net economic value of the
3570 community (as determined by measuring the expected short-term and long-term costs and revenues).
3571 This district is not intended solely to simply circumvent the intent of other zoning districts, or to seek
3572 variance from other district regulations, or to avoid practices consistent with the general health and
3573 social and economic value of the neighborhood or immediate context.

3574 C. New residential development shall follow the occupancy regulations of the underlying zoning district
3575 unless expressly modified by the PD district.

3576
3577 **19.39.020 Permitted uses.**
3578 In the PD District, any permitted or conditional use in any of the other districts in this title, or
3579 mix of uses, may be permitted subject to the criteria listed below. Any plans, uses, or requirements
3580 approved by the city as part of a PD general development plan or specific implementation plan shall be
3581 construed to be and enforced as part of this title.
3582 (Ord. 1511 § 2(part), 2002).

3583
3584 Permitted uses, subject to the criteria listed below, also include large retail and commercial service
3585 developments (with 80,000 square feet or more on the ground floor). All large format retail
3586 developments shall address the issues in Chapter 19.485 for Large Retail and Commercial Service
3587 Development Standards, and shall include, as part of the PD, specific plans for short-term and long-term
3588 redevelopment of the PD if and when the initial retail development should diminish in economic activity
3589 and value. Diminishment of economic activity and value shall include: (a) vacancy of 25% or more of the
3590 primary buildings, (b) new uses of the primary buildings which result in a significant reduction of
3591 property value, and (c) new uses which result in a material decrease in use of the buildings by customers
3592 and thereby reduce the viability of surrounding economic activities. Such plans should be achievable
3593 with no significant cost to the City and in a manner that protects the economic value of adjacent
3594 development.

3595
3596 **19.39.030 Lot, building, yard and parking requirements.**
3597 In the PD District, there shall be no specified lot area, lot width, yard, height, parking or open space
3598 requirements. Recommendations to be discussed are defined by Sections 19.39.040. Any lot, building,
3599 yard, or parking requirements approved by the city as part of a PD general development plan or specific
3600 implementation plan shall be construed to be and enforced as part of this title.
3601 (Ord. 1511 § 2(part), 2002).

3602
3603 **19.39.040 Proposed developments--issues for consideration.**
3604 As a basis for determining the acceptability of applications for rezoning to the PD District, and
3605 with regard to the principles of Traditional Neighborhood Development the following criteria shall be
3606 considered in the review of the proposed development. ~~T=~~ these issues are not mandatory guidelines
3607 nor are not requirements, but issues to be discussed and considered by all parties involved in the PD
3608 review and approval process and subject to negotiation and variations for each individual proposal and
3609 components of proposals:

3610 A. Compatibility with vegetation and topography and with the visual character of the surrounding
3611 buildings in the neighborhood or district context .

- 3612 B. The value of the proposed project to the community aesthetically and the way in which the buildings
3613 blend, harmonize, improve, and/or complement the surrounding neighborhood.
- 3614 C. Impact on traffic or parking with regard to the surrounding area, proposed facilities, the width and
3615 location of streets, the appropriateness of paving and lighting relative to proposed uses and the
3616 surrounding area, and public safety as determined by the city.
- 3617 D. Impact of the proposed development upon the City's water supply, sanitary sewer and storm water
3618 drainage systems.
- 3619 E. Impact of the proposed development on existing businesses in the immediate area as well as other
3620 businesses outside the immediate area that are likely to be impacted by the new development
- 3621 F. Provisions for the long-term preservation and maintenance of open space.
- 3622 G. Compactness of the development
- 3623 H. Integration of different uses, including residential, commercial, civic, and open space; the desirable
3624 proximity of uses to one another; the degree to which the mix of uses accommodates the needs of
3625 ~~different types~~ a variety of people, ages, and social groups
- 3626 I. Preservation and/or reuse of existing buildings and buildings with historical or architectural features
3627 that enhance the visual character of the community;
- 3628 J. Incorporation of significant environmental features into the design; and
- 3629 K. General consistency with the City of Whitewater's comprehensive (master) plan.
3630 (Ord. 1511 § 2(part), 2002).

3631
3632 (Ord. 1511 § 2(part), 2002).

3633
3634 **19.39.050 Procedures for rezoning, general development plan (GDP), and specific implementation**
3635 **plan (SIP) approval.**

- 3636 A. Step 1: Procedure for Rezoning.
- 3637 1. The procedure for rezoning to the PD District shall be the same as for any other zoning district
3638 change (see Chapter 19.69), except that in addition, twenty copies of a general development plan shall
3639 be submitted to and approved by the city council following a recommendation by the plan commission.
3640 The general development plan of the proposed project shall include the following.
- 3641 a. A site inventory and analysis map with topography at two foot contours to identify site assets,
3642 resources, and constraints, including but not limited to floodplains, wetlands, soils with limitations for
3643 building development, utility easements, slopes greater than fifteen percent, and existing trees over
3644 four inches in diameter;
- 3645 b. A conceptual site plan or neighborhood development plan, at a scale of no less than one inch equals
3646 one hundred feet, which indicates proposed building outlines within the context of the surrounding
3647 streets and blocks, location of streets, options (if any) for cross-easements, driveways, parking areas
3648 (including options, if any, for shared parking), sidewalks and bicycle paths, service access areas for
3649 receiving material and trash removal, and other impervious surfaces;
- 3650 c. A utility feasibility analysis, including a map showing the general locations of proposed public utility
3651 connections;
- 3652 d. The location of recreational and open space areas reserved or dedicated to the public;
- 3653 e. A conceptual landscape plan showing general locations and types of proposed landscaping, including
3654 maintenance of existing vegetation where appropriate;
- 3655 f. A phasing plan, where applicable;
- 3656 g. A conceptual stormwater management plan identifying the proposed patterns of major stormwater
3657 run-off, locations of stormwater infiltration areas, and other significant stormwater management
3658 features;

3659 h. Typical proposed building elevations identifying the architectural style(s) of the development shown
3660 in the context of street elevations that depict several of the buildings on each side of the proposed
3661 building ;

3662 i. A written report that provides general information about the site conditions, development objectives,
3663 covenants, conservation easements, or agreements that will influence the use and maintenance of the
3664 proposed development may be required for larger or more complex projects;

3665 j. Any other data required by the plan commission in order to evaluate the development.

3666 2. Upon city council approval and adoption of the general development plan and associated zoning
3667 change to the PD District, all plans submitted as well as other commitments, conditions of approval,
3668 restrictions and other factors pertinent to assuring that the project will be carried out as presented, shall
3669 be filed with the zoning administrator and shall be referred to in regard to enforcement or modification
3670 of the general development plan.

3671 3. If applicant does not submit and have approved at least one specific implementation plan for a
3672 planned development within two years of city approval of a rezoning to the planned development
3673 district, the previously approved general development plan shall be considered null and void. A new
3674 petition and approval process shall be required to obtain approval of the same or a revised general
3675 development plan.

3676 B. Step 2: Specific Implementation Plan Approval.

3677 1. Detailed plans, described below under the Specific Implementation Plan (SIP) submittal
3678 requirements, are not required to be submitted at the time the PD zoning is approved; however, the
3679 GDP and SIP review process may be combined and made faster by doing so. Before any building permit
3680 is issued, the plan commission shall review and approve a SIP. If the approved GDP specified that
3681 development of the site would proceed in phases, the plan commission may approve an SIP covering
3682 only a portion of the previously approved GDP area. The applicant shall file twenty copies of the SIP with
3683 the plan commission. In addition to meeting all application requirements for plan review under Section
3684 19.63.020, the SIP application shall include the following:

3685 a. Where a land division or lot consolidation is proposed, a final plat or Certified Survey Map (CSM) of
3686 the entire development area included in the SIP, meeting all requirements of Chapter 18, the city's land
3687 division and subdivision regulations;

3688 b. For multi-lot PD's, a detailed neighborhood development plan showing the arrangement, design, and
3689 uses of different lots, buildings, driveways, parking areas, parks and open spaces, and paths.

3690 c. Typical elevations or detailed design standards for single- and two-family residential buildings and
3691 detailed elevations of all proposed non-residential, mixed use, and multi-family residential buildings.
3692 Such detailed elevations shall meet the requirements of Section 19.63.020 and identify all wall signs; the
3693 percentage of ground floor commercial facade in windows; and the location, height and materials for
3694 screening walls and fences, including those proposed to surround outdoor trash and recyclable storage
3695 areas, electrical, mechanical and gas metering equipment, and rooftop equipment; where building
3696 construction is not imminent, detailed design standards that will apply to all non-residential buildings
3697 may substitute for detailed elevations, if approved by the zoning administrator;

3698 d. Signage plans demonstrating a unified or compatible sign design theme for major signage in the PD;

3699 e. A detailed storm water management and erosion control plan;

3700 f. Arrangements, bylaws, provisions or covenants which govern the organizational structure, use,
3701 architectural standards, maintenance and continued protection of the planned development.

3702 2. At a regular meeting, the plan commission shall approve, conditionally approve with changes
3703 consistent with the approved general development plan, or reject the SIP. An SIP for a PD development
3704 that is consistent with the GDP and meets other applicable ordinance provisions shall be entitled to
3705 approval or conditional approval. A final plat or certified survey map associated with the development
3706 may also be subject to city council approval under the provisions of Chapter 18. Upon final approval of

3707 the SIP, it shall be filed with the zoning administrator, and shall be referred to in regard to enforcement
3708 of modification of the development plans. All covenants, restrictions or contractual agreements with the
3709 city shall be recorded with the register of deeds before final issuance of building permits.

3710 3. If an applicant does not commence construction within one year after city approval of an SIP for a
3711 planned development, or complete construction within two years of approval of the SIP, the previously
3712 approved SIP shall be considered null and void; except where the plan commission approves an
3713 alternative phasing plan with the SIP. A new petition and approval process shall be required to obtain
3714 SIP approval.

3715 (Ord. 1511 § 2(part), 2002).

3716

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3718

3719 **19.39.060 Modifications and changes.**

3720 Any subsequent change of use of any parcel of land or addition or modification of any approved
3721 development plans should be submitted to the plan commission for approval. Minor changes can be
3722 granted by the plan commission. Major changes that involve changes to the general intent of the project
3723 as expressed in the approved GDP shall be made by the city council as specified in Chapter 19.69. A
3724 conditional use permit will be required if the total building coverage of a new or remodeled single-family
3725 detached dwelling, including the garage, exceeds sixty percent of the lot area within a PD District.

3726 (Ord. 1511 § 2(part), 2002).

3727

3728 **19.39.070 Park fees.**

3729 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
3730 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
3731 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
3732 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
3733 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
3734 was provided for park purposes at the time of subdivision, based on the calculations in Section
3735 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.

3736

3737 **Chapter 19.42 AT AGRICULTURAL TRANSITION DISTRICT**

3738 Sections:

3739 19.42.010 Purpose.

3740 19.42.020 Permitted uses.

3741 19.42.030 Conditional uses.

3742 19.42.040 Lot area.

3743 19.42.050 Yard requirements.

3744 19.42.060 Building height.

3745 19.42.070 Existing residences.

3746

3747 **19.42.010 Purpose.**

3748 The purposes of the AT agricultural transition district are to provide for the orderly transition of
3749 agricultural land to other uses in areas planned for eventual city expansion. This district is generally
3750 intended to apply to lands located in the city where such lands are predominantly in agricultural or open
3751 space use but where conversion to nonagricultural use is expected to occur in the foreseeable future.

3752 (Ord. 994 § 3.15(part), 1982).

3753

3754 **19.42.020 Permitted uses.**

3755 Permitted uses in the AT district include:

3756 A. Dairying, floriculture, orchards, plant nurseries, truck farming, sod farming, horticulture, grazing,
3757 greenhouses, forest and game management, livestock and poultry raising (except for commercial
3758 operations), road-side stands not exceeding one per farm, and similar agricultural uses;

3759 B. Two single-family dwelling units for resident owner/operators and their children, siblings, and
3760 parents or laborers principally engaged in conducting a permitted or approved conditional use;

3761 C. The second or greater wireless telecommunications facility located on an alternative support
3762 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
3763 telecommunications facility, per the requirements of Chapter 19.55.

3764 (Ord. 1499 § 20, 2001; 994 § 3.15(A), 1982).

3765

3766 **19.42.030 Conditional uses.**

3767 Conditional uses in the AT district include:

3768 A. Fish and fur farms, beekeeping, commercial livestock and poultry operations, livestock sales
3769 facilities, veterinary services for farm animals, and similar agricultural uses;

3770 B. Housing for seasonal farm laborers;

3771 C. Airports;

3772 D. Mineral extraction;

3773 E. More than two single-family dwelling units for residential owner/operators and their children,
3774 siblings, and parents or laborers principally engaged in conducting a permitted approved conditional
3775 use;

3776 F. The first wireless telecommunications facility located on an alternative support structure only, per
3777 the requirements of Chapter 19.55.

3778 (Ord. 1499 § 21, 2001; 994 § 3.15(B), 1982).

3779

3780 **19.42.040 Lot area.**

3781 Minimum lot area in the AT district is as follows:

3782 A. Farm units, minimum thirty-five acres;

3783 B. Additional farm-related housing, minimum twenty thousand square feet.

3784 (Ord. 994 § 3.15(C), 1982).

3785

3786 **19.42.050 Yard requirements.**

3787 Minimum yard requirements for the AT district are as follows:

3788 A. Additional farm-related housing shall comply with the provisions of the R-1 residential district;

3789 B. Farm buildings:

3790 1. Side yard, minimum fifty feet;

3791 2. Rear yard, minimum fifty feet.

3792 (Ord. 994 § 3.15(D), 1982).

3793

3794 **19.42.060 Building height.**

3795 Maximum building height for the AT district is two times their distance from adjacent lot lines.

3796 (Ord. 994 § 3.15(E), 1982).

3797

3798 **19.42.070 Existing residences.**

3799 Pre-existing residences in the agricultural transition district that do not conform to district
3800 standards may be continued in residential use and are not subject to the limitations of Chapter 19.60,
3801 Nonconforming Uses.

3802 (Ord. 994 § 3.15(F), 1982).

3803
3804 **Chapter 19.45 C-1 SHORELAND WETLAND DISTRICT**

3805 Sections:

3806 19.45.010 Purpose.

3807 19.45.020 Permitted uses.

3808 19.45.030 Conditional uses.

3809 19.45.040 Prohibited uses.

3810

3811 **19.45.010 Purpose.**

3812 The C-1 shoreland wetland district is intended to preserve, protect, and enhance the ponds,
3813 streams, and wetland areas within the shoreland jurisdiction of the city. The preservation, protection,
3814 and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and
3815 improve water quality, both ground and surface; prevent flood damage; control storm water runoff;
3816 protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife
3817 habitat; protect native plant communities; avoid the location of structures on soils which are generally
3818 not suitable for use; and protect the water-based recreation resources of the city.

3819 The C-1 shoreland wetland district, as shown on the zoning map, includes all wetlands within the
3820 shorelands, as defined in this title, in the city. The boundaries were determined from the Wisconsin
3821 Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and stamped "FINAL."
3822 (Ord. 1196 § 1(part), 1990).

3823

3824 **19.45.020 Permitted uses.**

3825 Permitted uses in the C-1 district are limited to the following:

3826 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;

3827 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
3828 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
3829 filling, flooding, draining, dredging, ditching, tiling, or excavating;

3830 C. Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling,
3831 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
3832 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
3833 impact on silvicultural activities if not corrected;

3834 D. Construction and maintenance of fences;

3835 E. Agricultural crops and grazing provided that they do not involve extension of cultivated areas,
3836 extension of or creation of new drainage systems, and further provided that they do not substantially
3837 disturb or impair the natural fauna, flora, topography, or water regimen;

3838 F. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
3839 only to the extent necessary to maintain the level of drainage required to continue the existing use;

3840 G. The construction and maintenance of piers, docks, and walkways, including those built on pilings;

3841 H. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.

3842 (Ord. 1196 § 1(part), 1990).

3843

3844 **19.45.030 Conditional uses.**

3845 The following uses are conditional uses in the C-1 shoreland wetland district and may be
3846 permitted as specified. The city plan commission shall transmit a copy of each application for a
3847 conditional use in the C-1 shoreland wetland district to the Wisconsin Department of Natural Resources
3848 (DNR) at least ten days prior to the public hearing. Final action on the application shall not be taken for
3849 thirty days or until the DNR has made its recommendation, whichever comes first. A copy of all C-1

3850 shoreland wetland district conditional use permits shall be transmitted to the DNR within ten days
3851 following the decision:

3852 A. The construction of streets which are necessary for the continuity of the city street system,
3853 necessary for the provision of essential utility and public safety services, or necessary to provide access
3854 to permitted open space uses in the C-1 district; provided that:

- 3855 1. The street cannot as a practical matter be located outside the conservancy district;
- 3856 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
3857 wetland as listed in Section 11.1308(B) of the Wisconsin Statutes;
- 3858 3. The street is designed and constructed with the minimum cross-section practical to serve the
3859 intended use;
- 3860 4. The street construction activities are carried out in the immediate area of the roadbed only; and
- 3861 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
3862 for the construction or maintenance of the street.

3863 B. The construction and maintenance of nonresidential buildings used solely in conjunction with raising
3864 of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose
3865 which is compatible with wetland preservation, provided that:

- 3866 1. The building cannot as a practical matter be located outside the conservancy district;
- 3867 2. The building is not designed for human habitation and does not exceed five hundred square feet in
3868 area; and
- 3869 3. Only limited filling or excavating necessary to provide structural support is conducted.

3870 C. The establishment and development of public and private parks and recreation areas, recreation
3871 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
3872 refuges, game preserves, and private habitat areas; provided, that:

- 3873 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
- 3874 2. No filling is to be done; and
- 3875 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
3876 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
3877 otherwise enhance the value of a wetland or other natural resource.

3878 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
3879 distribution lines, and related facilities; provided, that:

- 3880 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
3881 outside the conservancy district; and
- 3882 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
3883 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
3884 and other adverse impacts upon the natural functions of the conservancy area.

3885 E. The construction and maintenance of railroad lines; provided, that:

- 3886 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
- 3887 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
3888 construction or maintenance of the railroad, and must be done in a manner designed to minimize
3889 flooding and other adverse impacts upon the natural functions of the conservancy area.

3890 (Ord. 1196 § 1(part), 1990).

3891

3892 **19.45.040 Prohibited uses.**

3893 Any use not listed as a permitted use or a conditional use is prohibited unless the C-1 district
3894 lands concerned are first rezoned into another district. Furthermore, the use of a boathouse for human
3895 habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary
3896 highwater mark of any navigable water are prohibited.

3897 (Ord. 1196 § 1(part), 1990).

3898
3899 **Chapter 19.451 C-2 NONSHORELAND WETLAND DISTRICT**

3900 Sections:

3901 19.451.010 Purpose.

3902 19.451.020 Permitted uses.

3903 19.451.030 Conditional uses.

3904 19.451.040 Prohibited uses.

3905

3906 **19.451.010 Purpose.**

3907 The C-2 nonshoreland wetland district is intended to preserve, protect, and enhance the ponds,
3908 streams, and wetland areas of the city located beyond the statutorily defined limits of shorelands. The
3909 preservation, protection, and enhancement of these areas will serve to maintain safe and healthful
3910 conditions; maintain and improve water quality, both ground and surface; prevent flood damage;
3911 control storm water runoff; protect stream banks from erosion; protect groundwater recharge and
3912 discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of
3913 structures on soils which are generally not suitable for use; and protect the water-based recreation
3914 resources of the city.

3915 The C-2 nonshoreland wetland district, as shown on the zoning map, includes those wetlands
3916 not located within the shoreland jurisdiction in the city. The boundaries were initially determined from
3917 the Wisconsin Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and stamped
3918 "FINAL."

3919 (Ord. 1196 § 1(part), 1990).

3920

3921 **19.451.020 Permitted uses.**

3922 Permitted uses in the C-2 district are limited to the following:

3923 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;

3924 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
3925 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
3926 filling, flooding, draining, dredging, ditching, tiling, or excavating;

3927 C. Silviculture, including the planting, thinning, and harvesting of timber; provided, that no filling,
3928 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
3929 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
3930 impact on silvicultural activities if not corrected;

3931 D. Construction and maintenance of fences;

3932 E. Agricultural crops and grazing; provided, that they do not involve extension of cultivated areas,
3933 extension of or creation of new drainage systems; and further provided, that they do not substantially
3934 disturb or impair the natural fauna, flora, topography, or water regimen;

3935 F. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
3936 only to the extent necessary to maintain the level of drainage required to continue the existing use;

3937 G. The construction and maintenance of piers, docks, and walkways, including those built on pilings;

3938 H. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.

3939 (Ord. 1196 § 1(part), 1990).

3940

3941 **19.451.030 Conditional uses.**

3942 The following uses are conditional uses in the C-2 nonshoreland wetland district and may be
3943 permitted as specified:

- 3944 A. The construction of streets which are necessary for the continuity of the city street system,
3945 necessary for the provision of essential utility and public safety services, or necessary to provide access
3946 to permitted open space uses in the C-2 district; provided, that:
- 3947 1. The street cannot as a practical matter be located outside the conservancy district;
 - 3948 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
3949 wetland as listed in Section 11.1308(B) of the Wisconsin Statutes;
 - 3950 3. The street is designed and constructed with the minimum cross-section practical to serve the
3951 intended use;
 - 3952 4. The street construction activities are carried out in the immediate area of the roadbed only; and
 - 3953 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
3954 for the construction or maintenance of the street.
- 3955 B. The construction and maintenance of nonresidential buildings used solely in conjunction with raising
3956 of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose
3957 which is compatible with wetland preservation; provided, that:
- 3958 1. The building cannot as a practical matter be located outside the conservancy district;
 - 3959 2. The building is not designed for human habitation and does not exceed five hundred square feet in
3960 area; and
 - 3961 3. Only limited filling or excavating necessary to provide structural support is conducted.
- 3962 C. The establishment and development of public and private parks and recreation areas, recreation
3963 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
3964 refuges, game preserves, and private habitat areas; provided, that:
- 3965 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
 - 3966 2. No filling is to be done; and
 - 3967 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
3968 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
3969 otherwise enhance the value of a wetland or other natural resource.
- 3970 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
3971 distribution lines, and related facilities; provided, that:
- 3972 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
3973 outside the conservancy district; and
 - 3974 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
3975 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
3976 and other adverse impacts upon the natural functions of the conservancy area.
- 3977 E. The construction and maintenance of railroad lines; provided, that:
- 3978 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
 - 3979 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
3980 construction or maintenance of the railroad, and must be done in a manner designed to minimize
3981 flooding and other adverse impacts upon the natural functions of the conservancy area.
- 3982 (Ord. 1196 § 1(part), 1990).

3983
3984 **19.451.040 Prohibited uses.**

3985 Any use not listed as a permitted use or a conditional use is prohibited unless the C-2 district
3986 lands concerned are first rezoned into another district. Furthermore, the use of a boathouse for human
3987 habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary
3988 high water mark of any navigable water are prohibited.
3989 (Ord. 1196 § 1(part), 1990).

3990
3991 **Chapter 19.46 FLOODPLAIN REGULATIONS***

3992

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

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Sections:

4000

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

4001

19.46.020 General standards applicable to all floodplain districts.

4002

19.46.030 Floodway district (FW).

4003

19.46.040 Floodfringe district (FF).

4004

19.46.050 Other floodplain districts.

4005

19.46.060 Nonconforming uses.

4006

19.46.070 Administration.

4007

19.46.080 Amendments.

4008

19.46.090 Enforcement and penalties.

4009

19.46.100 Definitions.

4010

4011

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

4012

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

4013

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

4014

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

4015

1. Protect life, health and property;

4016

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

4017

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

4018

4. Minimize business interruptions and other economic disruptions;

4019

5. Minimize damage to public facilities in the floodplain;

4020

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

4021

7. Discourage the victimization of unwary land and homebuyers;

4022

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

4023

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

4024

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

4025

E. General provisions.

4026

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

4027

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

4028

2. Official maps and revisions. The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Whitewater Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and the Federal Emergency Management

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4040 Agency (FEMA) before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps
4041 shall be effective until approved by the DNR. These maps and revisions are on file in the office of the
4042 Public Works Department, City of Whitewater. If more than one map or revision is referenced, the most
4043 restrictive information shall apply.

4044 Official maps: Based on the FIS.

4045 a. For Jefferson County Flood Insurance Rate Maps (FIRM), panel numbers 55055C0432E, 55055C0451E
4046 and 55055C0455E, dated June 2, 2009, with corresponding profiles based on the Flood Insurance Study
4047 (FIS) dated June 2, 2009 volume number 55055CV000A; updated maps with revised panel numbers may
4048 be available.

4049 b. For Walworth County Flood Insurance Rate Maps (FIRM), panel numbers 55127C0009D,
4050 55127C0017D, 55127C0028D, and 55127C0029D, dated October 2, 2009, with corresponding profiles
4051 based on the Flood Insurance Study (FIS) dated October 2, 2009, volume number 55127CV000A; ;
4052 updated maps with revised panel numbers may be available.

4053 3. Establishment of districts. The regional floodplain areas are divided into three districts as follows:

4054 a. The floodway district (FW) is the channel of a river or stream and those portions of the floodplain
4055 adjoining the channel required to carry the regional floodwaters.

4056 b. The floodfringe district (FF) is that portion of the floodplain between the regional flood limits and the
4057 floodway.

4058 c. The general floodplain district (GFP) is those areas that have been or may be covered by floodwater
4059 during the regional flood.

4060 d. The flood storage district (FSD) is that area of the floodplain where storage of floodwaters is
4061 calculated to reduce the regional flood discharge.

4062 4. Locating floodplain boundaries. Discrepancies between boundaries on the official floodplain zoning
4063 map and actual field conditions shall be resolved using the criteria in subsections a. or b. below. If a
4064 significant difference exists, the map shall be amended according to section 19.46.080. The zoning
4065 administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit,
4066 whether or not a map amendment is required. The zoning administrator shall be responsible for
4067 documenting actual pre-development field conditions and the basis upon which the district boundary
4068 was determined and for initiating any map amendments required under this section. Disputes between
4069 the zoning administrator and an applicant over the district boundary line shall be settled according to
4070 subsection 19.46.070C.3. and the criteria in a. and b. below.

4071 a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary.
4072 The regional or base flood elevations shall govern if there are any discrepancies.

4073 b. Where flood profiles do not exist, the location of the boundary shall be determined by the map
4074 scale, visual on-site inspection and any information provided by the department.

4075 Note: Where the flood profiles are based on established base flood elevations from a FIRM,
4076 FEMA must also approve any map amendment pursuant to subsection 19.46.080A.6.

4077 5. Removal of lands from floodplain. Compliance with the provisions of this chapter shall not be
4078 grounds for removing land from the floodplain unless it is filled at least two feet above the regional or
4079 base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended
4080 pursuant to section 19.46.080.

4081 Note: This procedure does not remove the requirements for the mandatory purchase of flood
4082 insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

4083 6. Compliance. Any development or use within the areas regulated by this chapter shall be in
4084 compliance with the terms of this chapter, and other applicable local, state, and federal regulations.

4085 7. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages,
4086 towns, and counties are required to comply with this chapter and obtain all necessary permits. State
4087 agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction,

4088 maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation
4089 is exempt when s. 30.2022, Stats., applies.

4090 8. Abrogation and greater restrictions.

4091 a. This chapter supersedes all the provisions of any municipal zoning ordinance enacted under ss.
4092 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; or s. 61.35 for villages; or s. 87.30, Stats., which
4093 relate to floodplains. If another ordinance is more restrictive than this chapter, that ordinance shall
4094 continue in full force and effect to the extent of the greater restrictions, but not otherwise.

4095 b. This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants
4096 or easements. If this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

4097 9. Interpretation. In their interpretation and application, the provisions of this chapter are the
4098 minimum requirements liberally construed in favor of the governing body and are not a limitation on or
4099 repeal of any other powers granted by the Wisconsin Statutes. If a provision of this chapter, required by
4100 ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in
4101 effect on the date of the adoption of this chapter or in effect on the date of the most recent text
4102 amendment to this chapter.

4103 10. Warning and disclaimer of liability. The flood protection standards in this chapter are based on
4104 engineering experience and scientific research. Larger floods may occur or the flood height may be
4105 increased by man-made or natural causes. This chapter does not imply or guarantee that nonfloodplain
4106 areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this chapter
4107 create liability on the part of, or a cause of action against, the municipality or any officer or employee
4108 thereof for any flood damage that may result from reliance on this chapter.

4109 11. Severability. Should any portion of this chapter be declared unconstitutional or invalid by a court of
4110 competent jurisdiction, the remainder of this chapter shall not be affected.

4111 12. Annexed areas for cities and villages. The Walworth and Jefferson County floodplain zoning
4112 provisions in effect on the date of annexation shall remain in effect and shall be enforced by the
4113 municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets
4114 the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP).
4115 These annexed lands are described on the municipality's official zoning map. County floodplain zoning
4116 provisions are incorporated by reference for the purpose of administering this section and are on file in
4117 the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional
4118 flood elevation and the location of the floodway.

4119 13. General development standards. The community shall review all permit applications to determine
4120 whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a
4121 floodprone area, all new construction and substantial improvements shall be designed or modified and
4122 adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from
4123 hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be
4124 constructed by methods and practices that minimize flood damages; and be constructed with electrical,
4125 heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed
4126 and/or located so as to prevent water from entering or accumulating within the components during
4127 conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All
4128 subdivision proposals (including manufactured home parks) shall include regional flood elevation and
4129 floodway data for any development that meets the subdivision definition of this chapter.

4130 Ord. No. 1724A, § 1(1.0), 4-8-2009; Ord. No. 1741A, § 1, 8-4-2009)

4131

4132 **19.46.020 General standards applicable to all floodplain districts.**

4133 A. Hydraulic and hydrologic analyses.

4134 1. Except as allowed in subsection 3. below, no floodplain development shall:

- 4135 a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with
4136 other development, increasing regional flood height; or
4137 b. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
4138 2. The zoning administrator shall deny permits if it is determined the proposed development will
4139 obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM
4140 or other adopted map, unless the provisions of subsection 3. are met.
4141 3. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments
4142 are made to this chapter, the official floodplain zoning maps, floodway lines and water surface profiles,
4143 in accordance with section 19.46.080.

4144 Note: This section refers to obstructions or increases in base flood elevations as shown on the
4145 officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by
4146 FEMA and the DNR.

4147 B. Watercourse alterations. No land use permit to alter or relocate a watercourse in a mapped
4148 floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the
4149 department and FEMA regional offices and required the applicant to secure all necessary state and
4150 federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

4151 As soon as is practicable, but not later than six months after the date of the watercourse
4152 alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting
4153 appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise
4154 the FIRM, risk premium rates and floodplain management regulations as required.

4155 C. Chapter 30. 31, Wis. Stats., development. Development which requires a permit from the
4156 department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and
4157 navigational aids, may be allowed if the necessary permits are obtained and amendments to the
4158 floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially
4159 adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according
4160 to section 19.24.080.

4161 D. Public or private campgrounds. Public or private campgrounds shall have a low flood damage
4162 potential and shall meet the following provisions:

4163 1. The campground is approved by the Department of Health ~~and Family Services~~ and other state
4164 agencies with regulatory authority regarding campgrounds.

4165 2. A land use permit for the campground is issued by the zoning administrator.

4166 3. The character of the river system and the elevation of the campground is such that a seventy-two-
4167 hour warning of an impending flood can be given to all campground occupants.

4168 4. There is an adequate flood warning procedure for the campground that offers the minimum notice
4169 required under this section to all persons in the campground. This procedure shall include a written
4170 agreement between the campground owner, the municipal emergency government coordinator and the
4171 chief law enforcement official which specifies the flood elevation at which evacuation shall occur,
4172 personnel responsible for monitoring flood elevations, types of warning systems to be used and the
4173 procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the
4174 evacuation.

4175 5. This agreement shall be for no more than one calendar year, at which time the agreement shall be
4176 reviewed and updated - by the officials identified in subsection 4. - to remain in compliance with all
4177 applicable regulations, including those of the state department of health and family services and all
4178 other applicable regulations.

4179 6. Only camping units are allowed.

4180 7. The camping units may not occupy any site in the campground for more than one hundred eighty
4181 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum
4182 of twenty-four hours.

4183 8. All camping units that remain on site for more than thirty days shall be issued a limited authorization
4184 by the campground operator, a written copy of which is kept on file at the campground. Such
4185 authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty
4186 days and shall ensure compliance with all the provisions of this section.

4187 9. The municipality shall monitor the limited authorizations issued by the campground operator to
4188 assure compliance with the terms of this section.

4189 10. All camping units that remain in place for more than one hundred eighty consecutive days must
4190 meet the applicable requirements in either section 19.46.030 or section 19.46.040 for the floodplain
4191 district in which the structure is located.

4192 11. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the
4193 procedures for evacuation when a flood warning is issued.

4194 12. All service facilities, including but not limited to refuse collection, electrical service, natural gas
4195 lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or
4196 floodproofed to the flood protection elevation.

4197 (Ord. No. 1724A, § 1(2.0), 4-8-2009)

4198

4199 **19.46.030 Floodway district (FW).**

4200 A. Applicability. This section applies to all floodway areas on the floodplain zoning maps and those
4201 identified pursuant to subsection 19.46.050A.4.

4202 B. Permitted uses. The following open space uses are allowed in the floodway district and the floodway
4203 areas of the general floodplain district, if

4204 - They are not prohibited by any other ordinance;

4205 - They meet the standards in subsection 19.46.030C. and 19.46.030D.; and

4206 - All permits or certificates have been issued according to subsection 19.46.070A.:

4207 1. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop
4208 harvesting.

4209 2. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport
4210 landing strips.

4211 3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds,
4212 boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries,
4213 shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails,
4214 subject to the fill limitations of subsection 19.46.030C.4.

4215 4. Uses or structures accessory to open space uses, or classified as historic structures that comply with
4216 subsections 19.46.030C. and 19.46.030C.4.

4217 5. Extraction of sand, gravel or other materials that comply with subsection 19.46.030C.4.

4218 6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts,
4219 navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31,
4220 Stats.

4221 7. Public utilities, streets and bridges that comply with subsection 19.46.030C.3.

4222 C. Standards for developments in floodway areas.

4223 1. General.

4224 a. Any development in floodway areas shall comply with section 19.46.020 and have a low flood
4225 damage potential.

4226 b. Applicants shall provide the following data to determine the effects of the proposal according to
4227 subsection 19.46.020A.:

4228 i. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the
4229 proposed development will obstruct flow; or

4230 ii. An analysis calculating the effects of this proposal on regional flood height.

4231 c. The zoning administrator shall deny the permit application if the project will increase flood
4232 elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection b.
4233 above.

4234 2. Structures. Structures accessory to permanent open space uses or functionally dependent on a
4235 waterfront location may be allowed by permit if the structures comply with the following criteria:
4236 a. The structure is not designed for human habitation and does not have a high flood damage potential;
4237 b. it must be anchored to resist flotation, collapse and lateral movement;
4238 c. mechanical and utility equipment must be elevated or floodproofed to or above the flood protection
4239 elevation; and
4240 d. it must not obstruct the flow of flood waters or cause any increase in flood levels during the
4241 occurrence of the regional flood.

4242 3. Public utilities, streets and bridges. Public utilities, streets and bridges may be allowed by permit, if:
4243 a. Adequate floodproofing measures are provided to the flood protection elevation; and
4244 b. Construction meets the development standards of subsection 19.46.020A.

4245 4. Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:
4246 a. The requirements of subsection 19.46.020A. are met;
4247 b. No material is deposited in the navigable channel unless a permit is issued by the Department
4248 pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act,
4249 Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this
4250 section are met;
4251 c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or
4252 bulkheading; and
4253 d. The fill is not classified as a solid or hazardous material.

4254 D. Prohibited uses. All uses not listed as permitted uses in subsection 19.46.020B. are prohibited,
4255 including the following uses:
4256 1. Habitable structures, structures with high flood damage potential, or those not associated with
4257 permanent open-space uses;
4258 2. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or
4259 human, animal, plant, fish or other aquatic life;
4260 3. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
4261 4. Any private or public sewage systems, except portable latrines that are removed prior to flooding
4262 and systems associated with recreational areas and Department-approved campgrounds that meet the
4263 applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;
4264 5. Any public or private wells which are used to obtain potable water, except those for recreational
4265 areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
4266 6. Any solid or hazardous waste disposal sites;
4267 7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis.
4268 Adm. Code;
4269 8. Any sanitary sewer or water supply lines, except those to service existing or proposed development
4270 located outside the floodway which complies with the regulations for the floodplain area occupied.
4271 (Ord. No. 1724A, § 1(3.0), 4-8-2009)

4272
4273 **19.46.040 Floodfringe district (FF).**

4274 A. Applicability. This section applies to all floodfringe areas shown on the floodplain zoning maps and
4275 those identified pursuant to subsection 19.46.050A.4.
4276 B. Permitted uses. Any structure, land use, or development is allowed in the floodfringe district if the
4277 standards in subsection 19.46.040C. are met, the use is not prohibited by this or any other ordinance or
4278 regulation and all permits or certificates specified in subsection 19.46.070A. have been issued.

4279 C. Standards for development in floodfringe areas. Subsection 19.46.020A. shall apply in addition to the
4280 following requirements according to the use requested.

4281 1. Residential uses. Any habitable structure, including a manufactured home, which is to be erected,
4282 constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the
4283 following standards;

4284 a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood
4285 protection elevation on fill. The fill shall be one foot or more above the regional flood elevation
4286 extending at least fifteen feet beyond the limits of the structure. The department may authorize other
4287 floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical;

4288 b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to
4289 the flood protection elevation. No basement or crawlway floor is allowed below the regional flood
4290 elevation;

4291 c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain,
4292 except as provided in subsection d.

4293 d. In developments where existing street or sewer line elevations make compliance with subsection c.
4294 impractical, the municipality may permit new development and substantial improvements where access
4295 roads are at or below the regional flood elevation, if:

4296 i. The municipality has written assurance from police, fire and emergency services that rescue and
4297 relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

4298 ii. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the
4299 Department.

4300 2. Accessory structures or uses.

4301 a. Except as provided in subsection b., an accessory structure which is not connected to a principal
4302 structure may be constructed with its lowest floor at or above the regional flood elevation.

4303 b. An accessory structure which is not connected to the principal structure and which is less than six
4304 hundred square feet in size and valued at less than \$10,000.00 may be constructed with its lowest floor
4305 no more than two feet below the regional flood elevation if it is subject to flood velocities of no more
4306 than two feet per second and it meets all of the provisions of sections 3.3 (2) (a), (b), (c) and (d) and 4.3
4307 (5) below.

4308 3. Commercial uses. Any commercial structure which is erected, altered or moved into the floodfringe
4309 area shall meet the requirements of subsection 19.46.040C.1. Subject to the requirements of section
4310 19.46.040C.5., storage yards, surface parking lots and other such uses may be placed at lower elevations
4311 if an adequate warning system exists to protect life and property.

4312 4. Manufacturing and industrial uses. Any manufacturing or industrial structure which is erected,
4313 altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill,
4314 levees, floodwalls, or other floodproofing measures in subsection 19.46.070E. Subject to the
4315 requirements of subsection 19.46.040C.E., storage yards, surface parking lots and other such uses may
4316 be placed at lower elevations if an adequate warning system exists to protect life and property.

4317 5. Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property,
4318 water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection
4319 elevation or floodproofed in compliance with subsection 19.46.070E. Adequate measures shall be taken
4320 to ensure that such materials will not enter the water body during flooding.

4321 6. Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be
4322 compatible with comprehensive floodplain development plans; and

4323 a. When failure of public utilities, streets and bridges would endanger public health or safety, or where
4324 such facilities are deemed essential, construction of and substantial improvements to such facilities may
4325 only be permitted if they are floodproofed in compliance with subsection 19.46.070E. to the flood
4326 protection elevation;

- 4327 b. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to
4328 withstand flood forces to the regional flood elevation.
- 4329 7. Sewage systems. All on-site sewage disposal systems shall be floodproofed, pursuant to subsection
4330 19.46.070E., to the flood protection elevation and shall meet the provisions of all local ordinances and
4331 ch. COMM 83, Wis. Adm. Code.
- 4332 8. Wells. All wells shall be floodproofed, pursuant to subsection 19.46.070E., to the flood protection
4333 elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- 4334 9. Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- 4335 10. Deposition of materials. Any deposited material must meet all the provisions of this chapter.
- 4336 11. Manufactured homes.
- 4337 a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate
4338 surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan,
4339 indicating vehicular access and escape routes, with local emergency management authorities.
- 4340 b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and
4341 substantially improved homes shall:
- 4342 i. Have the lowest floor elevated to the flood protection elevation; and
- 4343 ii. Be anchored so they do not float, collapse or move laterally during a flood.
- 4344 c. Outside of existing manufactured home parks, including new manufactured home parks and all single
4345 units outside of existing parks, all new, replacement and substantially improved manufactured homes
4346 shall meet the residential development standards for the floodfringe in subsection 19.46.040C.1.
- 4347 12. Mobile recreational vehicles. All mobile recreational vehicles that are on site for one hundred
4348 eighty consecutive days or more or are not fully licensed and ready for highway use shall meet the
4349 elevation and anchoring requirements in subsections 19.46.040C.11.b. and c. A mobile recreational
4350 vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by
4351 quick-disconnect utilities and security devices and has no permanently attached additions.
4352 (Ord. No. 1724A, § 1(4.0), 4-8-2009)

4353
4354 **19.46.050 Other floodplain districts.**

4355 Other floodplain districts may be established under the ordinance and reflected on the
4356 floodplain zoning map. These districts may include general floodplain districts and flood storage
4357 districts.

4358 A. General floodplain district (GFP).

4359 1. Applicability. The provisions for this district shall apply to all floodplains for which flood profiles are
4360 not available or where flood profiles are available but floodways have not been delineated. Floodway
4361 and floodfringe districts shall be delineated when adequate data is available.

4362 2. Permitted uses. Pursuant to subsection 19.46.050A.4., it shall be determined whether the proposed
4363 use is located within a floodway or floodfringe area. Those uses permitted in floodway (subsection
4364 19.46.030B.) and floodfringe areas (subsection 19.46.040B) are allowed within the general floodplain
4365 district, according to the standards of subsection 19.46.050C., provided that all permits or certificates
4366 required under subsection 19.46.070A. have been issued.

4367 3. Standards for development in the general floodplain district. Section 19.46.030 applies to floodway
4368 areas, section 19.46.040 applies to floodfringe areas. The rest of this chapter applies to either district.

4369 4. Determining floodway and floodfringe limits. Upon receiving an application for development within
4370 the general floodplain district, the zoning administrator shall:

4371 a. Require the applicant to submit two copies of an aerial photograph or a plan which shows the
4372 proposed development with respect to the general floodplain district limits, stream channel, and
4373 existing floodplain developments, along with a legal description of the property, fill limits and
4374 elevations, building floor elevations and floodproofing measures;

4375 b. Require the applicant to furnish any of the following information deemed necessary by the
4376 department to evaluate the effects of the proposal upon flood height and flood flows, regional flood
4377 elevation and to determine floodway boundaries:
4378 i. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the
4379 channel, the cross-sectional area to be occupied by the proposed development, and all historic high
4380 water information;
4381 ii. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage
4382 elevations; size, location and layout of all proposed and existing structures on the site; location and
4383 elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
4384 iii. Profile showing the slope of the bottom of the channel or flow line of the stream;
4385 iv. Specifications for building construction and materials, floodproofing, filling, dredging, channel
4386 improvement, storage, water supply and sanitary facilities.
4387 c. Transmit one copy of the information described in subsections 1. and 2. to the department regional
4388 office along with a written request for technical assistance to establish regional flood elevations and,
4389 where applicable, floodway data. Where the provisions of subsection 19.46.070A.2.c. apply, the
4390 applicant shall provide all required information and computations to delineate floodway boundaries and
4391 the effects of the project on flood elevations.
4392 B. Flood storage district. The flood storage district delineates that portion of the floodplain where
4393 storage of floodwaters has been taken into account and is relied upon to reduce the regional flood
4394 discharge. The district protects the flood storage areas and assures that any development in the storage
4395 areas will not decrease the effective flood storage capacity which would cause higher flood elevations.
4396 1. Applicability. The provisions of this section apply to all areas within the flood storage district (FSD),
4397 as shown on the official floodplain zoning maps.
4398 2. Permitted uses. Any use or development which occurs in a flood storage district must meet the
4399 applicable requirements in subsection 19.46.040C.
4400 3. Standards for development in flood storage districts.
4401 a. Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a
4402 foot in the height of the regional flood.
4403 b. No development shall be allowed which removes flood storage volume unless an equal volume of
4404 storage as defined by the pre-development ground surface and the regional flood elevation shall be
4405 provided in the immediate area of the proposed development to compensate for the volume of storage
4406 which is lost, (compensatory storage). Excavation below the groundwater table is not considered to
4407 provide an equal volume of storage.
4408 c. If compensatory storage cannot be provided, the area may not be developed unless the entire area
4409 zoned as flood storage district - on this waterway - is rezoned to the floodfringe district. This must
4410 include a revision to the floodplain study and map done for the waterway to revert to the higher
4411 regional flood discharge calculated without flood plain storage, as per section 19.46.080A. of this
4412 chapter.
4413 d. No area may be removed from the flood storage district unless it can be shown that the area has
4414 been filled to the flood protection elevation and is contiguous to other lands lying outside of the
4415 floodplain.
4416 (Ord. No. 1724A, § 1(5.0), 4-8-2009)
4417
4418 **19.46.060 Nonconforming uses.**
4419 A. General.
4420 1. Applicability. If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h),
4421 Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use

4422 or structure and to the use of any structure or premises which was lawful before the passage of this
4423 chapter or any amendment thereto.

4424 2. The existing lawful use of a structure or its accessory use which is not in conformity with the
4425 provisions of this chapter may continue subject to the following conditions:

4426 a. No modifications or additions to a nonconforming use or structure shall be permitted unless they
4427 comply with this chapter. The words "modification" and "addition" include, but are not limited to, any
4428 alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use,
4429 structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension,
4430 modification or addition; these include painting, decorating, paneling and the replacement of doors,
4431 windows and other nonstructural components and the maintenance, repair or replacement of existing
4432 private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs
4433 do not include any costs associated with the repair of a damaged structure.

4434 The construction of a deck that does not exceed two hundred square feet and that is adjacent to
4435 the exterior wall of a principal structure is not an extension, modification or addition. The roof of the
4436 structure may extend over a portion of the deck in order to provide safe ingress and egress to the
4437 principal structure.

4438 b. If a nonconforming use or the use of a nonconforming structure is discontinued for twelve
4439 consecutive months, it is no longer permitted and any future use of the property, and any structure or
4440 building thereon, shall conform to the applicable requirements of this chapter;

4441 c. The municipality shall keep a record which lists all nonconforming uses and nonconforming
4442 structures, their present equalized assessed value, the cost of all modifications or additions which have
4443 been permitted, and the percentage of the structure's total current value those modifications represent;

4444 d. No modification or addition to any nonconforming structure or any structure with a nonconforming
4445 use, which over the life of the structure would equal or exceed fifty percent of its present equalized
4446 assessed value, shall be allowed unless the entire structure is permanently changed to a conforming
4447 structure with a conforming use in compliance with the applicable requirements of this chapter.
4448 Contiguous dry land access must be provided for residential and commercial uses in compliance with
4449 subsection 19.46.040C.1. The costs of elevating a nonconforming building or a building with a
4450 nonconforming use to the flood protection elevation are excluded from the fifty percent provisions of
4451 this subsection;

4452 e. i. Except as provided in subsection ii., if any nonconforming structure or any structure with a
4453 nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or
4454 rebuilt unless the use and the structure meet the current ordinance requirements. A structure is
4455 considered substantially damaged if the total cost to restore the structure to its pre-damaged condition
4456 equals or exceeds fifty percent of the structure's present equalized assessed value.

4457 ii. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or
4458 reconstruction of any such nonconforming building may be permitted in order to restore it after the
4459 nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements
4460 under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

4461 f. A nonconforming historic structure may be altered if the alteration will not preclude the structures
4462 continued designation as a historic structure, the alteration will comply with subsection 19.46.030C.1.,
4463 flood resistant materials are used, and construction practices and floodproofing methods that comply
4464 with subsection 19.46.070E. are used.

4465 B. Floodway areas.

4466 1. No modification or addition shall be allowed to any nonconforming structure or any structure with a
4467 nonconforming use in a floodway area, unless such modification or addition:

4468 a. Has been granted a permit or variance which meets all ordinance requirements;

4469 b. Meets the requirements of 19.46.060A.;

4470 c. Will not increase the obstruction to flood flows or regional flood height;
4471 d. Any addition to the existing structure shall be floodproofed, pursuant to subsection 19.46.070E., by
4472 means other than the use of fill, to the flood protection elevation;
4473 e. If any part of the foundation below the flood protection elevation is enclosed, the following
4474 standards shall apply:
4475 i. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient
4476 entry and exit of flood waters without human intervention. A minimum of two openings must be
4477 provided with a minimum net area of at least one square inch for every one square foot of the enclosed
4478 area. The lowest part of the opening can be no more than twelve inches above the adjacent grade;
4479 ii. The parts of the foundation located below the flood protection elevation must be constructed of
4480 flood-resistant materials;
4481 iii. Mechanical and utility equipment must be elevated or floodproofed to or above the flood
4482 protection elevation; and
4483 iv. The use must be limited to parking or limited storage.
4484 2. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system,
4485 except where an addition has been ordered by a government agency to correct a hazard to public
4486 health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-
4487 site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal
4488 ordinances and ch. COMM 83, Wis. Adm. Code.
4489 3. No new well or modification to an existing well used to obtain potable water shall be allowed in a
4490 floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet
4491 the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
4492 C. Floodfringe areas.
4493 1. No modification or addition shall be allowed to any nonconforming structure or any structure with a
4494 nonconforming use unless such modification or addition has been granted a permit or variance by the
4495 municipality, and the modification or addition shall be placed on fill or floodproofed to the flood
4496 protection elevation in compliance with the standards for that particular use in subsections 19.46.040C
4497 and 19.46.070E., except where subsection 19.46.060C.2. is applicable.
4498 2. Where compliance with the provisions of subsection 1. would result in unnecessary hardship and
4499 only where the structure will not be used for human habitation or be associated with a high flood
4500 damage potential, the board of adjustment/appeals, using the procedures established in subsection
4501 19.46.070C., may grant a variance from those provisions of subsection 1. for modifications or additions,
4502 using the criteria listed below. Modifications or additions which are protected to elevations lower than
4503 the flood protection elevation may be permitted if:
4504 a. No floor is allowed below the regional flood elevation for residential or commercial structures;
4505 b. Human lives are not endangered;
4506 c. Public facilities, such as water or sewer, will not be installed;
4507 d. Flood depths will not exceed two feet;
4508 e. Flood velocities will not exceed two feet per second; and
4509 f. The structure will not be used for storage of materials as described in subsection 19.46.040.6.
4510 3. If neither the provisions of subsection 1. or 2. above can be met, one addition to an existing room in
4511 a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if
4512 the addition:
4513 a. Meets all other regulations and will be granted by permit or variance;
4514 b. Does not exceed sixty square feet in area; and
4515 c. In combination with other previous modifications or additions to the building, does not equal or
4516 exceed fifty percent of the present equalized assessed value of the building.

- 4517 4. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a
4518 private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch.
4519 COMM 83, Wis. Adm. Code.
- 4520 5. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable
4521 provisions of this chapter and ch. NR 811 and NR 812, Wis. Adm. Code.
- 4522 D. Flood storage areas. No modifications or additions shall be allowed to any nonconforming structure
4523 in a flood storage area unless the standards outlined in 5.2(3) are met.
4524 (Ord. No. 1724A, § 1(6.0), 4-8-2009)

4525

4526 **19.46.070 Administration.**

4527 Where a zoning administrator, planning agency or a board of adjustment/appeals has already
4528 been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats.,
4529 these officials shall also administer this chapter.

4530 A. Zoning administrator.

4531 1. The zoning administrator is authorized to administer this chapter and shall have the following duties
4532 and powers:

4533 a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals,
4534 and assure that the regional flood elevation for the proposed development is shown on all permit
4535 applications.

4536 b. Issue permits and inspect properties for compliance with provisions of this chapter, and issue
4537 certificates of compliance where appropriate.

4538 c. Inspect all damaged floodplain structures and perform a substantial damage assessment to
4539 determine if substantial damage to the structures has occurred.

4540 d. Keep records of all official actions such as:

4541 i. All permits issued, inspections made, and work approved;

4542 ii. Documentation of certified lowest floor and regional flood elevations for floodplain development;

4543 iii. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and
4544 structures including changes, appeals, variances and amendments.

4545 iv. All substantial damage assessment reports for floodplain structures.

4546 e. Submit copies of the following items to the department regional office:

4547 i. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text
4548 interpretations, and map or text amendments;

4549 ii. Copies of any case-by-case analyses, and any other information required by the department
4550 including an annual summary of the number and types of floodplain zoning actions taken.

4551 iii. Copies of substantial damage assessments performed and all related correspondence concerning
4552 the assessments.

4553 iv. Investigate, prepare reports, and report violations of this chapter to the municipal zoning agency
4554 and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.

4555 g. Submit copies of text and map amendments and biennial reports to the FEMA regional office.

4556 2. Land use permit. A land use permit shall be obtained before any new development or any repair or
4557 change in the use of a building or structure, including sewer and water facilities, may be initiated.
4558 Application to the zoning administrator shall include:

4559 a. General information.

4560 i. Name and address of the applicant, property owner and contractor;

4561 ii. Legal description, proposed use, and whether it is new construction or a modification;

4562 b. Site development plan. A site plan drawn to scale shall be submitted with the permit application
4563 form and shall contain:

4564 i. Location, dimensions, area and elevation of the lot;

- 4565 ii. Location of the ordinary highwater mark of any abutting navigable waterways;
4566 iii. Location of any structures with distances measured from the lot lines and street center lines;
4567 iv. Location of any existing or proposed on-site sewage systems or private water supply systems;
4568 v. Location and elevation of existing or future access roads;
4569 vi. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
4570 vii. The elevation of the lowest floor of proposed buildings and any fill using vertical datum from the
4571 adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum
4572 (NAVD);
4573 viii. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the
4574 development and to determine whether or not the requirements of sections 19.46.030 or 19.46.040 are
4575 met; and
4576 ix. Data to determine if the proposed development will cause an obstruction to flow or an increase in
4577 regional flood height or discharge according to subsection 19.46.020A. This may include any of the
4578 information noted in subsection 19.46.030C.1.
- 4579 c. Data requirements to analyze developments.
- 4580 i. The applicant shall provide all survey data and computations required to show the effects of the
4581 project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision"
4582 is defined in s. 236, Stats., and other proposed developments exceeding five acres in area or where the
4583 estimated cost exceeds \$125,000.00. The applicant shall provide:
- 4584 (A) An analysis of the effect of the development on the regional flood profile, velocity of flow and
4585 floodplain storage capacity;
4586 (B) A map showing location and details of vehicular access to lands outside the floodplain; and
4587 (C) A surface drainage plan showing how flood damage will be minimized.
- 4588 The estimated cost of the proposal shall include all structural development, landscaping, access
4589 and road development, utilities, and other pertinent items, but need not include land costs.
- 4590 d. Expiration. All permits issued under the authority of this chapter shall expire three hundred sixty-five
4591 days after issuance.
- 4592 3. Certificate of compliance. No land shall be occupied or used, and no building which is hereafter
4593 constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a
4594 certificate of compliance is issued by the zoning administrator, except where no permit is required,
4595 subject to the following provisions:
- 4596 a. The certificate of compliance shall show that the building or premises or part thereof, and the
4597 proposed use, conform to the provisions of this chapter;
4598 b. Application for such certificate shall be concurrent with the application for a permit;
4599 c. If all ordinance provisions are met, the certificate of compliance shall be issued within ten days after
4600 written notification that the permitted work is completed;
4601 d. The applicant shall submit a certification signed by a registered professional engineer or registered
4602 land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit
4603 issued. Floodproofing measures also require certification by a registered professional engineer or
4604 registered architect that floodproofing measures meet the requirements of subsection 19.46.070E.
- 4605 4. Other permits. The applicant must secure all necessary permits from federal, state, and local
4606 agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal
4607 Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.
- 4608 B. Zoning agency.
- 4609 1. The City of Whitewater Plan and Architectural review commission shall:
- 4610 a. Oversee the functions of the office of the zoning administrator; and
4611 b. Review and advise the governing body on all proposed amendments to this chapter, maps and text.
- 4612 2. This zoning agency shall not:

4613 a. Grant variances to the terms of the ordinance in place of action by the board of adjustment/appeals;
4614 or
4615 b. Amend the text or zoning maps in place of official action by the governing body.
4616 C. Board of adjustment/appeals. The board of adjustment/appeals, created under s. 59.694, Stats., for
4617 counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act
4618 for the purposes of this chapter. The board shall exercise the powers conferred by Wisconsin Statutes
4619 and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the
4620 board.

4621 1. Powers and duties. The board of adjustment/appeals shall:

4622 a. Appeals -- Hear and decide appeals where it is alleged there is an error in any order, requirement,
4623 decision or determination made by an administrative official in the enforcement or administration of
4624 this chapter.

4625 b. Boundary disputes -- Hear and decide disputes concerning the district boundaries shown on the
4626 official floodplain zoning map.

4627 c. Variances -- Hear and decide, upon appeal, variances from the ordinance standards.

4628 2. Appeals to the board.

4629 a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the
4630 municipality affected by any decision of the zoning administrator or other administrative officer. Such
4631 appeal shall be taken within thirty days unless otherwise provided by the rules of the board, by filing
4632 with the official whose decision is in question, and with the board, a notice of appeal specifying the
4633 reasons for the appeal. The official whose decision is in question shall transmit to the board all records
4634 regarding the matter appealed.

4635 b. Notice and hearing for appeals including variances.

4636 i. Notice -- The board shall:

4637 (A) Fix a reasonable time for the hearing;

4638 (B) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and
4639 subject of the hearing;

4640 (C) Assure that notice shall be mailed to the parties in interest and the department regional office at
4641 least ten days in advance of the hearing.

4642 ii. Hearing -- Any party may appear in person or by agent. The board shall:

4643 (A) Resolve boundary disputes according to subsection 19.46.070C.3.

4644 (B) Decide variance applications according to subsection 19.46.070C.4.

4645 (C) Decide appeals of permit denials according to subsection 19.46.070D.

4646 c. Decision: The final decision regarding the appeal or variance application shall:

4647 i. Be made within a reasonable time;

4648 ii. Be sent to the department regional office within ten days of the decision;

4649 iii. Be a written determination signed by the chairman or secretary of the board;

4650 iv. State the specific facts which are the basis for the board's decision;

4651 v. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in
4652 whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

4653 vi. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in
4654 the case of a variance, clearly stated in the recorded minutes of the board proceedings.

4655 3. Boundary disputes. The following procedure shall be used by the board in hearing disputes
4656 concerning floodplain district boundaries:

4657 a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the
4658 flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be
4659 examined.

4660 b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to
4661 present arguments and technical evidence to the board.

4662 c. If the boundary is incorrectly mapped, the board should inform the zoning committee or the person
4663 contesting the boundary location to petition the governing body for a map amendment according to
4664 section 19.46.080.

4665 4. Variance.

4666 a. The board may, upon appeal, grant a variance from the standards of this chapter if an applicant
4667 convincingly demonstrates that:

4668 i. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
4669 ii. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not
4670 common to adjacent lots or premises. In such case the ordinance or map must be amended;
4671 ii. The variance is not contrary to the public interest; and
4672 iv. The variance is consistent with the purpose of this chapter in subsection 19.46.010C.

4673 b. In addition to the criteria in subsection a., to qualify for a variance under FEMA regulations, the
4674 following criteria must be met:

4675 i. The variance may not cause any increase in the regional flood elevation;
4676 ii. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing
4677 structures constructed below the RFE;
4678 iii. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum
4679 relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for
4680 rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

4681 c. A variance shall not:

4682 i. Grant, extend or increase any use prohibited in the zoning district.
4683 ii. Be granted for a hardship based solely on an economic gain or loss.
4684 iii. Be granted for a hardship which is self-created.
4685 iv. Damage the rights or property values of other persons in the area.
4686 v. Allow actions without the amendments to this chapter or map(s) required in subsection 19.46.090A.
4687 vi. Allow any alteration of an historic structure, including its use, which would preclude its continued
4688 designation as an historic structure.

4689 d. When a floodplain variance is granted the board shall notify the applicant in writing that it may
4690 increase flood insurance premiums and risks to life and property. A copy shall be maintained with the
4691 variance record.

4692 (D) To review appeals of permit denials.

4693 1. The zoning agency (s. 7.2) or board shall review all data related to the appeal. This may include:

4694 a. Permit application data listed in subsection 19.46.070A.2.
4695 b. Floodway/floodfringe determination data in subsection 19.46.050A.4.
4696 c. Data listed in subsection 19.46.030C.1.b. where the applicant has not submitted this information to
4697 the zoning administrator.
4698 d. Other data submitted with the application, or submitted to the board with the appeal.

4699 2. For appeals of all denied permits the board shall:

4700 a. Follow the procedures of subsection 19.46.010C.;
4701 b. Consider zoning agency recommendations; and
4702 c. Either uphold the denial or grant the appeal.

4703 3. For appeals concerning increases in regional flood elevation the board shall:

4704 a. Uphold the denial where the board agrees with the data showing an increase in flood elevation.
4705 Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and
4706 map and all appropriate legal arrangements are made with all adversely affected property owners.

- 4707 b. Grant the appeal where the board agrees that the data properly demonstrates that the project does
4708 not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
4709 E. Floodproofing.
4710 1. No permit or variance shall be issued until the applicant submits a plan certified by a registered
4711 professional engineer or architect that the floodproofing measures will protect the structure or
4712 development to the flood protection elevation.
4713 2. Floodproofing measures shall be designed to:
4714 a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood
4715 factors;
4716 b. Protect structures to the flood protection elevation;
4717 c. Anchor structures to foundations to resist flotation and lateral movement; and
4718 d. Insure that structural walls and floors are watertight to the flood protection elevation, and the
4719 interior remains completely dry during flooding without human intervention.
4720 3. Floodproofing measures could include:
4721 a. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
4722 b. Adding mass or weight to prevent flotation.
4723 c. Placing essential utilities above the flood protection elevation.
4724 d. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor
4725 pressures.
4726 e. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
4727 f. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.
4728 F. Public information.
4729 1. Place marks on structures to show the depth of inundation during the regional flood.
4730 2. All maps, engineering data and regulations shall be available and widely distributed.
4731 3. All real estate transfers should show what floodplain zoning district any real property is in.
4732 (Ord. No. 1724A, § 1(7.0), 4-8-2009)

4733
4734 **19.46.080 Amendments.**

- 4735 A. General. The governing body may change or supplement the floodplain zoning district boundaries
4736 and this chapter in the manner provided by law. Actions which require an amendment include, but are
4737 not limited to, the following:
4738 1. Any change to the official floodplain zoning map, including the floodway line or boundary of any
4739 floodplain area.
4740 2. Correction of discrepancies between the water surface profiles and floodplain zoning maps.
4741 3. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood
4742 protection elevation and is contiguous to land lying outside the floodplain.
4743 4. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or
4744 more.
4745 5. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or
4746 otherwise required by law, or for changes by the municipality.
4747 6. All channel relocations and changes to the maps to alter floodway lines or to remove an area from
4748 the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior
4749 approval by FEMA.

4750 Note: Consult the FEMA web site -- www.fema.gov -- for the map change fee schedule.

- 4751 B. Procedures. Ordinance amendments may be made upon petition of any interested party according
4752 to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions
4753 shall include all necessary data required by subsections 19.46.050A.4. and 19.46.070A.2.

- 4754 1. The proposed amendment shall be referred to the zoning agency for a public hearing and
4755 recommendation to the governing body. The amendment and notice of public hearing shall be
4756 submitted to the department regional office for review prior to the hearing. The amendment procedure
4757 shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
4758 2. No amendments shall become effective until reviewed and approved by the department.
4759 3. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height
4760 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all
4761 adversely affected property owners and notify local units of government before the amendment can be
4762 approved by the governing body.
4763 4. For amendments in areas with no water surface profiles, the zoning agency or board shall consider
4764 data submitted by the department, the zoning administrator's visual on-site inspections and other
4765 available information. (See subsection 19.46.010E.4.)
4766 (Ord. No. 1724A, § 1(8.0), 4-8-2009)
4767

4768 **19.46.090 Enforcement and penalties.**

4769 Any violation of the provisions of this chapter by any person shall be unlawful and shall be
4770 referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall,
4771 upon conviction, forfeit to the municipality a penalty of not less than \$200.00 and not more than
4772 \$300.00, together with a taxable cost of such action. Each day of continued violation shall constitute a
4773 separate offense. Every violation of this chapter is a public nuisance and the creation may be enjoined
4774 and the maintenance may be abated by action at suit of the municipality, the state, or any citizen
4775 thereof pursuant to s. 87.30, Stats. (I BELIEVE WE DECIDED TO LEAVE THIS AS IS)
4776 (Ord. No. 1724A, § 1(9.0), 4-8-2009)
4777

4778 **19.46.100 Definitions.**

4779 Unless specifically defined, words and phrases in this chapter shall have their common law
4780 meaning and shall be applied in accordance with their common usage. Words used in the present tense
4781 include the future, the singular number includes the plural and the plural number includes the singular.
4782 The word "may" is permissive, "shall" is mandatory and is not discretionary.

- 4783 1) "A Zones" means those areas shown on the official floodplain zoning map which would be inundated
4784 by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may
4785 not be reflective of flood profiles, depending on the availability of data for a given area.
4786 2) "Accessory structure or use" means a facility, structure, building or use which is accessory or
4787 incidental to the principal use of a property, structure or building.
4788 3) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any
4789 given year, as published by FEMA as part of a FIS and depicted on a FIRM.
4790 4) "Basement" means any enclosed area of a building having its floor sub-grade, i.e., below ground
4791 level, on all sides.
4792 5) "Building." See Structure.
4793 6) "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by
4794 a municipal ordinance and approved by the department pursuant to s. 30.11, Stats., and which allows
4795 limited filling between this bulkhead line and the original ordinary highwater mark, except where such
4796 filling is prohibited by the floodway provisions of this chapter.
4797 7) "Campground" means any parcel of land which is designed, maintained, intended or used for the
4798 purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is
4799 advertised or represented as a camping area.

- 4800 8) "Camping unit" means any portable device, no more than four hundred square feet in area, used as
4801 a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck,
4802 tent or other mobile recreational vehicle.
- 4803 9) "Certificate of compliance" means a certification that the construction and the use of land or a
4804 building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions
4805 of this chapter.
- 4806 10) "Channel" means a natural or artificial watercourse with definite bed and banks to confine and
4807 conduct normal flow of water.
- 4808 11) "Crawlways" or "crawl space" means an enclosed area below the first usable floor of a building,
4809 generally less than five feet in height, used for access to plumbing and electrical utilities.
- 4810 12) "Deck" means an unenclosed exterior structure that has no roof or sides, but has a permeable floor
4811 which allows the infiltration of precipitation.
- 4812 13) "Department" means the Wisconsin Department of Natural Resources.
- 4813 14) "Development" means any artificial change to improved or unimproved real estate, including, but
4814 not limited to, the construction of buildings, structures or accessory structures; the construction of
4815 additions or alterations to buildings, structures or accessory structures; the repair of any damaged
4816 structure or the improvement or renovation of any structure, regardless of percentage of damage or
4817 improvement; the placement of buildings or structures; subdivision layout and site preparation; mining,
4818 dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction
4819 of materials or equipment; and the installation, repair or removal of public or private sewage disposal
4820 systems or water supply facilities.
- 4821 15) "Dryland access" means a vehicular access route which is above the regional flood elevation and
4822 which connects land located in the floodplain to land outside the floodplain, such as a road with its
4823 surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- 4824 16) "Encroachment" means any fill, structure, equipment, building, use or development in the
4825 floodway.
- 4826 17) "Existing manufactured home park or subdivision" means a parcel of land, divided into two or more
4827 manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is
4828 completed before the effective date of this chapter. At a minimum, this would include the installation of
4829 utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- 4830 18) "Expansion to existing mobile/manufactured home park" means the preparation of additional sites
4831 by the construction of facilities for servicing the lots on which the manufactured homes are to be
4832 affixed. This includes installation of utilities, construction of streets and either final site grading, or the
4833 pouring ~~if~~of concrete pads.
- 4834 19) "Federal Emergency Management Agency (FEMA)" means the federal agency that administers the
4835 National Flood Insurance Program.
- 4836 20) "Flood insurance rate map" (FIRM) means a map of a community on which the Federal Insurance
4837 Administration has delineated both special flood hazard areas (the floodplain) and the risk premium
4838 zones applicable to the community. This map can only be amended by the Federal Emergency
4839 Management Agency.
- 4840 21) "Flood" or "flooding" means A general and temporary condition of partial or complete inundation
4841 of normally dry land areas caused by one of the following conditions:
4842 The overflow or rise of inland waters,
4843 The rapid accumulation or runoff of surface waters from any source,
4844 The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the
4845 shore of Lake Michigan or Lake Superior, or

4846 The sudden increase caused by an unusually high water level in a natural body of water, accompanied by
4847 a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual
4848 event.

4849 22) "Flood frequency" means the probability of a flood occurrence which is determined from statistical
4850 analyses. The frequency of a particular flood event is usually expressed as occurring, on the average,
4851 once in a specified number of years or as a percent (%) chance of occurring in any given year.

4852 23) "Floodfringe" means that portion of the floodplain outside of the floodway which is covered by
4853 flood waters during the regional flood and associated with standing water rather than flowing water.

4854 24) "Flood hazard boundary map" means a map designating approximate flood hazard areas. Flood
4855 hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional
4856 flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National
4857 Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate
4858 Map.

4859 25) "Flood insurance study" means a technical engineering examination, evaluation, and determination
4860 of the local flood hazard areas. It provides maps designating those areas affected by the regional flood
4861 and provides both flood insurance rate zones and base flood elevations and may provide floodway lines.
4862 The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate
4863 Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the
4864 insurance aspects of the National Flood Insurance Program.

4865 26) "Floodplain" means land which has been or may be covered by flood water during the regional
4866 flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas
4867 for regulatory purposes.

4868 27) "Floodplain island" means a natural geologic land formation within the floodplain that is
4869 surrounded, but not covered, by floodwater during the regional flood.

4870 28) "Floodplain management" means policy and procedures to ensure wise use of floodplains,
4871 including mapping and engineering, mitigation, education, and administration and enforcement of
4872 floodplain regulations.

4873 29) "Flood profile" means a graph or a longitudinal profile line showing the relationship of the water
4874 surface elevation of a flood event to locations of land surface elevations along a stream or river.

4875 30) "Floodproofing" means any combination of structural provisions, changes or adjustments to
4876 properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for
4877 the purpose of reducing or eliminating flood damage.

4878 31) "Flood protection elevation" means an elevation of two feet of freeboard above the water surface
4879 profile elevation designated for the regional flood. (Also see: Freeboard.)

4880 32) "Flood storage" means those floodplain areas where storage of floodwaters has been taken into
4881 account during analysis in reducing the regional flood discharge.

4882 33) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining
4883 the channel required to carry the regional flood discharge.

4884 34) "Freeboard" means a safety factor expressed in terms of a specified number of feet above a
4885 calculated flood level. Freeboard compensates for any factors that cause flood heights greater than
4886 those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings
4887 and floodways, the effects of watershed urbanization, loss of flood storage areas due to development
4888 and aggregation of the river or stream bed.

4889 35) "Habitable structure" means any structure or portion thereof used or designed for human
4890 habitation.

4891 36) "Hearing notice" means publication or posting meeting the requirements of Ch. 985, Stats. For
4892 appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required.
4893 For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week

4894 consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may
4895 require additional notice, exceeding these minimums.

4896 37) "High flood damage potential" means damage that could result from flooding that includes any
4897 danger to life or health or any significant economic loss to a structure or building and its contents.

4898 38) "Historic structure" means any structure that is either:
4899 Listed individually in the National Register of Historic Places or preliminarily determined by the
4900 Secretary of the Interior as meeting the requirements for individual listing on the National Register,
4901 Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical
4902 significance of a registered historic district or a district preliminarily determined by the Secretary to
4903 qualify as a registered historic district,
4904 Individually listed on a state inventory of historic places in states with historic preservation programs
4905 which have been approved by the Secretary of the Interior, or
4906 Individually listed on a local inventory of historic places in communities with historic preservation
4907 programs that have been certified either by an approved state program, as determined by the Secretary
4908 of the Interior; or by the Secretary of the Interior in states without approved programs.

4909 39) "Increase in regional flood height" means a calculated upward rise in the regional flood elevation,
4910 equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed
4911 conditions which is directly attributable to development in the floodplain but not attributable to
4912 manipulation of mathematical variables such as roughness factors, expansion and contraction
4913 coefficients and discharge.

4914 40) "Land use" means any nonstructural use made of unimproved or improved real estate. (Also see
4915 development.)

4916 41) "Manufactured home" means a structure transportable in one or more sections, which is built on a
4917 permanent chassis and is designed to be used with or without a permanent foundation when connected
4918 to required utilities. The term "manufactured home" includes a mobile home but does not include a
4919 "mobile recreational vehicle."

4920 42) "Mobile recreational vehicle" means a vehicle which is built on a single chassis, four hundred
4921 square feet or less when measured at the largest horizontal projection, designed to be self-propelled,
4922 carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if
4923 registration is required and is designed primarily not for use as a permanent dwelling, but as temporary
4924 living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or
4925 carried onto a parcel of land, but do not remain capable of being towed or carried, including park model
4926 homes, do not fall within the definition of "mobile recreational vehicles."

4927 43) "Municipality" or "municipal" means the county, city or village governmental units enacting,
4928 administering and enforcing this zoning ordinance.

4929 44) "NAVD" or "North American Vertical Datum" means Elevations referenced to mean sea level
4930 datum, 1988 adjustment.

4931 45) "NGVD" or "National Geodetic Vertical Datum" means Elevations referenced to mean sea level
4932 datum, 1929 adjustment.

4933 46) "New construction" means for floodplain management purposes, "new construction" means
4934 structures for which the start of construction commenced on or after the effective date of floodplain
4935 zoning regulations adopted by this community and includes any subsequent improvements to such
4936 structures. For the purpose of determining flood insurance rates, it includes any structures for which the
4937 "start of construction" commenced on or after the effective date of an initial FIRM or after December
4938 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

4939 47) "Nonconforming structure" means an existing lawful structure or building which is not in
4940 conformity with the dimensional or structural requirements of this chapter for the area of the floodplain
4941 which it occupies. (For example, an existing residential structure in the floodfringe district is a

4942 conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure
4943 is nonconforming.)

4944 48) "Nonconforming use" means an existing lawful use or accessory use of a structure or building which
4945 is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies.
4946 (Such as a residence in the floodway.)

4947 49) "Obstruction to flow" means any development which blocks the conveyance of floodwaters such
4948 that this development alone or together with any future development will cause an increase in regional
4949 flood height.

4950 50) "Official floodplain zoning map" means that map, adopted and made part of this chapter, as
4951 described in subsection 19.46.010E.2., which has been approved by the department and FEMA.

4952 51) "Open space use" means those uses having a relatively low flood damage potential and not
4953 involving structures.

4954 52) "Ordinary highwater mark" means the point on the bank or shore up to which the presence and
4955 action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or
4956 prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized
4957 characteristic.

4958 53) "Person" means an individual, or group of individuals, corporation, partnership, association,
4959 municipality or state agency.

4960 54) "Private sewage system" means a sewage treatment and disposal system serving one structure
4961 with a septic tank and soil absorption field located on the same parcel as the structure. It also means an
4962 alternative sewage system approved by the Department of Commerce, including a substitute for the
4963 septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system
4964 located on a different parcel than the structure.

4965 55) "Public utilities" means those utilities using underground or overhead transmission lines such as
4966 electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer
4967 and storm sewer.

4968 56) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage
4969 structures to be removed from the special flood hazard area and that any subsurface waters related to
4970 the base flood will not damage existing or proposed buildings.

4971 57) "Regional flood" means a flood determined to be representative of large floods known to have
4972 occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or
4973 exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

4974 58) "Start of construction" means the date the building permit was issued, provided the actual start of
4975 construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was
4976 within one hundred eighty days of the permit date. The actual start means either the first placement of
4977 permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the
4978 construction of columns, or any work beyond initial excavation, or the placement of a manufactured
4979 home on a foundation. Permanent construction does not include land preparation, such as clearing,
4980 grading and filling, nor does it include the installation of streets and/or walkways, nor does it include
4981 excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does
4982 it include the installation on the property of accessory buildings, such as garages or sheds not occupied
4983 as dwelling units or not part of the main structure. For an alteration, the actual start of construction
4984 means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not
4985 that alteration affects the external dimensions of the building.

4986 59) "Structure" means any manmade object with form, shape and utility, either permanently or
4987 temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not
4988 limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

4989 60) "Subdivision" means has the meaning given in s. 236.02(12), Wis. Stats.

- 4990 61) "Substantial damage" means damage of any origin sustained by a structure, whereby the cost of
 4991 restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the
 4992 equalized assessed value of the structure before the damage occurred.
- 4993 62) "Unnecessary hardship" means where special conditions affecting a particular property, which
 4994 were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage,
 4995 height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 4996 63) "Variance" means an authorization by the board of adjustment or appeals for the construction or
 4997 maintenance of a building or structure in a manner which is inconsistent with dimensional standards
 4998 (not uses) contained in the floodplain zoning ordinance.
- 4999 64) "Violation" means the failure of a structure or other development to be fully compliant with the
 5000 floodplain zoning ordinance. A structure or other development without required permits, lowest floor
 5001 elevation documentation, floodproofing certificates or required floodway encroachment calculations is
 5002 presumed to be in violation until such time as that documentation is provided.
- 5003 65) "Watershed" means the entire region contributing runoff or surface water to a watercourse or
 5004 body of water.
- 5005 66) "Water surface profile" means a graphical representation showing the elevation of the water
 5006 surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A
 5007 water surface profile of the regional flood is used in regulating floodplain areas.
- 5008 67) "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or
 5009 other methods, to obtain groundwater regardless.
 5010 (Ord. No. 1724A, § 1(10.0), 4-8-2009)

5011
 5012 **Chapter 19.461 FWW FLOODWAY/WETLAND DISTRICT**

5013 Sections:

5014 19.461.010 Purpose.

5015 19.461.020 Permitted uses.

5016 19.461.030 Conditional uses.

5017 19.461.040 Maintenance of drainageways.

5018 19.461.050 Dumping and filling prohibited.

5019 19.461.060 Dangerous materials storage prohibited.

5020 19.461.070 Incompatible use prohibited.

5021 19.461.080 Mobile homes prohibited.

5022
 5023 **19.461.010 Purpose.**

5024 The FWW floodway/wetland district is intended to preserve, protect, and enhance the ponds,
 5025 streams, and wetland areas within the floodplains of the city. The preservation, protection, and
 5026 enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve
 5027 water quality, both ground and surface; prevent flood damage; control stormwater runoff; protect
 5028 stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat;
 5029 protect native plant communities; avoid the location of structures on soils which are generally not
 5030 suitable for use; and protect the water-based recreation resources of the city. In delineating the FWW
 5031 district, the effects of development within the associated floodfringe shall be computed, as regulated
 5032 under Chapter 19.46 of this title. No floodway/wetland district changes shall be permitted that are not
 5033 consistent with the wetland preservation shoreland protection objectives of Section 144.26 of the
 5034 Wisconsin Statutes as set forth in Section 19.69.066(B) of this code.

5035 The FWW floodway/wetland district, as shown on the zoning map, includes those wetlands that
 5036 are shown on the Wisconsin Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and

5037 stamped "FINAL;" which are also shown within the one hundred-year recurrence interval floodplain as
5038 shown on the official Floodplain Zoning Map.
5039 (Ord. 1600 § 4, 2006: Ord. 1196 § 1(part), 1990).

5040
5041 **19.461.020 Permitted uses.**

5042 Permitted uses in the FWW district are limited to the following:

- 5043 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;
5044 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
5045 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
5046 filling, flooding, draining, dredging, ditching, tiling, or excavating;
5047 C. Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling,
5048 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
5049 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
5050 impact on silvicultural activities if not corrected;
5051 D. Agricultural crops and grazing provided that they do not involve extension of cultivated areas,
5052 extension of or creation of new drainage systems, and further provided that they do not substantially
5053 disturb or impair the natural fauna, flora, topography, or water regimen;
5054 E. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
5055 only to the extent necessary to maintain the level of drainage required to continue the existing use;
5056 F. The construction and maintenance of piers, docks, and walkways, including those built on pilings;
5057 G. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
5058 (Ord. 1196 § 1(part), 1990).

5059
5060 **19.461.030 Conditional uses.**

5061 The following uses are conditional uses in the FWW floodway/wetland district and may be
5062 permitted as specified. The city plan commission shall transmit a copy of each application for a
5063 conditional use in the FWW floodway/wetland district to the Wisconsin Department of Natural
5064 Resources (DNR) at least ten days prior to the public hearing. Final action on the application shall not be
5065 taken for thirty days or until the DNR has made its recommendation, whichever comes first. A copy of all
5066 FWW Floodway/wetland district conditional use permits shall be transmitted to the DNR within ten days
5067 following the decision:

- 5068 A. The construction of streets which are necessary for the continuity of the city street system,
5069 necessary for the provision of essential utility and public safety services, or necessary to provide access
5070 to permitted open space uses in the FWW district; provided, that:
- 5071 1. The street cannot as a practical matter be located outside the conservancy district;
 - 5072 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
5073 wetland as listed in Section 19.69.066(B) of this code;
 - 5074 3. The street is designed and constructed with the minimum cross-section practical to serve the
5075 intended use;
 - 5076 4. The street construction activities are carried out in the immediate area of the roadbed only; and
 - 5077 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
5078 for the construction or maintenance of the street. Filling in the FWW district shall not be permitted if
5079 the effect will be to increase flood stage by 0.01 foot or more, except as otherwise provided in this
5080 chapter.
- 5081 B. The establishment and development of public and private parks and recreation areas, recreation
5082 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
5083 refuges, game preserves, and private habitat areas; provided, that:
- 5084 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;

- 5085 2. No structures shall be erected;
5086 3. No filling is to be done; and
5087 4. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
5088 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
5089 otherwise enhance the value of a wetland or other natural resource.
5090 C. The construction and maintenance of fences; provided, that:
5091 1. All fences shall have at least fifty percent of their surface area open for free passage of light, air, and
5092 floodwaters; and
5093 2. All fences shall be firmly anchored to prevent them from floating away and restricting bridge
5094 openings.
5095 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
5096 distribution lines, and related facilities; provided, that:
5097 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
5098 outside the floodway/wetland district;
5099 2. All utilities shall be firmly anchored to prevent flotation;
5100 3. All utilities shall be floodproofed to an elevation at least two feet above the 100-year recurrence
5101 interval flood, and shall be designed to eliminate or minimize infiltration of floodwater into the utility;
5102 and
5103 4. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
5104 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
5105 and other adverse impacts upon the natural functions of the conservancy area. Filling in the FWW
5106 district shall not be permitted if the effect will be to increase flood stage by 0.01 foot or more, except as
5107 otherwise provided in this chapter.
5108 E. The construction and maintenance of railroad lines; provided, that:
5109 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
5110 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
5111 construction or maintenance of the railroad, and must be done in a manner designed to minimize
5112 flooding and other adverse impacts upon the natural functions of the conservancy area.
5113 (Ord. 1196 § 1(part), 1990).

5114
5115 **19.461.040 Maintenance of drainageways.**

5116 No development in the FWW floodway/wetland district shall adversely affect the channels,
5117 floodways, or shorelands of Whitewater Creek, Spring Brook, any tributaries thereto, drainage ditches,
5118 or other lands lying outside the floodlands.
5119 (Ord. 1196 § 1(part), 1990).

5120
5121 **19.461.050 Dumping and filling prohibited.**

5122 Lands lying within the FWW floodway/wetland district shall not be used for dumping or be filled.
5123 (Ord. 1196 § 1(part), 1990).

5124
5125 **19.461.060 Dangerous materials storage prohibited.**

5126 Lands lying within the FWW floodway/wetland district shall not be used for the storage of
5127 materials that are buoyant, flammable, explosive, or injurious to human, animal, or plant life.
5128 (Ord. 1196 § 1(part), 1990).

5129
5130 **19.461.070 Incompatible use prohibited.**

5131 A. Lands lying within the FWW floodway/wetland district shall not be used for any solid waste disposal
5132 site or onsite soil absorption sanitary sewerage system site, or the construction of any well which is used

5133 to obtain water for ultimate human consumption. Sewage treatment plants and treatment ponds shall
5134 not be constructed in the FWW floodway/wetland district.

5135 B. Any use not listed as a permitted use or a conditional use in the FWW floodway/wetland district is
5136 prohibited unless the FWW district lands concerned are first rezoned into another district. Furthermore,
5137 the use of a boathouse for human habitation and the construction or placement of a boathouse or fixed
5138 houseboat below the ordinary highwater mark of any navigable water are prohibited.
5139 (Ord. 1196 § 1(part), 1990).

5140

5141 **19.461.080 Mobile homes prohibited.**

5142 No mobile home, manufactured home, mobile home park, or trailer camp shall be placed or
5143 moved onto lands lying in the FWW floodway/wetland district.
5144 (Ord. 1196 § 1(part), 1990).

5145

5146 **Chapter 19.48 I INSTITUTIONAL DISTRICT**

5147 Sections:

5148 19.48.010 Purpose.

5149 19.48.020 Permitted uses.

5150 19.48.030 Conditional uses.

5151 19.48.040 Lot area.

5152 19.48.050 Lot width.

5153 19.48.060 Building height.

5154 19.48.070 Yard requirements.

5155 19.48.080 Number of structures on one lot.

5156

5157 **19.48.010 Purpose.**

5158 The I institutional district is established to provide a community review and approval process for
5159 certain institutional uses that have a potential impact on surrounding land uses and/or the city as a
5160 whole.

5161 (Ord. 1364 § 8, 1997; Ord. 994 § 3.17(part), 1982).

5162

5163 **19.48.020 Permitted uses.**

5164 Permitted uses in the I district include:

5165 A. Colleges;

5166 B. Universities and their associated residential, educational and service facilities, except that new
5167 structures and/or exterior remodeling of existing structures which are within one hundred fifty feet of
5168 any other zoning district boundary (includes surface parking areas for more than twenty vehicles) shall
5169 be a conditional use as indicated below. The uses stated in Section 19.48.030 shall be conditional uses;

5170 C. The second or greater wireless telecommunication facility located on an alternative support
5171 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
5172 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
5173 accessory uses, all per the requirements of Chapter 19.55.

5174 (Ord. 1499 § 22, 2001; 1364 § 9, 1997; Ord. 994 § 3.17(A), 1982).

5175

5176 **19.48.030 Conditional uses.**

5177 Conditional uses in the I district include:

5178 A. New structures and/or exterior remodeling or existing structures within one hundred fifty feet of
5179 any other zoning district boundary (includes surface parking areas for more than twenty vehicles);

5180 B. Gymnasiums, sport stadiums, auditoriums, and similar places of general public assembly;

- 5181 C. Parking structures and surface parking areas for more than one hundred vehicles;
5182 D. The first wireless telecommunications facility located on an alternative support structure only, per
5183 the requirements of Chapter 19.55;
5184 E. Fraternity or sorority houses.
5185 (Ord. 1668A § 3, 2007; Ord. 1499 § 23, 2001; Ord. 994 § 3.17(B), 1982).

5186
5187 **19.48.040 Lot area.**

5188 Minimum total lot area in the I district is one acre.
5189 (Ord. 994 § 3.17(C), 1982).

5190
5191 **19.48.050 Lot width.**

5192 Minimum lot width in the I district is one hundred twenty feet.
5193 (Ord. 994 § 3.17(D), 1982).

5194
5195 **19.48.060 Building height.**

5196 Maximum building height in the institutional district shall be ~~sixty~~ one hundred feet. Mechanical
5197 penthouses shall be excluded from the building height restrictions listed herein if they comply with the
5198 following limitations:

- 5199 A. Penthouses shall be no taller than the highest floor to floor height in the building.
5200 B. Penthouses shall be set back from the public street building facade of the building equal to the
5201 height of the penthouse.
5202 C. The penthouse floor area, including vertical circulation spaces leading to the penthouse, shall be no
5203 greater than ten percent of the ground floor building footprint.
5204 (Ord. 1673A § 1, 2008; Ord. 994 § 3.17(E), 1982).

5205 D. The maximum building height is also subject to fire safety limitations. The maximum building height
5206 may be increased under the provisions of a conditional use permit which will include, but is not limited
5207 to, consideration of issues regarding shadows cast by buidlings, views, impacts on neighbors, and
5208 microclimate.

5209
5210 **19.48.070 Yard requirements.**

5211 Minimum yard requirements in the I district are:

- 5212 A. Any street yard facing any zoning district other than the institutional district shall be no less than
5213 twenty-five feet, measured from the right-of-way, or one-half of the total height of the building,
5214 whichever is greater. Any street yard within an institutional district facing yards in an institutional
5215 district shall not be less than twenty-five feet, measured from the right-of-way. The building setback
5216 shall not in any event encroach on the intersection visibility requirements set forth in Whitewater
5217 Municipal Code, Section 19.51.010;
5218 B. Street yard for off-street parking--fifteen feet;
5219 C. Side yard shall be thirty feet or equal to the height of the structure, whichever is greater;
5220 D. Rear yard--thirty-five feet or equal to the height of the structure, whichever is greater.
5221 (Ord. 1673A § 2, 2008; Ord. 1364 § 10, 1997; Ord. 994 § 3.17(F), 1982).

5222
5223 **19.48.080 Number of structures on one lot.**

5224 Within the I district, more than one principal structure may be located on a lot (see Section
5225 19.06.150).
5226 (Ord. 994 § 3.17(G), 1982).

5227
5228 **Chapter 19.485 LARGE RETAIL AND COMMERCIAL SERVICE DEVELOPMENT STANDARDS**

5229 Sections:
5230 19.485.010 Title.
5231 19.485.020 Description.
5232 19.485.030 Conditional use permit or PD approval required.
5233 19.485.040 Regulations.
5234
5235 **19.485.010 Title.**
5236 This section shall be known, cited, and referred to as the large retail and commercial service
5237 development chapter.
5238 (Ord. No. 1796A, § 3, 8-3-2010)
5239
5240 **19.485.020 Description.**
5241 A large retail and commercial service development is a development comprised of one or more
5242 contiguous parcels or building sites for a single retail or commercial service enterprise or for multiple
5243 such enterprises within which the total combined floor and surface area of all indoor retail and/or
5244 commercial activities, associated enclosed or outdoor storage, and associated outdoor display exceeds
5245 fifty thousand square feet. The requirements of Chapter 19.485 are applicable to any new, altered or
5246 expanded establishment or group of establishments that meet or exceed the above floor and surface
5247 area threshold, where a complete application for conditional use permit or PD zoning is filed after the
5248 effective date of this chapter. ~~The vacant building provisions set forth in Subsection 19.485.040F.19.~~
5249 ~~shall also apply to large retail and commercial service developments that were constructed prior to the~~
5250 ~~effective date of this chapter.~~
5251 (Ord. No. 1796A, § 3, 8-3-2010)
5252
5253 **19.485.030 Conditional use permit or PD approval required.**
5254 A. Aside from where allowed under an approved PD district, large retail and commercial service
5255 developments shall require a conditional use permit within any district in which they are allowed per
5256 other chapters in this title. All additions to structures, parking, or storage areas that are part of an
5257 approved large retail and commercial service development shall require an amendment to the
5258 conditional use permit or the previously approved PD plans, per the associated requirements for such
5259 amendments in this title.
5260 B. Subsequent changes to individual land uses listed as permitted uses within the applicable zoning
5261 district (for example, a new tenant in a pre-existing retail space) are permitted without amendment to
5262 the associated large retail and commercial development conditional use permit or PD specific
5263 implementation plan, unless said conditional use permit or PD plan placed restrictions on such change of
5264 use.
5265 C. Subsequent individual land uses following initial approval of the development allowed only by
5266 conditional use permit in the zoning district or approved PD specific implementation plan may be
5267 allowed only under a subsequent conditional use permit for the specific use, regardless of whether said
5268 use entails modifications to the building and/or site layout.
5269 (Ord. No. 1796A, § 3, 8-3-2010)
5270
5271 **19.485.040 Regulations.**
5272 In addition to applicable zoning district standards and other applicable standards of this title, each large
5273 retail and commercial service development shall meet the following additional standards, as may be
5274 applicable given the size of each such development:
5275

5276 | BA. Traffic Impact Analysis. A traffic impact analysis is required when a development reaches or
5277 exceeds the defined threshold for such an analysis outlined in Figure 19.485(2), and may be required by
5278 the city director of public works for projects below that threshold if there is initial evidence to suggest
5279 that existing roads in the area may not be adequate to accommodate additional traffic demands. The
5280 traffic impact analysis shall be completed in accordance with standards approved by the city director of
5281 public works, or where he/she does not approve a particular standard, with the most current revision of
5282 the Traffic Impact Analysis Guidelines published by the State of Wisconsin Department of
5283 Transportation. Where the traffic impact analysis indicates that the proposed development may cause
5284 off-site public roads, intersections, or interchanges to function below level of service (LOS) D, then the
5285 city may deny the application, may require a size reduction in the proposed development, and/or may
5286 require the developer to construct and/or pay for required off-site improvements to achieve LOS D for a
5287 planning horizon of a minimum of ten years following full build-out of the development. All such
5288 developments shall have direct access to an arterial or collector street. Vehicle access shall be designed
5289 to accommodate peak on-site traffic volumes without disrupting traffic on public streets or impairing
5290 pedestrian safety. This shall be accomplished through adequate parking lot design and capacity; access
5291 drive entry throat length, width, design, location, and number; traffic control devices; and/or sidewalks.
5292 The site design shall provide direct transportation connections to adjacent land uses and sites if required
5293 | by the city.

5294
5295 | EB. Economic and Fiscal Impact Analysis. An economic and fiscal impact analysis is required in
5296 accordance with the data requirements established by the City. In addition:
5297 1. The analysis shall identify and assess the economic and fiscal impacts on the city.
5298 2. The analysis shall propose measures to mitigate adverse impacts and/or maximize positive impacts,
5299 including provision of infrastructure or public service improvements sufficient to support the
5300 development. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to
5301 be implemented by the applicant shall be identified.
5302 3. If required by the zoning administrator, the applicant shall provide the necessary funding to the city
5303 to hire a consultant of the city's choice, with appropriate experience to complete and present an
5304 | objective economic and fiscal impact analysis to the city.

5305
5306 | DC. Detailed Neighborhood Plan. A detailed neighborhood plan is required in accordance with
5307 requirements established by the City. Such neighborhood plan shall cover any undeveloped areas within
5308 a one-thousand-five-hundred-foot distance from the boundaries of the development site (except where
5309 a lesser distance is approved by the zoning administrator). The detailed neighborhood plan must be
5310 completed by the city or applicant prior to the application for conditional use permit or rezoning, and
5311 submitted or referenced with such application. The detailed neighborhood plan shall include a map of
5312 sufficient detail to establish the potential future mix and development of land uses based on the city's
5313 comprehensive plan and the relationship of surrounding lands to the large retail and commercial service
5314 development with regard to provision of streets, driveways, bicycle/pedestrian routes, utilities,
5315 stormwater management, landscape transitions, setbacks, and community design and character, and
5316 | general layout, all in a manner that is consistent with the city's comprehensive plan.

5317
5318 | ED. Facilities and Associated Features. The following requirements are applicable when a large retail
5319 and commercial service development reaches or exceeds the defined threshold for such facilities and
5320 associated features outlined in Figure 19.485(2):

5321 1. Building Location. Wherever practical, as determined by the plan and architectural review
5322 commission based on the particular setting, the primary building within the development shall be
5323 | located close to the public street, including parking to the side or rear of that building. Where such

5324 primary building is proposed to be distant from the public street, the commission may require that the
5325 overall development design include smaller buildings on pads or outlots closer to the street. All buildings
5326 on outlots shall have an orientation and architectural quality that relates to the primary building.
5327 Placement and orientation of all buildings must facilitate appropriate land use transitions and
5328 appropriate traffic flow to adjoining roads and to neighboring commercial areas, commercial sites, and
5329 neighborhoods, and must forward community character objectives described in the city's
5330 comprehensive plan. Also see Subsection 19.485.040E.7. below for requirements associated with the
5331 location of parking lots.

5332 2. Building Materials. Exterior building materials shall be of comparable aesthetic quality on all sides.
5333 Building materials such as glass, brick, stone, tinted and decorative concrete block are preferred, with
5334 wood, stucco, and exterior insulation and finish systems (EIFS) also permitted, as determined
5335 appropriate by the plan and architectural review commission. Decorative architectural metal with
5336 concealed fasteners or decorative tilt-up concrete panels may be approved only if integral to the overall
5337 design of the building. Windows shall be prominently incorporated into the building design for both
5338 aesthetic and daylighting effect.

5339 3. Building Design. The building exterior shall complement other buildings in the vicinity (except those
5340 buildings identified for redevelopment), and shall meet the following:

5341 a. The building shall employ varying facade setbacks, heights, roof treatments, doorways, window
5342 openings, and other structural or decorative elements appropriate to the size and scale of the building
5343 and to add architectural interest.

5344 **b.** Ground floor facades that face public streets shall have some combination of features (such as
5345 display windows, entry areas, awnings, or other such features) that are oriented to pedestrians and
5346 create a smaller scale, street-friendly character. f. The integration of windows into building design is
5347 required. Windows shall be transparent glass wherever the plan and architectural review commission
5348 determines it practical. The use of blinds, or display windows shall be acceptable where there is a
5349 determination that opacity is required. Backlighting of such windows may be required in such instances.

5350 4. Building Entrances. Public building entrances shall be clearly defined and highly visible on the
5351 building's exterior design, and shall be emphasized by, and be the focal point for, on-site traffic flow
5352 patterns. Two or more of the following design features shall be incorporated into all public building
5353 entrances: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, or outdoor
5354 patios.

5355 **c.** Screening.

5356 a. All ground-mounted and wall-mounted mechanical equipment, refuse containers and any permitted
5357 outdoor storage shall be fully concealed from on-site and off-site ground-level views, with materials
5358 identical to those used on the building exterior facades.

5359 b. All rooftop mechanical equipment shall be screened by parapets, upper stories, and/or strategic
5360 placement relative to exterior walls or roofs, so as to not be visible from public streets adjacent or
5361 within one thousand feet of the subject property.

5362 c. Loading docks shall be completely screened from surrounding public streets and properties. Said
5363 screening may be accomplished through loading areas internal to buildings, screen walls which match
5364 the building exterior in materials and design, fully opaque landscaping at time of planting, or
5365 combinations.

5366 d. Gates and fencing may be used for security and access, but not for screening, and they shall be of
5367 high aesthetic quality. Decorative metal picket fencing and screening is acceptable. Chain link, wire
5368 mesh, or wood fencing is unacceptable, except that decorative, heavy-duty wood gates may be used.

5369 **d.** Parking.

- 5372 a. All parking lots shall be designed in accordance with Chapter 19.51 of this title.
- 5373 b. Parking lots in which the number of spaces significantly exceeds the minimum number of parking
- 5374 spaces required for the specific use or uses in Section 19.51.130 shall be allowed only with specific and
- 5375 reasonable justification provided by the applicant within the application.
- 5376 c. Parking lots shall be designed to create distinct parking subareas through use of landscaped and
- 5377 curbed medians and islands, a minimum of ten feet in width from back-of-curb to back-of-curb. Each
- 5378 landscaped island shall be a minimum of three hundred sixty square feet in landscaped area.
- 5379 d. Wherever site conditions allow, the plan and architectural review commission may require some or
- 5380 all parking to be oriented to the side and/or rear of the primary building within the development,
- 5381 allowing the building to be located closer to the public street. Applicants proposing to locate the
- 5382 majority of parking between the primary building and the public street shall submit information along
- 5383 with their application identifying the reasons why more or all parking may not be located to the side or
- 5384 rear of the principal building, either through a change in parking location, change in building location, or
- 5385 both.
- 5386 e. Wherever site conditions allow, the plan and architectural review commission may require some or all
- 5387 parking to be shared with surrounding uses and/or the provision of cross-easements for customers to
- 5388 access adjacent parking areas without circulation through surrounding streets.
- 5389 8. Bicycle and Pedestrian Facilities.
- 5390 a. The entire development shall provide for safe pedestrian and bicycle access to all uses within the
- 5391 development, connections to existing and planned public sidewalks and other pedestrian and bicycle
- 5392 facilities, and connections to adjacent properties.
- 5393 b. Pedestrian walkways shall be provided from all building entrances to existing or planned public
- 5394 sidewalks or other pedestrian and bicycle facilities. The minimum width for sidewalks adjacent to
- 5395 buildings shall be eight feet; and the minimum width for sidewalks elsewhere in the development shall
- 5396 be five feet.
- 5397 c. Sidewalks internal to the development shall have adjoining landscaping along at least fifty percent of
- 5398 their length, and may be required to be provided with pedestrian-scale lighting.
- 5399 d. Crosswalks within parking and driveway areas shall be distinguished from driving surfaces to
- 5400 enhance pedestrian safety by using different pavement materials, color, and/or texture in combination
- 5401 with signage.
- 5402 e. The development shall provide secure, attractive, integrated bicycle parking.
- 5403 =
- 5404 9. Central Areas and Features. Each development exceeding eighty thousand square feet in floor area
- 5405 (per the measurement method in Section 19.485.020) shall provide central area(s) or feature(s) such as
- 5406 a patio/seating area, pedestrian plaza with benches, outdoor playground area, water feature, and/or
- 5407 another such deliberately designated outdoor area or focal point that adequately enhance the
- 5408 development or community. Such area shall be openly accessible to the public, connected to the public
- 5409 and private sidewalk system, designed with materials compatible with the primary building and
- 5410 remainder of the site, and maintained over the life of the development.
- 5411 10. Cart Returns. A minimum of one two-hundred-square-foot cart return area (corral) shall be
- 5412 provided for every one hundred parking spaces. Cart corrals shall be of durable, non-rusting, all-season
- 5413 construction, and shall be designed and colored to be compatible with the building and parking lot light
- 5414 standards. There shall be no exterior cart return or cart storage areas located within twenty-five feet of
- 5415 any building.
- 5416 11. Outdoor Display Areas. Exterior sales and display areas--whether permanent or seasonal--shall be
- 5417 permitted only where clearly depicted on the approved site plan associated with the development. All
- 5418 exterior display areas shall be separated from motor vehicle routes by a physical barrier visible to drivers
- 5419 and pedestrians, and by a minimum of ten feet. Display areas on sidewalks directly in front of buildings

5420 building must maintain a minimum walkway width of eight feet between the display items and any
5421 vehicle drives.

5422 12. Outdoor Storage Uses and Areas. Exterior storage structures or uses, including the parking or
5423 storage of service vehicles, trailers, equipment, containers, crates, pallets, merchandise, materials,
5424 forklifts, trash, recyclables, and all other items shall be permitted only where clearly depicted and
5425 labeled on the approved site plan. Such outdoor storage uses and areas shall be appropriately screened
5426 as required by Title 19.

5427 13. Landscaping. On-site landscaping shall be provided at time of building occupancy (except as
5428 allowed under Section 19.66.060), shall meet all applicable landscaping guidelines approved by the city
5429 council or plan and architectural review commission, and shall be maintained per the requirements of
5430 such guidelines and Title 19 over the life of the development.

5431 14. Lighting. On-site exterior lighting shall meet all the standards of Title 19. In addition, the color and
5432 design of pole lighting standards shall be compatible with the primary building in the development and
5433 the public lighting in the area, and shall be uniform throughout the entire development site.

5434 15. Signage. In addition to meeting the applicable requirements of Title 19, a signage plan for all
5435 exterior signage shall provide for coordinated and complementary exterior sign locations,
5436 configurations, and colors throughout the development. Combined signs for multiple users may be
5437 required instead of multiple individual signs. The city may require the use of muted corporate colors on
5438 signage if proposed colors are not compatible with the city's design objectives for the area.

5439 16. Environmental Sustainability, Natural Resources Protection, and Stormwater Management. Natural
5440 resources shall be protected in accordance with Title 19. In general, existing natural features shall be
5441 integrated into the site design as a site and community amenity. Each project shall meet the erosion
5442 control and stormwater management standards found in Title 16 of the Municipal Code and other
5443 applicable city ordinances.

5444 Each development shall intentionally incorporate into site and building design elements that
5445 contribute to the long-term environmental sustainability of the development and the city, as such terms
5446 are described in the city's comprehensive plan. Each development shall provide at least one-half of the
5447 following sustainability features:

5448 a. Reuse an existing, previously developed building and/or site.

5449 b. Utilize one or more rain gardens or bioswales, as described in the City of Whitewater Landscaping
5450 Guidelines, to capture and manage stormwater.

5451 c. Install a green roof or roof-top garden.

5452 d. Incorporate stormwater management facilities that are designed to both serve their primary
5453 function and appear as natural features that can serve as attractive focal points for the development.

5454 e. Install native/naturalized landscaping that minimizes requirements for irrigation/watering and
5455 provides natural habitat.

5456 f. Install systems that allow for the capture and later use of rainwater to water landscaping and for
5457 other permitted functions.

5458 g. Deliberately design/retrofit the primary building with energy efficient systems, such as lighting,
5459 refrigeration, and HVAC systems.

5460 h. Integrate solar, geothermal, wind, or other on-site energy generation into the site and/or building
5461 design.

5462 i. Utilize paving and/or roof materials with a solar reflectance index of at least twenty-nine for a
5463 minimum of fifty percent of the combined pavement and roof area on the site.

5464 j. Purchase a minimum of fifty percent of the development's energy from renewable sources, such as
5465 wind or solar.

5466 k. Recycle of a minimum of seventy-five percent of the waste generated during building/site
5467 construction.

- 5468 l. Utilize a minimum of twenty-five percent recycled materials for building construction.
- 5469 m. Utilize a minimum of fifty percent regional materials for building construction (extracted, harvested,
- 5470 or recovered, and manufacturing from within five hundred miles of the development site).
- 5471 n. No more than two additional sustainability features not listed above but approved by the plan and
- 5472 architectural review commission to meet the city's sustainability objectives, not including any feature
- 5473 already required by another section of this chapter.
- 5474 17. Vacation of Existing Buildings in Large Retail and Commercial Service Developments.
- 5475 a. Where any large retail or commercial service development that has fifty thousand or more square
- 5476 feet of floor area is vacated because the commercial use (sale of goods or merchandise at the building)
- 5477 conducted thereon is being relocated to a different building or discontinued, the party shall be subject
- 5478 to the following provisions:
- 5479 i. The party that vacated the site shall not impose limits on the type of reuse of the vacated site
- 5480 through conditions of sale or lease.
- 5481 ii. The development agreement for the new development at the new site shall include provisions
- 5482 therein whereby the developer of the new site commits to the requirements contained herein.
- 5483 b. In addition to the above, any building within large retail or commercial service development that has
- 5484 twenty thousand or more square feet of floor area and is vacated for any reason shall be subject to the
- 5485 following provisions:
- 5486 i. The owner must file with the city a written statement as to the names, phone numbers, and
- 5487 addresses for all persons who are in control of the property and building and other data as required by
- 5488 the City.
- 5489 18. Development Agreement. The developer shall enter into a development agreement with the city
- 5490 which shall include the payment of all utilities, including, but not limited to, stormwater, sanitary sewer,
- 5491 and street infrastructure. Off-site improvements may also be required as part of the development
- 5492 agreement.
- 5493 19. Exceptions. In the event the applicant desires a deviation or exception from the requirements of
- 5494 this section, the applicant shall present justification for such deviation or exception, including, but not
- 5495 limited to, preexisting conditions on a redevelopment site, which may be approved or denied by the
- 5496 plan and architectural review commission.

Chapter 19.49 WELLHEAD PROTECTION

Sections:

19.49.010 Title.

19.49.020 Purpose and authority.

19.49.030 Applicability.

19.49.040 Definitions.

19.49.050 Wellhead protection area.

19.49.060 Enforcement.

19.49.010 Title.

This section shall be known, cited and referred to as the "wellhead protection ordinance" (hereinafter "WHP ordinance").
(Ord. 1383 § 1(part), 1997).

19.49.020 Purpose and authority.

A. The residents of the City of Whitewater (hereinafter "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 the WHP ordinance codified in this chapter is to protect

5516 the city's municipal water supply and areas from which city wells draw water, and to promote the public
5517 health, safety and general welfare of the residents of the city.

5518 B. These regulations are established pursuant to the authority granted by the Wisconsin Legislature in
5519 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection to
5520 the statutory authorization for municipal planning and zoning in order to protect the public health,
5521 safety and welfare. Areas appropriate for protection in the WHP are established in the wellhead
5522 protection plan ("the plan") for City of Whitewater, Wisconsin, dated September 1996 and prepared by
5523 Strand Associates, Inc. The Plan document is incorporated herein by this reference, and a copy is on file
5524 in the office of the city clerk.
5525 (Ord. 1383 § 1(part), 1997).

5526
5527 **19.49.030 Applicability.**

5528 The regulations specified in the WHP ordinance codified in this chapter shall apply only to lands
5529 within those portions of the five-year time of travel zones (hereinafter sometimes "TOT") of Well No. 9
5530 shown on the wellhead protection map (see Exhibit A in Appendix D of WHP) (hereinafter "the map"),
5531 which areas also lie within the city corporate limits.
5532 (Ord. 1383 § 1(part), 1997).

5533
5534 **19.49.040 Definitions.**

5535 As used in this chapter:

5536 "Aquifer" means a saturated, permeable geologic formation that contains and will yield
5537 significant quantities of water.

5538 "Cone of depression" means the area around a well, in which the water level has been lowered
5539 at least one-tenth of a foot by pumping of the well.

5540 "Existing facilities which may cause or threaten to cause environmental pollution" means
5541 existing facilities which may cause or threaten to cause environmental pollution within the corporate
5542 limits of the city's well No. 9 recharge area which include but are not limited to the Wisconsin
5543 Department of Natural Resources' draft list of "Inventory of Sites or Facilities Which may Cause or
5544 Threaten to Cause Environmental Pollution," and Department of Industry, Labor and Human Relations
5545 list of "Leaking Underground Storage Tanks" (hereinafter "LUST's") and the Registry of Waste Disposal
5546 Sites in Wisconsin, all of which are incorporated herein by reference, together with future amendments
5547 thereto, as if fully set forth.

5548 "Five Year Time of Travel (TOT)." The five year TOT is a portion of the recharge area, the outer
5549 boundary of which it is determined or estimated that groundwater and potential contaminants will take
5550 five years to reach a pumping well. The five year TOT for Whitewater's municipal well No. 9 is
5551 established based on the uniform flow equation. The TOT area is shown on the map. The TOT area
5552 shown on the map is hereinafter referred to as "the TOT."

5553 "Groundwater divide" means ridge in the water table, or potentiometric surface, from which
5554 groundwater moves away at right angles in both directions. Line of highest hydraulic head in the water
5555 table or potentiometric surface.

5556 "Groundwater protection overlay district" shall be defined as that area within the TOT shown on
5557 the map attached as Exhibit A and incorporated herein by reference as if fully set forth.

5558 "Recharge area" means area in which water reaches the zone of saturation by surface
5559 infiltration and encompasses all areas or features that supply groundwater recharge to a well.

5560 "Wellhead protection area" means those proportions of the TOT which lie within the City of
5561 Whitewater corporate limits.
5562 (Ord. 1383 § 1(part), 1997).

5563
5564 **19.49.050 Wellhead protection area.**
5565 A. Intent. The area to be protected is the Whitewater wellhead protection area (hereinafter "WPA") (as
5566 determined by the plan) contained within the city boundary limits. These areas are designated on the
5567 map. These lands are subject to land use and development restrictions because of their close proximity
5568 to the TOT and the corresponding high threat of contamination.
5569 B. Permitted Uses. The following are the only permitted uses within the WPA:
5570 1. Any existing use, even though listed on prohibited uses, below, located within such areas to the
5571 extent that use currently exists, subject to the requirements for existing prohibited uses, subsection E of
5572 this section below;
5573 2. Those uses permitted under Whitewater zoning code consistent with the zoning map, as amended
5574 by action of the Whitewater city council and which are not prohibited under subsection C of this section
5575 below.
5576 C. Prohibited Uses. The following uses, if created after the adoption of the WHP ordinance codified in
5577 this chapter, are prohibited uses within the wellhead protection area designated on the map. These uses
5578 are prohibited based on the high probability that activities routinely associated with these uses (storage,
5579 use and handling of potential pollutants) will cause groundwater contamination. Uses not listed are not
5580 considered permitted uses.
5581 1. Underground storage tanks of any size;
5582 2. Septage and/or sludge spreading;
5583 3. Animal waste land spreading;
5584 4. Animal waste facilities;
5585 5. Animal confinement facilities;
5586 6. Gas stations;
5587 7. Vehicle repair establishments, including auto body repair;
5588 8. Printing and duplicating businesses;
5589 9. Bus or truck terminals;
5590 10. Repair shops;
5591 11. Landfills or waste disposal facilities;
5592 12. Wastewater treatment facilities;
5593 13. Spray wastewater facilities;
5594 14. Junk yards or auto salvage yards;
5595 15. Bulk fertilizer and/or pesticide facilities;
5596 16. Asphalt products manufacturing;
5597 17. Dry-cleaning businesses;
5598 18. Salt storage;
5599 19. Electroplating facilities;
5600 20. Exterminating businesses;
5601 21. Paint and coating manufacturing;
5602 22. Hazardous and/or toxic materials storage;
5603 23. Hazardous and/or toxic waste facilities;
5604 24. Radioactive waste facilities;
5605 25. Recycling facilities;
5606 26. Cemeteries.
5607 D. Where any of the uses listed in subsection C of this section above exist within the WPA on the
5608 effective date of the ordinance codified in this chapter, owners of these facilities will be allowed to
5609 upgrade such uses to facilitate or enhance groundwater protection. Plans for the proposed upgrade
5610 must be approved by the plan commission, and the appropriate permit issued by the city building

5611 inspector/zoning administrator's office prior to any work being initiated. Expansion of the prohibited use
5612 may be allowed with approval of the planning commission.
5613 E. Requirements for Existing Prohibited Uses, Section 19.49.050C Above.
5614 1. Such uses shall provide copies of all federal, state and local facility operation approvals or certificate
5615 to the city zoning administrator and ongoing environmental monitoring results to the city director of
5616 public works.
5617 2. Such uses shall provide additional environmental or safety structures/monitoring as deemed
5618 necessary by the city, which may include but are not limited to stormwater runoff management and
5619 monitoring.
5620 3. Such uses shall replace equipment or expand in a manner that improves the existing environmental
5621 and safety technologies already in existence.
5622 4. Such uses shall have the responsibility of devising and filing with the city a contingency plan
5623 satisfactory to the city zoning administrator for the immediate notification of city officials in the event of
5624 an emergency.
5625 (Ord. 1383 § 1(part), 1997).

5626
5627 **19.49.060 Enforcement.**

5628 A. In the event the individual and/or facility engaging in permitted use(s) under this chapter causes the
5629 release of any contaminants which endangers the WPA, the activity causing said release shall
5630 immediately cease and a cleanup satisfactory to the city shall occur.
5631 B. The individual/facility causing the release of contaminants shall be responsible for all costs of
5632 cleanup. The costs of cleanup shall include, but not be limited to, city consultant fees, at the invoice
5633 amount plus administrative costs for oversight, review and documentation.
5634 1. The cost of city employees' time associated in any way with the cleanup based on the hourly rate
5635 paid to the employee multiplied by a factor determined by the city representing the city's cost for
5636 expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits;
5637 2. The cost of city equipment employed;
5638 3. The cost of mileage reimbursed to city employees attributed to the cleanup.
5639 C. Following any such discharge the city may require additional test monitoring and/or bonds/sureties
5640 as it deems necessary and reasonable.
5641 D. Penalties for noncompliance shall be provided pursuant to Section 19.75.080 of this code.
5642 (Ord. 1383 § 1(part), 1997).

5643
5644 **Chapter 19.51 TRAFFIC, PARKING AND ACCESS**

5645 Sections:

5646 19.51.010 Intersection visibility requirements.
5647 19.51.020 Loading requirements.
5648 19.51.030 Parking requirements--Generally.
5649 19.51.040 Adequate access--Driveways.
5650 19.51.050 Size, location, and surface material of parking spaces.
5651 19.51.060 Lighting of parking areas.
5652 19.51.070 Buffer screening of on-grade parking areas.
5653 19.51.080 Front and side yard parking limitation.
5654 19.51.090 Designated parking areas.
5655 19.51.100 Landscaped islands for parking bays.
5656 19.51.110 Surfacing of parking areas.
5657 19.51.120 Curbs and barriers.
5658 19.51.130 Number of parking stalls--General requirements.

- 5659 19.51.140 Number of parking stalls--Combination uses.
5660 19.51.150 Number of parking stalls--Uses not listed.
5661 19.51.160 Parking exemption in B-2 central business district.
5662 19.51.170 Computation of required parking area.
5663 19.51.180 Truck, trailer, mobile home and equipment parking restrictions.

5664 **NOTE: BOAT STORAGE EXEMPTION NEEDS TO BE ADDED**

5665 19.51.190 Highway access limitations.

5666 **19.51.010 Intersection visibility requirements.**

5667 A. At all intersections of streets or alleys, no fence, hedge, wall, sign or other structure shall be erected,
5668 placed, planted or allowed to grow in such a manner as to collectively impede more than fifteen percent
5669 of the vision area between a height of two and one-half feet and ten feet above the established curb
5670 level of the intersection of streets or alleys in the area bounded by the right-of-way lines and a line
5671 joining points along the right-of-way fifteen feet from the point of intersection. (Refer to diagram
5672 below.)

5673 B. In the case of major streets and highways intersecting with other arterial streets or railways, the
5674 corner cutoff distances establishing the triangular vision clearance space shall be increased to forty feet.

5675 **GRAPHIC** ~~LINK: Click here~~ [LINK: Click](#)

5676 (Ord. 994 § 4.1, 1982).

5677

5678 **19.51.020 Loading requirements.**

5679 In all districts except the B-2 central business district, adequate loading areas shall be provided
5680 so that all vehicles loading, maneuvering to do so, or unloading, are completely off the public ways,
5681 except alleys.

5682 (Ord. 994 § 4.2, 1982).

5683

5684 **19.51.030 Parking requirements--Generally.**

5685 In all districts, and in connection with every use, there shall be provided at the time any building
5686 is erected, enlarged, extended, increased, or use is changed, off-street parking stalls for all vehicles in
5687 accordance with Sections 19.51.040 through 19.51.180.

5688 (Ord. 994 § 4.3(part), 1982).

5689

5690 **19.51.040 Adequate access--Driveways.**

5691 Adequate access to a public street shall be provided for each parking space, and driveways shall
5692 be at least ten feet wide for parking areas for less than ten vehicles, and at least two ten-foot lanes for
5693 parking lots for ten or more vehicles, except as otherwise provided in Section 19.51.050(A)(2).
5694 Driveways shall not exceed twenty-four feet in width at the street right-of-way line, except as otherwise
5695 determined by the plan and architectural review commission during site plan review. No driveway may
5696 be closer than three feet to an abutting property line, except where two adjacent lots have a common
5697 driveway then the three-foot minimum distance shall not apply. Common, shared, and cross-access
5698 driveways between adjacent lots are permitted, provided that such driveways are established by
5699 recorded easement that may not be removed except by approval of the city. All areas intended to be
5700 utilized as a driveway shall be surfaced with materials to control dust and drainage, except in the case of
5701 farm dwellings and operations. In all cases, permeable or pervious materials are preferred. Plans for
5702 surfacing and drainage of driveways shall be submitted to the City for review and approval.

5703 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(A), 1982).

5704
5705 **19.51.050 Size, location, and surface material of parking spaces.**

5706 A. The size of each parking space shall be at least nine feet wide and not less than one hundred eighty
5707 square feet exclusive of the space required for ingress and egress, except as follows:

5708 1. End parking spaces may be seven and one-half feet wide and not less than one hundred fifty square
5709 feet.

5710 2. Interior parking spaces may be eight and one-half feet wide and not less than one hundred fifty
5711 square feet, provided that internal driveways providing two-way access to parking spaces are not less
5712 than twenty-four feet in width.

5713 3. All areas intended to be utilized as a driveway shall be surfaced with materials to control dust and
5714 drainage, except in the case of farm dwellings and operations.

5715 ~~All areas intended to be utilized for parking shall be surfaced with bituminous, concrete, or pavers to~~
5716 ~~control dust and drainage, except in the case of farm dwellings and operations.~~ In all cases, permeable
5717 or pervious materials are preferred. Plans for surfacing and drainage of ~~parking stalls for five or more~~
5718 ~~vehicles~~ shall be submitted to the City ~~Engineer~~ for ~~his/her~~ review and approval. Curb cut openings shall
5719 be a minimum of five feet from the side yard property line in all districts.

5720 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(B), 1982).

5721

5722 **19.51.060 Lighting of parking areas.**

5723 Lights provided in any parking area shall be regulated by the standards in Section 19.57.150.

5724 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(C), 1982).

5725

5726 **19.51.070 Buffer screening of on-grade parking areas.**

5727 When a required off-street parking area for five or more vehicles is located within fifteen feet of
5728 any lot line or public right-of-way line in any district, a buffer yard or screen shall be required in
5729 accordance with Section 19.57.140 of this title, except where the adjoining property also contains a
5730 parking lot within fifteen feet of the shared lot line.

5731 (Ord. 1452 § 6(part), 2000: Ord. 1364 § 11, 1997: Ord. 994 § 4.3(D), 1982).

5732

5733 **19.51.080 Front, side, and rear yard parking limitation.**

5734 A. In all residential districts, except as provided in subsections B, C and D below, or as otherwise
5735 allowed by a previously granted zoning permit, not more than three vehicles shall be parked in any
5736 combination of the front or side yard area. In no case shall vehicles be parked closer than three feet to
5737 any abutting property line (except for shared parking areas for which a zoning permit has been granted)
5738 or any lawn or landscaped area. All parking must take place in legally established and maintained
5739 parking areas or driveways outside of any required vehicular circulation areas.

5740 B. A legally established two-family dwelling may have up to six vehicles parked in any combination of
5741 the front and side yard area.

5742 C. In the R-3 Multifamily Residence District, except for legally established two-family dwellings or
5743 otherwise allowed by a zoning permit, not more than five vehicles may be parked in any combination of
5744 the front or side yard area. Newly constructed or reconstructed properties as of the date of this chapter
5745 may have no more than three vehicles in front and side yards.

5746 D. The number of vehicles allowed within front and side yard areas of lots occupied by single family
5747 residences may be increased to one per licensed driver legally occupying the property, not to exceed
5748 five vehicles.

5749 (Ord. 1082 § 8, 1986).

5750 (Ord. No. 1688A, 6-17-2008; Ord. No. 1715A, 2-3-2009)

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19.51.090 Designated parking areas.

Vehicle parking shall only be permitted in designated parking areas approved in the issuance of a zoning permit. Expansion of existing parking areas requires issuance of an approved zoning permit. (Ord. 994 § 4.3(F), 1982).

19.51.100 Landscaped islands for parking bays.

Landscaped islands shall be required at the ends of parking bays to clearly define lane and turning patterns, except in the M-1 district. (Ord. 994 § 4.3(G), 1982).

19.51.110 Surfacing of parking areas.

All areas intended to be utilized for off-street parking areas shall be graded and surfaced with materials to control dust and drainage ~~bituminous or concrete to control dust and drainage~~ per city requirements for stormwater management. Hard surfaces shall be required for all multifamily residential and nonresidential uses, except that areas primarily used for parking of construction vehicles and related equipment may be surfaced with gravel if approved by conditional use permit. In all cases, permeable or pervious materials are preferred. Plans for surfacing and drainage of off-street parking areas shall be submitted to the City for review and approval. Any parking area for more than five vehicles shall have the aisles and spaces clearly marked. (Ord 1482 § 1-, 2001: Ord. 1364 § 12, 1997: Ord. 994 § 4.3(H), 1982).

19.51.120 Curbs and barriers.

Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines or required sidewalks. (Ord. 994 § 4.3(I), 1982).

19.51.130 Number of parking stalls--General requirements.

The minimum number of parking stalls required is as follows:

TABLE INSET:

Uses within the B-2 central business district are exempted from this requirement, except if specifically required for a particular conditional use in that district under Section 19.30.030	
Single-family dwellings	2 stalls
Mobile homes	2 stalls for each dwelling unit
Duplex and multifamily dwellings	
Efficiency/one bedroom	1 stalls for each dwelling unit
Two to three bedrooms	2 stalls for each dwelling unit
Four or more bedrooms	3 stalls for each dwelling unit
Hotels, motels	1 stall for each guest room plus 1 stall for each 2 employees working per shift

Sororities, fraternities, dormitories, boardinghouses and similar group-dwelling quarters	1 stall for each 2 persons plus 1 stall for each 3 employees working per shift
Nursing homes	1 stall for each 5 beds plus 1 stall for each 2 employees working per shift
Medical and dental clinics and offices	3 stalls for each doctor plus 1 stall for each 2 employees
Churches, theaters, community centers, and other places of public assembly	1 stall for each 5 seats
Schools (elementary and secondary)	2 for each classroom
Restaurants, bars, places of entertainment	1 stall for each 200 square feet of primary floor area
Retail and service, commercial	1 stall for each 250 square feet of primary floor area
Manufacturing and processing plants, laboratories and warehouses	1 stall for each 2 employees per working shift
Financial institutions; business, governmental and professional offices	1 stall for each 300 square feet of primary floor area

5782 The number of required parking spaces shall never exceed the number of occupants allowed
5783 under Section 19.09.520. A party may apply to the plan and architectural review commission for a
5784 permit allowing less than the number of stalls required herein, but not less than one stall per residential
5785 unit or one stall per five hundred square feet of primary floor area for retail and commercial service
5786 uses. The commission may grant such a permit if it is not against the best interest of the public. Even if a
5787 permit is granted, the applicant shall be required to have sufficient land and a plan to install the
5788 maximum required stalls under this section should it become necessary, except within the PD-TND
5789 zoning district. The permit may be revoked at any time by the commission upon notice and hearing if
5790 good cause is shown for the revocation of the permit. Within a PD-TND District only, adjacent on-street
5791 parking may apply toward the minimum parking requirements, if approved by the plan commission.
5792 (Ord. 1611A § 2, 2006; Ord. 1511 § 3, 2002; Ord. 1187 § 1, 1990; Ord. 1082 § 9, 1986; Ord. 944 § 4.3(J),
5793 1982).

5794
5795 **19.51.140 Number of parking stalls--Combination uses.**

5796 Combinations of any of the uses listed in Section 19.51.130 shall provide the total of the number
5797 of stalls required for each individual use.
5798 (Ord. 994 § 4.3(K), 1982).

5799
5800 **19.51.150 Number of parking stalls--Uses not listed.**

5801 In the case of structures or uses not mentioned in Section 19.51.130, the provision for a use
5802 which is similar shall apply.
5803 (Ord. 994 § 4.3(L), 1982).

5804
5805 **19.51.160 Parking exemption in B-2 central business district and the B-1A University mixed-use**
5806 **overlay district.**

5807 In order to encourage and stimulate the revitalization in the downtown area of Whitewater,
5808 uses within the B-2 central business district are exempted from the minimum number of parking stalls
5809 required in this chapter, except if specifically required for a particular conditional use in that district
5810 under Section 19.30.030. Where parking is voluntarily provided or required for a particular use listed in
5811 Section 19.30.030, it shall meet the development standards of this section.
5812 (Ord. 1611A § 3, 2006; Ord. 994 § 4.3(M), 1982).

5813
5814 **19.51.170 Computation of required parking area.**

5815 In determining required parking area ratios, the floor measurement shall be taken to include
5816 only service, sales and office space, and shall not include warehouse, utility and other accessory space
5817 which do not generate parking demand.
5818 (Ord. 994 § 4.3 (N), 1982).

5819
5820 **19.51.180 Truck, trailer, mobile home and equipment parking restrictions.**

5821 No truck, commercial trailer, house or camper trailer, motor home, boat trailer, [trailers for all](#)
5822 [terrain vehicles \(ATVs\) or snowmobiles](#) ~~trailer~~, or other vehicular equipment or implements of a
5823 commercial, agricultural or industrial nature, shall be parked regularly in any zoning district other than
5824 B-1, B-3, M-1 and AT districts, except as hereinafter specifically provided for as follows:

- 5825 A. One panel or pickup truck, exceeding three-quarter ton but not exceeding one and one-half tons,
5826 shall be permitted;
- 5827 B. The unenclosed parking of either one unoccupied house trailer, motor home, or one unoccupied
5828 camp trailer in the side and rear yard, provided that the motor home, house trailer or camp trailer is
5829 parked at least five feet from the lot lines; motor homes shall also abide by all restrictions relating to
5830 motor vehicle parking;
- 5831 C. Camper trailers and boats shall be permitted to park in front yards for the purposes of loading,
5832 unloading and servicing for a period of three days;
- 5833 D. Boat trailers, [trailers for all terrain vehicles \(ATVs\) or snowmobiles](#) ~~trailers~~, and all other private
5834 residential type trailers shall be permitted to park in the side and rear yard only.
5835 (Ord. 1381 § 1, 1997; Ord. 994 § 4.3(O), 1982).

5836
5837 **19.51.190 Highway access limitations.**

- 5838 A. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways,
5839 nor to any controlled-access arterial street without permission of the highway agency that has access-
5840 control jurisdiction.
- 5841 B. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the
5842 following:
- 5843 1. Freeways, interstate highways and their interchanges or turning lanes, nor to intersecting or
5844 interchanging streets within one thousand five hundred feet of the most remote end of the taper of the
5845 turning lanes;
 - 5846 2. Arterial streets intersecting another arterial street within one hundred feet of the intersection of the
5847 right-of-way lines;
 - 5848 3. Within fifty feet of street right of way lines intersecting other street right of way lines. Access
5849 barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to
5850 prevent unauthorized vehicular ingress or egress to the above specified streets or highways (see Section
5851 19.51.010, traffic visibility);

5852 4. Temporary access to the above rights-of-way may be granted by the city plan commission after
5853 review.
5854 (Ord. 1446 § 2, 2000; Ord. 994 § 4.4, 1982).

5855
5856 **Chapter 19.54 SIGNAGE REGULATIONS**

5857 Sections:

5858 19.54.010 Sign permits.

5859 19.54.020 Definitions and regulations specific to certain signs.

5860 19.54.030 General signage regulations.

5861 19.54.040 Sign regulations applicable to residential districts.

5862 19.54.050 Sign regulations applicable to nonresidential districts.

5863 19.54.052 Maximum sign sizes and types.

5864 19.54.060 Temporary signs.

5865 19.54.070 Construction and maintenance of signage.

5866 19.54.080 Nonconforming signs.

5867

5868 **19.54.010 Sign permits.**

5869 A. The following sign uses and purposes are permitted in all zoning districts without the need for a sign
5870 permit. Such signs shall not count as part of the maximum permitted sign area as regulated by Section
5871 19.54.052:

5872 1. Address numerals and identification signs not exceeding one square foot in area;

5873 2. Legal notices;

5874 3. Signs established by, or by order of, any governmental agency;

5875 4. Memorial signs and tablets displayed in cemeteries.

5876 B. Community information signs shall be permitted only as a conditional use within all zoning districts
5877 and upon any property within the jurisdiction of the city. As such, the review of a request for the
5878 erection of a community information sign shall comply with the requirements of Section 19.54.020C.4.
5879 The proposed size, configuration, and design of the sign shall be described as part of the conditional use
5880 requirements. As a conditional use, the city may revoke the designation of an approved community
5881 information sign if such sign fails to comply with the requirements of this chapter. Such action shall
5882 proceed per the requirements of Chapter 19.75. Upon revocation, the owner of the sign shall have thirty
5883 days to remove the sign at the owner's expense.

5884 C. No person shall erect, alter, or relocate within the city any sign without first obtaining a sign permit,
5885 except for the exceptions in subsections A. and B. of this section, and as may be provided for elsewhere
5886 in this chapter.

5887 (Ord. 1263 § 1(part), 1993).

5888 (Ord. No. 1746A, § 3, 9-15-2009)

5889

5890 **19.54.020 Definitions and regulations specific to certain signs.**

5891 A. The following definitions shall be used by this chapter to assist in the establishment of clear cut
5892 signage regulations. In general, "sign purposes" refers to where or how a sign is used; "sign
5893 configurations" refers to the style of the sign; and "sign measurement" explains how the dimensions of a
5894 sign are determined.

5895 B. "Sign" means any object, device, display, structure, or part thereof, situated outdoors, which is used
5896 to advertise, identify, display, direct or attract attention to an object, person, institution, organization,
5897 business, product, service, event, or location by any means, including figures, letters, figures, designs,
5898 symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of
5899 any nation, organization of nations, state, city, religious, fraternal or civic organization; also merchandise

5900 and pictures or models of products or services incorporated in a window display, works of art which in
5901 no way identify a product, or scoreboards located on athletic fields. Definitions of particular functional,
5902 locational and structural types of signs are listed in this section. (Traffic control and other public agency
5903 signs located within a right-of-way are not included within this definition and are not regulated by the
5904 provisions of this chapter.)

5905 C. Sign Purposes.

5906 1. "Advertising sign" means a sign which directs attention to a business, commodity, service, or
5907 entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is
5908 displayed. Advertising signs include billboards. (Refer to Section 19.54.030.)

5909 2. "Auxiliary sign" means a sign which provides special information such as price, hours of operation, or
5910 warning and which does not include brand names, or information regarding product lines or services. It
5911 may contain a business logo if the logo is under one square foot in area. Examples of such signs include
5912 directories of tenants in buildings, "no trespassing" signs, menu boards, and signs which list prices of
5913 gasoline. (Refer to Section 19.54.050(E).)

5914 3. "Business sign" means a sign which directs attention to a business, commodity, service, or
5915 entertainment conducted, sold, offered, or manufactured upon the premises where the sign is located.
5916 (Refer to Sections 19.54.050 and 19.54.052.)

5917 4. "Community information sign" means an officially-designated sign which is limited to either the
5918 display of information of interest to the general community regarding scheduled public events and
5919 information of general interest to the residents of Whitewater, or signage located on scoreboards,
5920 fences or similar structures within the confines of publicly-owned (city, school district, university)
5921 athletic fields, courts, rinks or other active recreation facilities as approved by the parks and recreation
5922 board. (Refer to Section 19.54.010B.)

5923 a. Such sign shall only display information regarding events and information of general interest to the
5924 residents of Whitewater. Copy which may be considered as advertising a product, private or restricted
5925 participation event, or activity for private profit shall be prohibited. This provision may be waived by
5926 conditional use for community information signs on lands owned by the public for recreational
5927 purposes, provided that the installation of the sign provides a benefit to a public or community
5928 organization.

5929 b. Such sign may be located on private or public property.

5930 c. Such sign shall conform to the visibility requirements of Chapter 19.51 and Illustration 2.

5931 d. Maximum sign area shall be thirty-two square feet, unless a larger sign is approved by the plan
5932 commission based on conditions unique to the placement of the sign or the required length of the
5933 message. Such sign shall not be counted as adding to the area of signage on the subject property for the
5934 purposes of regulating sign area per Section 19.54.050(F).

5935 5. Directional Sign, Off-Premises. "Off-premises directional sign" means a sign which indicates only the
5936 name, direction, and/or distance of a business or activity. It may contain a business logo if the logo is
5937 under one square foot in area and approval only by conditional use. (Refer to Section 19.54.030.)

5938 6. Directional Sign, On-Premises. "On-premises directional sign" means an information sign which has a
5939 purpose secondary to the use of the lot upon which it is located, including signs that indicate parking
5940 availability, entrances, particular buildings within a multi-building development, hours of operation,
5941 available merchandise in a drive-through lane, and wall-mounted posters indicating particular movies in
5942 a theater. No sign with a commercial message legible from a public right-of-way or another property
5943 shall be considered an on-premises directional sign. No on-premises directional sign shall be greater
5944 than nine square feet in area.

5945 7. "Sandwich board/pedestal sign" means a movable sign placed by hand outside the building while the
5946 business is open; removed at the time the business closes each day; self-supporting and stable even on
5947 windy days because of its design; used for the purpose of promoting special business offers and not as

5948 primary business signage; and meeting all applicable size, placement, and other requirements of this
5949 chapter (see Section 19.54.050K. in particular).

5950 8. "Group sign" means a sign displaying the collective name of a group of uses such as the title of a
5951 shopping center, office park, industrial park and/or their tenants or occupants. No sales or price
5952 information shall be permitted. Portions of the sign containing names of individual tenants shall be
5953 considered as part of the area of a group sign. Group signs shall only be permitted within developments
5954 serving two or more nonresidential tenants in spaces with separate outside customer doors, and shall
5955 limit information to the name of the development and/or its occupants. Group signs serving two or
5956 more occupants not located on the same lot, but within the same multi-building development, shall be
5957 located on one of the lots being served by the sign. Such signs shall not be considered an advertising
5958 sign as defined in this section. (Refer to Section 19.54.052 for size and locational information.)

5959 9. "Identification sign" means a sign indicating the name and/or address of the tenant of the residential
5960 unit or manager of the property located upon the residential premises where the sign is displayed. Such
5961 sign shall not exceed the allowed area:

5962 a. For one to four units, three square feet;

5963 b. For up to eleven units, six square feet;

5964 c. Twelve units or more, thirty-two square feet. (Refer to Section 19.54.052.)

5965 10. "Temporary sign" means a sign or advertising display intended to be displayed for a period not
5966 exceeding a total of thirty cumulative days within any twelve-month period (except as permitted by
5967 Section 19.54.060). Included in the definition of temporary signs are retailers' signs temporarily
5968 displayed for the purpose of informing the public of a sale or special offer (six square feet maximum) or
5969 for the designation of a new building, promotion of a new development or announcement of a special
5970 event (thirty-two square feet maximum). If a sign display area is permanent but the message displayed
5971 is subject to periodic changes, that sign shall not be considered as temporary. A business shall be limited
5972 to no more than a total of thirty cumulative days for displaying all temporary signs during any twelve-
5973 month period.

5974 11. "Residential business sign" means a sign that is located in a residential district for a joint
5975 commercial/residential use which requires approval by the zoning administrator and to meet the
5976 requirements of Chapter 19.66. All signs must be monument style signs or arm/post type. (Refer to
5977 Illustrations 2 and 3, and Section 19.54.052.)

5978 12. "Commercial message" means any sign wording, logo or other representation that names,
5979 advertises or calls attention to a business, product, or service.

5980 D. Sign Configurations.

5981 1. "Freestanding sign" means a self-supporting sign resting on or supported by means of poles,
5982 standards, or any other type of base on the ground. This type of sign includes monument signs, pylon
5983 signs, arm/post(s) signs, and signs mounted on canopies over gasoline dispensing pumps. The base or
5984 support(s) of any and all freestanding signs shall be securely anchored to a concrete base or footing. The
5985 footing and related supporting structure of a freestanding sign, including bolts, flanges, brackets, etc.,
5986 shall be concealed by the sign exterior, masonry covering, earth and permanent groundcover, or
5987 evergreen shrubs. (Refer to subsection E. of this section and Sections 19.54.050 and 19.54.052.)

5988 2. "Mobile/portable sign or banner" means a sign or banner mounted on a frame or chassis designed to
5989 be easily relocated, including vehicles and/or trailers which have a principal commercial use for signage,
5990 but not including any sandwich board/pedestal sign as defined in Section 19.54.020C.7. Mobile/portable
5991 signs or banners are prohibited unless approved by the zoning administrator for the purpose of
5992 recognizing a business opening, annual business anniversary, or community celebration. Where
5993 approved, such a sign shall not be in place for a period to exceed thirty days within any twelve-month
5994 period, shall not be erected more than thirty days before the event, shall be removed not more than five
5995 days after the completion of the event, and shall not exceed thirty-two square feet in area. A mobile or

5996 portable sign shall not be considered a temporary sign as defined in Section 19.54.020C.9. or used for
5997 such a purpose, except as may be allowed by the zoning administrator.

5998 3. "Monument sign" means a freestanding sign whose bottom edge is located within one foot of
5999 ground level or a ground-mounted pedestal. The base or support(s) of any and all monument signs shall
6000 be securely anchored to a concrete base or footing. The height of a monument sign shall not exceed that
6001 specified in Section 19.52.052, nor shall it be otherwise erected so that it impedes visibility for safe
6002 pedestrian and/or vehicular circulation. The footing and related supporting structure, including bolts,
6003 flanges, brackets, etc., shall be concealed by the sign exterior, masonry covering, earth and permanent
6004 groundcover, or evergreen shrubs. (Refer to Sections 19.54.040 and 19.54.052, and Illustrations 2 and
6005 3.)

6006 4. "Projecting sign" means a sign, other than a wall sign, which is directly attached to and projects more
6007 than one foot from a building face, and is generally mounted perpendicular from the building face. The
6008 bottom edge of such sign shall be located a minimum of eight and one-half feet from the ground level
6009 directly under the sign. In no instance shall such sign be located closer than three feet to the edge of a
6010 street curb, drive, or parking area. For maximum area and placement standards, see Section 19.54.052.

6011 5. "Electronic message center sign" means a sign in a nonresidential zoning district which displays
6012 words, lines, graphic images, video recordings, or symbols that can electronically change to provide
6013 different information and/or animation, including a computer sign, electronic reader board sign, video
6014 display sign, or time and/or temperature sign, but not including a flashing sign, which is prohibited
6015 under Section 19.54.030A.3. For electronic message center sign standards, see Section 19.54.050L.

6016 6. "Pylon sign" means a freestanding sign, other than arm post type, erected upon one or more pylon
6017 or post. The base or support(s) of any and all pylon signs shall be securely anchored to a concrete base
6018 or footing. The height of a pylon sign shall be measured from the centerline elevation of the nearest
6019 road to the top of the sign. The height of a pylon sign shall not exceed twenty feet. Pylon signs shall be
6020 erected so that the vertical distance between the bottom edge of the sign and the elevation of the
6021 centerline of the nearest road to said sign exceeds eight feet. The footing and related supporting
6022 structure of a freestanding sign including bolts, flanges, brackets, etc., shall be concealed by the sign
6023 exterior, masonry covering, earth and permanent groundcover, or through the use of evergreen shrubs.
6024 (Refer to Section 19.54.052 and Illustrations 2 and 3.)

6025 7. "Wall sign" means a sign mounted parallel to a building facade or other vertical building surface.
6026 Wall signs shall not extend beyond the edge of any wall or other surface to which they are mounted, nor
6027 shall they project more than twelve inches from its surface. The height of a wall sign shall be measured
6028 from the base of the building below the sign to the top of the sign face. The top of the sign shall be no
6029 higher than the nearest portion of the building to which it is mounted.

6030 8. "Awning/canopy sign" means a sign mounted to an awning or canopy, with said awning or canopy
6031 mounted to the side of the building. An awning/canopy sign shall be counted as a wall sign for purposes
6032 of this chapter. Script/logo height shall be limited to eight inches, except that a greater script/logo
6033 height may be approved by conditional use.

6034 9. "Arm/post(s) sign" means a freestanding sign mounted on a post with a bracket extending outward
6035 to support a sign by either hanging from the bracket or mounted on the bracket. The maximum size,
6036 height, and location of arm/post(s) signs shall be the same as for monument signs. (See Illustration 3
6037 and Section 19.54.052.)

6038 10. "Window sign" means a sign mounted on or within one foot inside of a first-floor exterior window,
6039 with a primary intent to advertise a business or product within the premises.

6040 E. Sign Measurement.

6041 1. "Ground level" means the average elevation of the ground upon which the sign supports are placed,
6042 except when the sign supports rest upon a berm or other area elevated above the surrounding ground.

6043 In such cases, the average elevation of the base of such berm or other area shall be considered as the
6044 ground level.

6045 2. Sign area shall be measured in the following manner:

6046 a. In the case of a sign placed within a frame, or other structure, sign area consists of the entire surface
6047 area of the sign on which copy could be placed. The supporting structure or bracing of a sign shall not be
6048 counted as a part of the sign face area unless such structure or bracing is made a part of the sign's
6049 message. Where a sign has two or more display faces, the combined total area of all faces shall be
6050 considered the sign face area.

6051 b. In the case of a sign whose message is fabricated together with the background which borders or
6052 frames that message, sign face area shall be the total area of the entire background.

6053 c. In the case of a sign whose message is applied to a background which provides no border or frame,
6054 sign face area shall be the area of the smallest rectangle which can encompass all words, letters, figures,
6055 emblems, and other elements of the sign message.

6056 d. Signs less than one square foot in area are not regulated by this chapter.

6057 e. The following illustrations demonstrate how sign face area shall be determined.

6058 Illustration 1

6059 **GRAPHIC** ~~LINK: Click here~~ [LINK: Click](#)

6060 (Ord. 1577A §§ 1--5, 2005; Ord. 1452 §§ 9, 10, 2000; Ord. 1263 § 1(part), 1993).

6061 (Ord. No. 1746A, §§ 4--9, 9-15-2009)

6062

6063 **19.54.030 General signage regulations.**

6064 The regulations contained in this section apply to signs in all districts.

6065 A. Sign Prohibitions and Limitations.

6066 1. No sign shall use any word, phrase, symbol, shape, form or character in such manner as to interfere
6067 with moving traffic, including signs which incorporate typical street-type and/or traffic control-type
6068 signage designs and colors.

6069 2. No fluttering, undulating, swinging, rotating or otherwise moving signs, pennants or other
6070 decoration shall be permitted except for electronic message center signs and time and/or temperature
6071 signs in nonresidential zoning districts.

6072 3. No illuminated flashing signs shall be permitted. Electronic message center signs meeting the
6073 definition and requirements of this chapter shall not be considered illuminated flashing signs.

6074 4. No illuminated sign shall be permitted unless the illumination is so designed that the lighting level
6075 does not affect adjacent property, pursuant to the standards in Section 19.57.150. All illuminated signs
6076 shall comply with the state electrical code and Section 19.54.070B., and illumination shall be limited to
6077 one hour before the daily opening of the associated business and one hour after the daily closing of the
6078 associated business.

6079 5. No mobile/portable signs or banners shall be permitted unless approved by the zoning
6080 administrator. Sign use and other regulations shall be as specified in Section 19.54.020D.2.

6081 6. No off-premises directional signs shall be permitted for nongovernmental or noninstitutional uses or
6082 for any use outside of a public right-of-way; however, such signs, as well as city entrance signs, may be
6083 permitted within a public right-of-way, per subsection B.5. of this section, for government facilities,
6084 nonprofit, nonreligious community gathering spots, major economic centers such as the downtown and
6085 business park, and schools.

6086 7. No advertising signs shall be permitted, except for certain community information signs as described
6087 in Sections 19.54.010B. and 19.54.020C.4.

6088 Rationale. The adoption of subsection A.7. of this section reflects a formal finding of fact on the
6089 part of the city plan commission and city council that the prohibition of advertising signage furthers two
6090 compelling government interests: 1) the general public interest of reducing visual clutter caused by

6091 advertising signage which the city has determined is a significant cause of unsafe traffic conditions; and
6092 2) the public interest served by furthering the implementation of the purposes of this chapter and the
6093 city comprehensive ~~master~~ plan in terms of limiting the further spread of strip commercial
6094 development, of which advertising signs are a primary contributor. Furthermore, the city advocates that
6095 this regulation leaves ample and adequate alternative channels of commercial speech communication
6096 for the messages portrayable on such advertising signs; namely, distributed print media, broadcast
6097 media, and point-of-purchase display, and is narrowly defined so as to limit the prohibition to
6098 commercial speech on exterior signage.

6099 B. Sign Location Requirements.

6100 1. No sign shall be erected or maintained at any location where by reason of its position, wording,
6101 illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be
6102 confused with, any authorized traffic control sign, signal or device.

6103 2. No sign shall be located within a required bufferyard or within a permanently protected green space
6104 area (see Chapter 19.57), unless approved by the city.

6105 3. No sign shall be mounted on a roof.

6106 4. No sign, temporary or otherwise, shall be affixed to a tree or utility pole.

6107 5. Private signs shall be allowed within road right-of-way lines only per the regulations of the city public
6108 works department, and per Section 19.54.030C. below.

6109 6. Pylon signs other than arm/post are not permitted in any residential district.

6110 C. Private signs extending into the public right-of-way.

6111 1. Any person desiring to place any sign such that it will extend over or onto the public right-of-way
6112 shall first obtain a sign permit. In the granting of such a permit, the city may require the applicant to
6113 provide and maintain public liability insurance on the installation in an amount not less than fifty
6114 thousand dollars protecting the city as its interests may appear as the result of any accident or injury for
6115 which it might become in any manner liable. In the event that such insurance should be terminated for
6116 any reason, or that the holder of any permit should fail to keep such insurance in force at any time, then
6117 the permit for the maintenance of such sign shall be forthwith removed, or if not removed by the holder
6118 of the permit, then such sign shall be removed or caused to be removed by the zoning administrator and
6119 the expense thereof shall be recovered from the holder of the permit.

6120 2. There is hereby established along each side of every public street, public alley, or public highway a
6121 fictional line five feet distant and outward from the lot line and parallel with such street, alley, or public
6122 highway. No sign which, exclusive of supports, exceeds two hundred fifty pounds in weight or has an
6123 area greater than forty square feet shall be permitted to extend into the highway or over the highway or
6124 sidewalk area beyond such fictional line, except only where such sign is to be placed over a substantial
6125 canopy or portico of such nature that the same will afford ample protection to the public from any
6126 possible injury from such sign.

6127 3. In no event shall any sign regardless of size or weight extend into the public street, highway, or
6128 sidewalk area further than to within three feet from the face of the curb or curb line as determined by
6129 the zoning administrator or be placed less than eight and one-half feet above the sidewalk or sidewalk
6130 grade.

6131 4. Except for sandwich board/pedestal signs, all private signs extending on or over public rights-of-way
6132 shall be adequately supported from buildings, posts, or other permanent supports located on private
6133 property. In no case shall sign posts or other permanent supports be permitted within the limits of a
6134 public street, alley or highway.

6135 5. The zoning administrator shall have the right, and it shall be his duty, to supervise the installation of
6136 any such sign and also to inspect the same from time to time to ascertain whether or not the same is
6137 securely fastened and free from danger to the public. The building inspector shall have the right to
6138 require from time to time any repairs, extra supports or any other precautions necessary to protect the

6139 public safety, and in the event the owner fails to comply with any such requirements the permit for such
6140 sign shall be revoked and the sign shall be removed.

6141 6. This subsection C. shall not apply to signs erected by or for churches, service clubs, public or quasi-
6142 public organizations when such installations have been approved by the common council.

6143 (Ord. 1577A § 6, 2005; Ord. 1452 § 11, 2000; Ord. 1263 § 1(part), 1993).

6144 (Ord. No. 1746A, §§ 10--12, 9-15-2009)

6145

6146 **19.54.040 Sign regulations applicable to residential districts.**

6147 In all residential zoning districts, signage shall be permitted per the requirements of Sections
6148 19.54.010 through 19.54.040 and 19.54.052 through 19.54.080 and per the following:

6149 A. Wall, monument, arm/post(s), and projecting signs (for certified historic properties) are permitted in
6150 residential zoning districts. Other forms of signage are prohibited.

6151 B. For each single-family lot, or two-family or multifamily lot containing four or fewer dwelling units,
6152 one identification sign, not to exceed three square feet in area, is permitted for each dwelling unit. Said
6153 identification sign may include one or more of the following: name, address, and/or home occupation
6154 title.

6155 C. For each multifamily or institutional residential lot containing five to eleven dwelling units, one
6156 identification sign, not to exceed six feet in area, shall be permitted. For each multifamily or institutional
6157 residential lot containing twelve units or more, one identification sign not to exceed thirty-two square
6158 feet is permitted. The sign shall indicate nothing more than the name and address of the premises and
6159 the name of the management company.

6160 D. Permanent subdivision identification signs are authorized if approved as part of a final plat submittal
6161 for a subdivision (per Title 18). Detailed plans of proposed signs must be submitted at the time of final
6162 plat review. Such sign shall comply with the visibility standards in Section 19.51.010 and as shown in
6163 Illustration 2, shall not exceed thirty-two square feet in area or eight feet in height, and shall not be a
6164 pylon sign.

6165 E. For all commercial uses permitted in residential districts, not including home occupations, one
6166 monument, wall, or arm/post(s) type sign per building, not to exceed thirty-two square feet in area, is
6167 permitted. The sign shall indicate nothing more than the name and address of the premises and the
6168 schedule of service or other information relevant to the operation of the premises.

6169 F. For all institutional uses permitted in residential districts, sign sizes and types shall be the same as
6170 those applicable in the I Institutional zoning district per Section 19.54.052, except that pylon signs shall
6171 not be permitted.

6172 G. Temporary signs, after approval of the zoning administrator, are permitted per the requirements of
6173 Section 19.54.060.

6174 H. For more information, see Sections 19.54.020D. and 19.54.052.

6175 (Ord. 1577A § 7, 2005; Ord. 1452 § 12, 2000; Ord. 1263 § 1(part), 1993).

6176

6177 **19.54.050 Sign regulations applicable to nonresidential districts.**

6178 In all nonresidential zoning districts, signage shall be permitted per the requirements of Sections
6179 19.54.010 through 19.54.030 and 19.54.050 through 19.54.080 and per the following:

6180 A. The owners of multitenant properties shall allocate sign size to each business, in writing to the
6181 zoning administrator, up to a specified maximum for the entire property. All multitenant signs must be
6182 compatible in dimensions, in location, in design, in color and the same material, and shall be compatible
6183 with the appearance of the building and the surrounding area in the opinion of the property owner and
6184 the city.

6185 B. The total surface area of all business and identification signs on a lot shall not exceed the maximum
6186 permitted by Section 19.54.052.

6187 C. The number of business and group signs for a business use shall not exceed the numbers listed in
6188 Section 19.54.052. Signs allowed under Section 19.54.052 may be placed on any facade facing a public
6189 street, except where otherwise specified in Section 19.54.052.

6190 D. Only one freestanding sign shall be permitted to be erected within the required street yard for each
6191 lot. Such sign may be either a business sign or a group sign. No lot shall be permitted more than one
6192 freestanding sign, except directional/auxiliary signs allowed by this chapter. All signs shall be located so
6193 that no part of the sign shall exceed the lot line set back from all lot lines as stated in Chapter 19.51 and
6194 Section 19.54.052, Illustration 2, or impede visibility (refer to Chapter 19.51).

6195 E. Auxiliary signs may only be permitted when specifically approved as part of the site plan review
6196 process. Said signage shall be calculated independently of the requirements of subsection A of this
6197 section, and shall not exceed fifty percent of the maximum permitted area.

6198 F. Maximum sign sizes for nonresidential districts shall be permitted per the requirements of the table
6199 of maximum sign sizes (see Section 19.54.052).

6200 G. Temporary signs are permitted per the requirements of Section 19.54.060.

6201 H. Signs carrying secondary advertising messages. Signs carrying secondary advertising media or
6202 messages, such as brand names or logos of products, are allowed as a conditional use, or as a permitted
6203 type of window sign subject to the percentage of window coverage and other applicable regulations of
6204 this chapter, but only where such signs are integral to the business being conducted on the property.

6205 I. Projecting signs are only permitted in the B-2 zoning district or if specifically authorized within a
6206 Specific Implementation Plan for a PD Planned ~~Community~~ Development district. (See Section
6207 19.52.052.)

6208 J. Signs may be mounted on canopies over gasoline dispensing pumps, provided that the sign message
6209 is limited only to the business name, logo, and price information. The maximum permitted sign area for
6210 any other freestanding sign on the lot shall be reduced by the total sign area on the canopy.

6211 K. Sandwich board/pedestal signs (see definition in Section 19.54.020C.7).

6212 1. There shall be a maximum of one sandwich board/pedestal sign per business.

6213 2. Height shall not exceed five feet (as measured when such sign is properly placed directly on the
6214 ground or sidewalk surface), width shall not exceed three feet, and sign area shall not exceed six square
6215 feet per side.

6216 4. All sandwich board/pedestal signs shall be designed to be self-supporting and in such a manner to
6217 withstand the elements, including the ability to remain upright on windy days.

6218 5. No sandwich board/pedestal sign shall be illuminated in any manner (except via cordless power for
6219 not more than thirty days in any calendar year), have more than two sides, be placed off-premises
6220 (except where allowed on a sidewalk immediately adjacent to the business lot to which it relates), or be
6221 designed to resemble a public regulatory sign (such as a stop sign).

6222 7. All sandwich board/pedestal signs shall be placed directly on a ground surface or walkway surface.

6223 8. No sandwich board/pedestal sign shall be placed on a public sidewalk or shall otherwise extend onto
6224 or into a public right-of-way, except that within the B-2 district or as may be specifically authorized in a
6225 specific implementation plan under PD zoning, a sandwich board/ pedestal sign may be placed within
6226 the public sidewalk or otherwise between the front of the building and the curb, provided that:

6227 a. There is not adequate space available on the premises to place the sign on private property in a
6228 manner that is visible to the public.

6229 b. The sign is placed directly in front of the business to which it is related.

6230 c. No part of the sign is any closer than three feet from the face of the curb.

6231 d. A minimum of four feet in width of unobstructed travelway remains available in all directions on the
6232 sidewalk at all times.

- 6233 9. Placement of all sandwich board/pedestal signs shall meet all intersection visibility requirements in
6234 Section 19.51.010, and shall otherwise not impede traffic visibility in the determination of the zoning
6235 administrator. This may require relocation and/or adjustments to height or design.
- 6236 10. All sandwich board/pedestal signs must be kept in good condition, as determined by the zoning
6237 administrator and per the maintenance requirements of Section 19.54.070.
- 6238 11. Sandwich board/pedestal signs shall not count against the maximum area or number of signs
6239 allowed on a lot or for a business as specified in Section 19.54.070.
- 6240 12. Except where placed within the public right-of-way, sandwich board/pedestal signs that meet the
6241 requirements of this chapter may be used without the need for a sign permit.
- 6242 L. Electronic message center signs (see definition in Section 19.54.020D.5.).
- 6243 1. The total length of the information cycle shall not be shorter than three seconds nor longer than ten
6244 seconds. Items of information may not be repeated at intervals that are short enough to cause an
6245 electronic message center sign to have the effect of a flashing sign. Traveling messages may travel no
6246 slower than 16 light columns per second and no faster than thirty-two light columns per second.
- 6247 2. Except for signs that are less than ten square feet in sign area, all electronic message center signs
6248 shall be equipped with photosensitive equipment that automatically adjusts the brightness and contrast
6249 of the sign in direct relation to the ambient outdoor illumination.
- 6250 3. The message display area shall be included when calculating permitted sign area for the type of sign
6251 (e.g., wall, monument) in the zoning district in which the sign is located.
- 6252 4. All electronic message center signs shall be maintained so as to be able to display messages in a
6253 complete and legible manner.
- 6254 5. No electronic message center sign shall be allowed within any agricultural, conservancy, residential,
6255 or industrial zoning district; for any residential use regardless of zoning district; or positioned to be
6256 visible and within three hundred feet from any residential zoning district except by conditional use
6257 permit. Within the B-2 zoning district, electronic message center signs shall be allowed only by
6258 conditional use permit.
- 6259 (Ord. 1619A § 4, 2006; Ord. 1577A § 8, 2005; Ord. 1452 §§ 13, 14, 2000; Ord. 1269 § 1, 1993; Ord. 1263
6260 § 1(part), 1993).
- 6261 (Ord. No. 1618B, § 4, 12-19-2006); Ord. No. 1746A, §§ 13--16, 9-15-2009)

6262

6263 **19.54.052 Maximum sign sizes and types.**

- 6264 A. Signage regulations for most zoning districts. Table 19.54.052(1) summarizes the sign
6265 regulations for the following zoning districts: R-1, R-1x, R-2, R-3, R-4, B-1, B-3, M-1, M-2, WUTP,
6266 AT, and I. The more detailed requirements contained elsewhere in Chapter 19.54 shall also
6267 apply.
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Table 19.54.052(1):
General Sign Regulations (not B-2 district)

TABLE INSET:

Zoning District	Type of Sign	Size	Location	Height	Exception	Total # of Signs
R-1, R-1x, R-2,	Identification	3 sq. ft.	Main entrance or street yard	6' max (for freestanding sign)	If planned residential development, different signage levels may be allowed by conditional use	1 per lot
	Conditional uses in Section 19.18.030	32 sq. ft.	Driveway or main sidewalk	8' max (for freestanding sign)	On-premises directional signs also allowed (9 sq. ft. max.)	1 per lot
R-3,	Identification					
	1-4 units	3 sq. ft.		Main entrance or street yard 8' max	1 per unit for 1-4 unit buildings; 1 per lot for others	
	5-11 units	6 sq. ft.	8' max			
	12+ units	32 sq. ft.	8' max			
	On-premises Directional	9 sq. ft.	Driveway or main sidewalk	6' max (for freestanding sign)		
	Conditional uses in Section 19.21.030	32 sq. ft.	Main entrance or street yard	8' max	If planned residential development, different signage levels may be allowed by conditional use	1 per lot, except by CUP or PD
R-4	Identification	See R-3	See R-3	8' max		1 per development

	On-premises Directional	9 sq. ft.	Main entrance; each street	6' max (for freestanding sign)		
AT, B-1, B-3, ???? B-2 B-2A??? I	Wall or window	10% (A) (C) Max 50 sq. ft.	Above or next to main building entrance or on street wall	First floor area	Use may substitute one additional wall sign for freestanding sign	1 per building, but see exception
	Wall for multi-tenant	10% (A) max (B)	Above or next to main business entrance or on street wall	First floor area	Location may vary by conditional use. Building name sign also allowed if total wall sign area <=10%	Same as number of tenants
	Freestanding	100 sq. ft. per side; for a multi-occupant development, add 20 sq. ft. per additional occupant in a separated space, up to max of 160 sq. ft./side	In street yard, setback equal to height from any side yard lot line and 5' from street right-of-way line	20' max for pylon sign	Pylon sign allowed by conditional use only	1 per lot
	On-premises Directional	9 sq. ft.		6' max (for freestanding)		

M-1, M-2, WUTP	Wall or window (C)	20% of wall area up to max of 100 sq. ft.	Front wall (street address side)	First floor area	Corner lots may have second sign by conditional use	1 per building
	Freestanding, monument or arm/post only	80 sq. ft. per side	10' from any lot line	10' max	Except as required in business park covenants	1 per lot
	On-premises Directional	9 sq. ft.		6' max (for freestanding)		

6284 NOTES:

6285 (A) Building wall area is determined by using the square footage of the exterior wall of the first floor
6286 area to be signed (including window and door openings).

6287 (B) Permitted wall signage shall be divided among each tenant space. Maximum total size equals ten
6288 percent of the first floor area of the building wall upon which the signs will be placed.

6289 (C) Window sign area cannot exceed one-third of each individual window glass area on or in which the
6290 window signs are located.

6291 (D) Signage for projects with a PD planned ~~community~~ development district shall be as specified by the
6292 approved specific implementation plan for each particular project. Sign requirements for PD districts
6293 shall generally be based on the signage requirements in the most comparable standard zoning district.

6294 B. B-2 central business district sign regulations.

6295 1. Each business in the B-2 district shall be permitted a maximum of two permanent business signs,
6296 which may be any combination of the following sign configuration types: wall sign (includes
6297 awning/canopy sign), window sign, projecting sign, and freestanding sign, subject to the following
6298 qualifications:

6299 a. For freestanding signs, see also the limitations in Section 19.54.050D.

6300 b. Any number of window signs used shall count as only one sign in total against this maximum. If the
6301 only window signs used are those allowed under Section 19.54.050H., then such signs shall not count
6302 against this maximum.

6303 c. Any sign for a business included within a group sign, as defined in Section 19.54.020C., shall count as
6304 one sign against the total number of permanent business signs permitted, except that for cases where a
6305 business has or shares more than one public building entrance, an additional group sign shall be
6306 permitted which indicates that and other businesses.

6307 d. Sandwich board/pedestal signs, directional signs, auxiliary signs, and "ghost" signs not related to the
6308 current business operation shall not count against the total number of permanent business signs
6309 permitted.

6310 2. For corner lots, permitted signage may be placed on either or both facades facing a public street.

6311 3. Pylon signs, internally illuminated signs, electronic message center signs, and restoration of "ghost"
6312 signs shall be allowed in the B-2 district by conditional use, except for sign face/component changes on
6313 pre-existing signs of these types, which instead may be accomplished through the site plan review
6314 process under Chapter 19.63. Upon receipt of a completed conditional use permit application for any
6315 such new sign in the B-2 district, the zoning administrator shall forward such application to the

6316 Downtown Whitewater Design Team. If the design team chooses to provide a recommendation, such
 6317 recommendation must be provided in a timeframe that allows plan and architectural review commission
 6318 action on the conditional use permit request under the requirements of Chapter 19.66.

6319 4. Electronic message center signs shall meet the technical requirements of Section 19.54.050L., and
 6320 shall not exceed twelve square feet in area in the B-2 district.

6321 5. Internally illuminated signs in the B-2 district shall be designed and constructed with an opaque
 6322 background and translucent letters or symbols, or with a colored background and lighter letters or
 6323 symbols.

6324 6. Exposed neon tube signage, and other signage that uses another technology that is designed to
 6325 replicate neon tube signs, is permitted within the B-2 district.

6326 7. In addition to meeting the requirements of Section 19.57.150, all exterior lighting of signage in the B-
 6327 2 zoning district, regardless of wattage, shall use shielded lighting fixtures as that term is defined in
 6328 Section 19.09.623. All wall-mounted exterior lights shall be mounted above the sign they are intending
 6329 to illuminate and the illumination shall be directed exclusively towards the sign.

6330 8. No wall sign shall be painted directly on a masonry building surface.

6331 9. Within the B-2 district, the regulations listed in Table 19.54.052(2) shall apply:

6332 Table 19.54.052(2): B-2 Sign Regulations for Permanent Signs

6333 TABLE INSET:

6334

Type of Sign	Maximum Size	Location	Maximum Height
Wall Sign	50 square feet, max. 10% (A)	Within first floor area of building	
Window Sign	1/3 of window area in or on which the sign is placed	Within first floor area of building	
Projecting Sign	12 square feet per side	A minimum of 20 feet from any other projecting sign on another building	Within first floor area of building
		No less than 8 ½ feet above ground	
Freestanding Sign	48 square feet per side	Within the street yard, not less than 5 feet from street right-of-way line.	8 feet for monument or arm/post(s) sign
		Minimum setback from interior side yard lot line at least equal to sign height	16 feet for pylon sign (by conditional use only)
On-Premises Directional Sign	9 square feet per side	On private property	Max: 6 feet for freestanding
Type of Sign	Maximum Size	Location	Maximum Height

6335 NOTES:

6336 (A) The combined total area of all wall signs for all tenants shall not exceed ten percent of the first floor
 6337 area of the façade upon which the signs are placed. First floor façade area is determined by calculating

6338 the square footage of the entire exterior wall of the first floor area of the façade to be signed (including
6339 window and door openings).

6340 (Ord. 1577A § 9, 2005; Ord. 1452 § 15, 2000; Ord. 1364 § 13, 1997; Ord. 1269 § 2, 1993; Ord. 1263 §
6341 1(part), 1993).

6342 (Ord. No. 1746A, § 17, 9-15-2009)

6343 Illustration 2

6344 | **GRAPHIC** ~~LINK: Click here~~ [LINK: Click](#)

6345 Illustration 3

6346 | **GRAPHIC** ~~LINK: Click here~~ [LINK: Click](#)

6347

6348 **19.54.060 Temporary signs.**

6349 Except as provided for in this section, only one temporary sign may be displayed on a property
6350 at any one time. Except as provided by subsections A through E of this section, any one lot is permitted
6351 to display a temporary sign for a maximum of thirty days within any twelve-month period. Furthermore,
6352 any one lot is limited to a maximum of two temporary signs in any twelve-month period (temporary
6353 signs in subsections A, B, D and E are exempt from this restriction). Time limits are subject to review by
6354 the city. The following temporary signs are allowed:

6355 A. For each lot or leasable space: one "For Sale" and "For Rent" sign, not more than twelve feet square
6356 in area, and no more than two signs in total at any one time (time limit subject to time of sale or lease
6357 and shall be removed within sixty days of sale or lease).

6358 B. For construction on or development of a lot, one sign not more than thirty-two square feet in area,
6359 indicating the name of the contractors, engineers, architect, or products being used in the construction
6360 of a building, but only during the time that construction or development is actively underway (time limit
6361 subject to time of construction and shall be removed sixty days after completion).

6362 C. For a temporary event of public interest such as a neighborhood garage sale or church fair,
6363 temporary signs, combined totaling not over thirty-two square feet in area, located upon the site of the
6364 event are allowed. Also permitted are directional signs, each not more than four square feet in area,
6365 showing only a directional arrow and the name of the event. Such signs shall not be erected more than
6366 thirty days before the event and shall be removed not more than five days after the completion of the
6367 event.

6368 D. For each real estate subdivision that has been approved in accordance with the city subdivision
6369 regulations, one temporary development project identification sign is permitted to be located on some
6370 portion of the subject subdivision. Each such sign shall be not more than thirty-two square feet in area.
6371 One additional similar sign shall be permitted for each access point onto a collector or arterial street, or
6372 for each one hundred lots in the subdivision in excess of the original one hundred lots. These signs shall
6373 comply with the visibility standards of Chapter 19.51. These signs shall be permitted to remain within
6374 the subject subdivision until a time at which building permits have been issued for eighty percent or
6375 more of the lots in the subdivision.

6376 E. Political signs.

6377 1. Provisions in the Whitewater Municipal Code regulating the number of signs and the length of time a
6378 sign may be in place shall not apply to signs which carry solely a political message. There shall be no
6379 restriction regulating the number of signs carrying solely a political message or the length of time such
6380 signs are allowed.

6381 2. Provisions in the Whitewater Municipal Code regulating the size and shape of signs shall not apply to
6382 signs thirty-two square feet and under in area, if the sign carries a solely political message and is located
6383 on a residential property during an election campaign period. The zoning administrator may require
6384 modification or removal of the sign, if necessary, for traffic or pedestrian safety. Also, size and shape
6385 regulations shall not apply during an election campaign period to political signs which are affixed to a

6386 permanent building and do not extend beyond the perimeter of the building, as long as said sign does
6387 not obstruct a window, door, fire escape, ventilation shaft, or other area which is required by an
6388 applicable building code to remain unobstructed.

6389 Definitions. In this subsection, the following definitions shall apply:

6390 a. "Election campaign period" means, in the case of an election for office, the period beginning on the
6391 first day for circulation of nomination papers by candidates, or the first day on which candidates would
6392 circulate nomination papers were papers to be required, and ending on the day of the election.

6393 b. "Political message" means a message intended for a political purpose or a message which pertains to
6394 an issue of public policy of possible concern to the electorate, but does not include a message intended
6395 solely for a commercial purpose.

6396 c. "Residential property" means property occupied or zoned to be occupied for residential purposes
6397 and other property abutting that property for which the owner or renter is responsible for the
6398 maintenance or care. If property is utilized for both residential and nonresidential purposes, "residential
6399 property" means only the portion of the property occupied or suitable to be occupied for residential
6400 purposes.

6401 (Ord. 1577A § 10, 2005; Ord. 1452 §§ 16, 17, 2000; Ord. 1263 § 1(part), 1993).

6402

6403 **19.54.070 Construction and maintenance of signage.**

6404 A. All signage within the jurisdiction of this chapter shall remain in a state of proper maintenance. (See
6405 subsection B of this section).

6406 B. Proper maintenance shall be the absence of sign material or loose materials (including peeling paint,
6407 sign message, paper or other material), the lack of excessive rust, the lack of excessive vibration or
6408 shaking, the proper illumination of all lighting originally approved and constructed for the sign, and the
6409 presence of the original structural integrity of the sign, its frame and other supports, its mounting, and
6410 all components thereof.

6411 C. The repainting, changing of parts, and preventive maintenance of signs which completely conform to
6412 the requirements of this chapter, and result in absolutely no change in the appearance of the sign from
6413 that originally approved, shall not be deemed alterations requiring a sign permit.

6414 D. Any signs which may be, or may hereafter become rotted, unsafe, or in a state which is not properly
6415 maintained shall be repaired or removed by the licensee or owner of the sign, or owner of the property
6416 upon which the sign stands upon notice of the zoning administrator.

6417 E. All permanent signs shall be constructed and mounted so as to withstand a wind pressure of thirty
6418 pounds per square foot.

6419 F. Signage found to be in violation of the provisions of this chapter shall be subject to the provisions of
6420 Chapter 19.75.

6421 [G. Closing businesses must remove their signs within 120 days of closing.](#)

6422 (Ord. 1577A § 11, 2005; Ord. 1263 § 1(part), 1993).

6423

6424 **19.54.080 Nonconforming signs.**

6425 A. Nonconforming Signs.

6426 1. Signs existing as of the effective date of the ordinance codified in this chapter (see Chapter 19.60)
6427 which do not conform to the provisions of this chapter, shall be nonconforming signs and shall be
6428 subject to the provisions of subsection B of this section. Nonconforming signs may be maintained. No
6429 nonconforming sign shall be altered or moved to a new location without being brought into compliance
6430 with the requirements of this chapter (see subsection (B)(1) of this section).

6431 2. Business signs on the premises of a nonconforming use or building may be continued per Section
6432 19.54.040(B), but such signs shall not be allowed, nor shall expand in number, area, height or
6433 illumination. New signs, not to exceed the maximum allowable aggregate sign area may be erected only

6434 upon the complete removal of all other signs existing at the time of adoption of the ordinance codified
6435 in this chapter.

6436 3. Nonconforming signs shall be removed when the principal structure located on the premises
6437 undergoes a change of use, or shall be removed per subsection B of this section. Closing businesses
6438 must remove their signs within sixty days of closing.

6439 4. Signage not in compliance with the provisions of this section shall be subject to the provisions of
6440 subsection B of this section.

6441 B. Removal of Nonconforming Signs.

6442 1. Alteration of Signs.

6443 a. For the purpose of this chapter, alteration of a sign is considered to be any change to the exterior
6444 appearance of any part of the sign, its frame, its supporting structure, or its lighting including changing
6445 the message (except for menu type/letter board signs), symbols, color, material, height, location or any
6446 other alterations as determined by the zoning administrator.

6447 b. Altering a sign does not include maintaining the existing appearance of the sign or replacing the sign
6448 face or the supporting structure with identical materials, colors, and messages nor changing the
6449 message of a menu type/letter board sign.

6450 2. All signs found not to be in compliance with the provisions of this chapter shall be removed within
6451 thirty days of receiving written notice of noncompliance and removal from the zoning administrator.

6452 3. The penalties of Chapter 19.75 shall be applicable to violations of the provisions of this chapter.

6453 C. Modification Sign Location/Height Requirement.

6454 1. Location is required under Sections 19.54.030(B) and 19.54.052.

6455 a. The above may be waived by the zoning administrator and/or the plan and architectural review
6456 commission, in instances where a hardship is created by this chapter for any freestanding sign existing at
6457 the time the ordinance codified in this chapter is adopted.

6458 2. The petitioner must demonstrate that compliance with location requirements for the freestanding
6459 sign will create a public safety hazard (such as visibility hazard) or result in a sign which is not possible
6460 because of building setbacks and/or other obstructions located near the public right-of-way, or is not
6461 clearly visible from pedestrian and/or vehicular traffic on nearby public rights-of-way.

6462 3. This modification shall not be applicable to limitations on types of signage, area of signage, color of
6463 signage, or other standards except location and height of signage.
6464 (Ord. 1263 § 1(part), 1993).

6466 **Chapter 19.55 WIRELESS TELECOMMUNICATIONS FACILITIES**

6467 Sections:

6468 19.55.010 Purpose.

6469 19.55.020 Applicability.

6470 19.55.030 Areas where wireless telecommunication facilities allowed.

6471 19.55.040 Type of approval required.

6472 19.55.050 Required application submittal information.

6473 19.55.060 Co-location and use of alternative support structures.

6474 19.55.070 Structural, design and aesthetic standards.

6475 19.55.080 Abandonment and removal.

6476 19.55.090 Compliance.

6478 **19.55.010 Purpose.**

6479 The purpose of this chapter is to provide a thorough and consistent set of standards for the
6480 siting and installation of wireless communications facilities in the various zoning districts in which they
6481 may be allowed, and more generally to protect the public health, safety, welfare, aesthetics and natural

6482 environment of the city in such a manner that does not unduly interfere with the placement and
6483 construction of said facilities. More specifically, the intent of this chapter is to:

6484 A. Mitigate the potential for adverse visual impacts caused by wireless telecommunications facilities
6485 through design and siting standards.

6486 B. Ensure that a business environment characterized by high service quality, competition and non-
6487 discrimination prevails with regard to wireless telecommunication services in a manner consistent with
6488 the Federal Telecommunications Act of 1996.

6489 C. Establish a clear process for obtaining necessary permits for wireless telecommunications facilities
6490 that adequately protect the interests of the citizens of the city while minimizing the burden of
6491 compliance to service providers.

6492 D. Protect environmentally and aesthetically sensitive areas of the city by restricting the design, height,
6493 location and operation of wireless telecommunications facilities in these areas, and by promoting their
6494 disguise, camouflage, screening or other design treatments intended to minimize their obtrusiveness.

6495 E. Encourage use of multiple-antenna alternative support structures such as buildings and water towers
6496 as an alternative to stand-alone, single-use, single-provider structures, and require good-faith attempts
6497 for co-location of facilities.

6498 (Ord. 1499 § 24(part), 2001).

6499

6500 **19.55.020 Applicability.**

6501 The requirements of this chapter shall apply to all new wireless telecommunications facilities
6502 that had not received a building permit prior to adoption of this chapter. Wireless telecommunications
6503 facilities, which pre-exist this chapter, or have been legally permitted prior to its adoption, shall not be
6504 required to meet the requirements contained herein. This chapter is not intended to regulate residential
6505 satellite dishes that are thirty-six inches or less in diameter, residential television antennas, or amateur
6506 radio facilities, which instead are regulated under Section 19.06.110. This chapter shall not be construed
6507 as to override additional or more stringent Federal or State of Wisconsin requirements, including but
6508 not limited to any regulations or restrictions imposed by the State Bureau of Aeronautics, the Federal
6509 Communications Commission (FCC), or the Federal Aviation Administration (FAA).

6510 (Ord. 1499 § 24(part), 2001).

6511

6512 **19.55.030 Areas where wireless telecommunication facilities allowed.**

6513 Chapter 19.15 to Chapter 19.48 identify the zoning districts in which wireless
6514 telecommunications facilities may be allowed, and what types of facilities are allowed as permitted or
6515 conditional uses. In no case shall a wireless telecommunications facility be located in or on districts or
6516 sites listed on the State or National Register of Historic Places, or within environmental corridors,
6517 wetlands, floodplains, or critical species habitats mapped by the Southeastern Wisconsin Regional
6518 Planning Commission, Wisconsin Department of Natural Resources, or through more detailed field
6519 surveys.

6520 (Ord. 1499 § 24(part), 2001).

6521

6522 **19.55.040 Type of approval required.**

6523 In zoning districts where they are allowed, the first wireless telecommunications facility to be
6524 located on an alternative support structure and all new freestanding wireless communication facilities
6525 shall require a conditional use permit, and shall meet the standards in this chapter and Chapter 19.66 to
6526 obtain approval. In zoning districts where they are allowed, the second or greater wireless
6527 telecommunications facility to be located on an alternative support structure already supporting a
6528 wireless telecommunications facility or on a pre-existing wireless telecommunications facility shall be
6529 allowed as a permitted use, except that any addition or extension to an existing wireless

6530 telecommunications facility that adds more than ten feet to the overall height of the existing facility or
6531 alternative support structure shall require a conditional use permit. In zoning districts where wireless
6532 telecommunication facilities are allowed, wireless telecommunication support facilities shall be allowed
6533 as permitted accessory uses upon the establishment of the principal facility. All wireless
6534 telecommunication facilities and wireless telecommunication support facilities shall be subject to plan
6535 review in accordance with Chapter 19.63.
6536 (Ord. 1499 § 24(part), 2001).

6537

6538 **19.55.050 Required application submittal information.**

6539 With the application for plan review or conditional use permit for a wireless
6540 telecommunications facility, the petitioner shall submit all information required under Section
6541 19.63.020, along with the following additional information:

6542 A. The identity, legal status, signature and contact information of the carrier, service provider,
6543 petitioner, and landowner.

6544 B. FCC license and registration numbers if applicable.

6545 C. A report prepared by a Wisconsin licensed engineer certifying the structural design of the
6546 telecommunications facility of a new freestanding wireless telecommunications facility as proposed and
6547 its physical ability to accommodate, either initially or at some time in the future, a total of at least three
6548 antenna arrays for separate providers.

6549 D. In the case of a leased site, a lease agreement, option or binding lease instrument which does not
6550 preclude the lessee from entering into sub-leases on the site at market rates with another co-locating
6551 provider(s) and includes the legal description and amount of property lease.

6552 E. For a proposed wireless telecommunications facility within a one-mile radius of an airport, copies of
6553 an Affidavit of Notification indicating that the airport operator and airport property owner have been
6554 notified via certified mail, along with copies of the determination of no hazard from the FAA or any
6555 other finds of the Wisconsin State Bureau of Aeronautics, such as they may apply.

6556 F. Proof of a satisfactory level of liability insurance coverage, with the City of Whitewater listed as an
6557 additional named insured party.

6558 G. Certified statement and map prepared by a licensed radio frequency engineer showing the coverage
6559 area of the proposed facility.

6560 H. For a wireless telecommunications facility that requires a conditional use permit, a feasibility
6561 analysis that identifies at least three alternative sites, pre-existing freestanding wireless
6562 telecommunications facilities, and/or alternative support structures that could technically support a
6563 comparable level of service. The intent of this analysis is to present options to minimize the number,
6564 size, and adverse environmental impacts of wireless telecommunications facilities. The analysis shall
6565 specifically address the potential for co-location on pre-existing freestanding wireless
6566 telecommunications facilities and the use of alternative support structures. It shall also explain the
6567 rationale for selection of the proposed site in view of the relative merits of the alternatives. Approval of
6568 the project is subject to the plan and architectural review commission's determination that the chosen
6569 site is more advantageous than any other alternative site that is both technically feasible and available
6570 for use. The plan and architectural review commission may choose to independently verify the findings
6571 of the analysis at the applicant's expense.

6572 I. For a wireless telecommunications facility that requires a conditional use permit, a performance
6573 bond in the amount of twenty thousand dollars naming the city as obligee, as security for the potential
6574 future removal of abandoned or inactivated facilities.

6575 J. For a wireless telecommunications facility that would be set back from any property line or, principal
6576 building a distance less than the height of the facility, including the height of any alternative support

6577 structure, an analysis prepared by a licensed structural engineer demonstrating that the facility would
6578 not pose a threat to the public, existing principal buildings or adjacent properties in the event of failure.
6579 K. The amount and location of any fuel proposed to be stored on site.
6580 L. Any other information that the zoning administrator may deem necessary.
6581 (Ord. 1499 § 24(part), 2001).
6582

6583 **19.55.060 Co-location and use of alternative support structures.**

6584 A. In its review of alternative sites considered by the petitioner, the plan and architectural review
6585 commission shall prioritize reasonable alternatives that involve co-locating the new facility on an
6586 existing freestanding wireless telecommunications facility or locating the new facility on an alternative
6587 support structure, such as a tall building, water tower, smokestack, or electrical transmission tower. Co-
6588 location or use of an alternative support structure shall not be required on any facility or structure not
6589 structurally designed to accommodate a new wireless telecommunications facility.

6590 B. All freestanding wireless telecommunication facilities issued a conditional use permit after the
6591 effective date of this chapter, known hereinafter as "host facilities," shall make available space for the
6592 co-location of telecommunications antennas or antenna arrays for at least two additional competing
6593 wireless telecommunications providers, including space for wireless telecommunication support
6594 facilities. This requirement does not apply if the owner or operator of the host facility can demonstrate,
6595 to the satisfaction of the plan and architectural review commission, that the placement of the additional
6596 antennas or equipment would impair or disrupt, for a significant period of time, the service provided by
6597 the host facility.

6598 C. Where a wireless telecommunication facility provider proposes to utilize an alternative support
6599 structure, the provider shall make available space for the co-location of telecommunications antennas
6600 or antenna arrays for at least two additional competing wireless telecommunications providers to the
6601 extent practical, and shall thereafter be considered a host facility. If the plan and architectural review
6602 commission determines based on evidence supplied by the applicant that the proposed facility or
6603 alternative support structure is not structurally sound or not otherwise appropriate for additional
6604 antennas or arrays, the commission may waive this requirement.

6605 D. All new wireless telecommunication facilities and sites shall be designed to promote sharing of both
6606 tower space and ancillary facilities such as access roads, parking areas, buildings, and utilities.

6607 E. The owner or operator of the host facility shall make co-location space reasonably available to other
6608 competing providers at prevailing market lease rates for the industry. Failure to comply with this
6609 provision shall be grounds for revocation of the conditional use permit.

6610 F. Alternative support structures must be at least fifty feet in height to be considered for the addition
6611 of a wireless telecommunication facility, not including the height of any architectural projections. The
6612 plan and architectural review commission may deny the placement of numerous wireless
6613 telecommunication facilities on a single alternative support structure if it determines that such
6614 placement would have a negative aesthetic, architectural, public safety, or operational impact.

6615 G. Wireless telecommunications facilities located on alternative support structures shall be considered
6616 accessory uses.
6617 (Ord. 1499 § 24(part), 2001).
6618

6619 **19.55.070 Structural, design and aesthetic standards.**

6620 All wireless telecommunications facilities shall be designed and sited in such a manner to
6621 minimize or avoid adverse safety, aesthetic or environmental effects per the following requirements:

6622 A. Compliance with all applicable restrictions. All wireless telecommunications facilities shall comply
6623 with all city, state and federal regulations, restrictions, codes, standards and power density limits,
6624 including other city zoning ordinance standards.

6625 B. Materials. Wireless telecommunications facilities shall be constructed of metal or other non-
6626 flammable material, and freestanding facilities shall be self supporting monopoles or lattice towers,
6627 unless otherwise permitted by the plan and architectural review commission. Material color shall blend
6628 with surroundings.

6629 C. Placement. All wireless telecommunications facilities and support facilities shall be located and
6630 installed in such a manner to minimize disturbance to, take advantage of, or locate behind existing
6631 topography and vegetation to minimize visual impact on surrounding properties and public rights-of-
6632 way. No wireless telecommunication facility shall be placed in a location that would physically obstruct
6633 or otherwise interfere with the full use of other wireless telecommunication facilities, residential
6634 satellite dishes, residential television or radio antennas, or amateur radio facilities.

6635 D. Setback. The minimum setback of a new wireless telecommunications facility from all property lines
6636 and principal buildings on the site shall equal the height of the wireless telecommunications facility,
6637 including the height of any alternative support structure. A reduced setback below this minimum may be
6638 considered by the plan and architectural review commission based on submittal of a structural
6639 engineering analysis demonstrating that the facility would not pose a threat to the public, existing
6640 principal buildings, or adjacent properties in the event of failure. All wireless telecommunications
6641 support facilities shall be set back from property lines the same distance as required for principal
6642 buildings in the zoning district.

6643 E. Height. The maximum height above existing grade for any freestanding wireless telecommunications
6644 facility, including all antennas, shall be two hundred and fifty feet. Any wireless telecommunications
6645 facility mounted on an alternative support structure may extend no greater than fifty feet above the
6646 height of an alternative support structure that is less than two hundred feet in height, or no greater than
6647 ten feet above the height of an alternative support structure that is two hundred feet in height or
6648 greater. The plan and architectural review commission may approve waivers to such height limitations if
6649 necessary to facilitate co-location of facilities.

6650 F. Wireless telecommunications support facilities. All wireless telecommunications support facilities
6651 shall be located within enclosed buildings or fully screened rooftop locations. Such accessory buildings
6652 shall not exceed fifteen feet in height and twelve hundred square feet in area, unless otherwise
6653 permitted by the plan and architectural review commission to facilitate co-location. The design and
6654 exterior surfacing of all such buildings or rooftop screening structures shall be in harmony with the
6655 existing or desired architecture for the area. The exterior walls of all such buildings shall be masonry,
6656 stone, stucco, pre-cast, concrete or other similar surface.

6657 G. Signage. No commercial message or signage shall be allowed at or on any wireless
6658 telecommunications facility, wireless telecommunications support facility, or site used for a wireless
6659 telecommunications facility.

6660 H. Driveways. Access driveways shall be surfaced in accordance with the requirements of Section
6661 19.51.110.

6662 I. Landscaping and Fencing. The site including the wireless telecommunications facility shall be
6663 attractively landscaped, with particular emphasis on landscaping near buildings, tower foundations, and
6664 driveways. New vegetation for screening purposes shall be a minimum of five feet in height upon
6665 planting and shall be located on the outside of any required fencing. The base of all freestanding
6666 wireless telecommunications facilities shall be enclosed with security fencing, unless the applicant
6667 provides other acceptable improvements designed to secure the base of the facility (tower) from public
6668 access.

6669 (Ord. 1499 § 24(part), 2001).

6670

6671 **19.55.080 Abandonment and removal.**

6672 Any wireless telecommunications facility not continuously operating for a period of twelve
6673 months shall be considered abandoned and shall be removed (along with its wireless
6674 telecommunication support facilities) within ninety days of receiving an order to remove from the
6675 zoning administrator. The cost of removal and site restoration shall be borne entirely by the permit
6676 holder. In the event that the permit holder fails to remove the facility, the city may cash the required
6677 performance bond and remove the facility and all support facilities itself.
6678 (Ord. 1499 § 24(part), 2001).

6679
6680 **19.55.090 Compliance.**

6681 A. All wireless telecommunications facilities granted site plan or conditional use permit approval after
6682 the effective date of this chapter shall remain in compliance with approved plans, conditions of
6683 approval, the provisions of this chapter as they existed at the time of permit approval, and applicable
6684 standards of Sections 19.63.100 and 19.66.050. The permit holder shall be responsible for the continued
6685 maintenance and/or replacement of all buildings, fencing, landscaping and other site improvements.

6686 B. The permit holder for all wireless telecommunications facilities granted conditional use permit
6687 approval after the effective date of this chapter shall file an annual report with the zoning administrator
6688 demonstrating continued compliance with approved plans, conditions of approval, the provisions of this
6689 chapter as they existed at the time of permit approval, and the standards of Sections 19.63.100 and
6690 19.66.050. The petitioner shall also demonstrate that the term of any performance bond or liability
6691 insurance policy required under Section 19.55.050 shall remain in effect for at least two years from the
6692 date the annual report is submitted. Such report shall be filed within thirty days of the original month of
6693 conditional use permit approval.

6694 C. Failure to comply with subsections A and B above may be grounds for revocation of the permit,
6695 penalties pursuant to Section 19.75.080, or both.
6696 (Ord. 1499 § 24(part), 2001).

6697
6698 **Chapter 19.57 GENERAL PERFORMANCE STANDARDS**

6699 Sections:

6700 19.57.010 Compliance with standards required.

6701 19.57.020 Air pollution prohibited.

6702 19.57.030 Fire and explosive hazards--Location--Safety precautions.

6703 19.57.040 Glare and heat restrictions.

6704 19.57.050 Liquid or solid wastes--Storage and discharge restrictions.

6705 19.57.060 Noise restrictions.

6706 19.57.070 Vibration.

6707 19.57.080 Odors.

6708 19.57.090 Radioactivity and electrical disturbances.

6709 19.57.100 Uses and land suitability.

6710 19.57.110 Topography preservation conditions.

6711 19.57.130 Minimum usable floor area.

6712 19.57.140 Required screens and buffers.

6713 19.57.150 Outdoor lighting standards.

6714 19.57.160 Keeping of horses as a residential accessory use.

6715
6716 **19.57.010 Compliance with standards required.**

6717 All land uses and activities, unless otherwise specified, in the City of Whitewater established
6718 after June 24, 1982, the effective date of the ordinance codified in this title, shall comply with the
6719 standards set out in this chapter.

6720 (Ord. 994 § 6.1, 1982).

6721

6722 **19.57.020 Air pollution prohibited.**

6723 No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to
6724 cause soiling, or danger to the health of persons, animals, vegetation or other forms of property.

6725 (Ord. 994 § 6.2, 1982).

6726

6727 **19.57.030 Fire and explosive hazards--Location--Safety precautions.**

6728 All activities involving the manufacturing, utilization, processing or storage of flammable and
6729 explosive materials shall be provided with adequate safety devices against the hazard of fire and
6730 explosion, and with adequate firefighting and fire-suppression equipment and devices that are standard
6731 in the industry. Such activities shall be located and managed in a manner so as not to endanger any
6732 adjoining properties or the public in general.

6733 (Ord. 994 § 6.3, 1982).

6734

6735 **19.57.040 Glare and heat restrictions.**

6736 No activity shall emit glare or heat that is visible or measurable outside its premises, except
6737 activities in the ~~industrial~~ M-1, M-2 or WUTP districts which may emit direct or sky-reflected glare which
6738 shall not be visible outside the district. All operations producing intense glare or heat shall be
6739 conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to
6740 be visible outside their premises.

6741 (Ord. 994 § 6.4, 1982).

6742

6743 **19.57.050 Liquid or solid wastes--Storage and discharge restrictions.**

6744 No activity shall discharge at any point onto any land or into any water or public sewer any
6745 materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute
6746 or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive
6747 elements, can overload the existing municipal utilities, or can injure or damage persons or property. No
6748 such wastes shall be stored in the city for a period longer than three months.

6749 (Ord. 994 § 6.5, 1982).

6750

6751 **19.57.060 Noise restrictions.**

6752 A. No activity shall produce a sound-level extending outside its premises that exceeds the following:

6753 TABLE INSET:

6754

<u>Octave Band Frequency</u> <u>(Cycles Per Second)</u>	<u>Sound Level (Decibels)</u>
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40

2,400 to 4,800	34
Above 4,800	32

6755 B. All noise shall be so muffled or otherwise controlled as not to become objectionable due to
6756 intermittance, duration, beat frequency, impulse character, periodic character or shrillness. Sirens,
6757 whistles, horns, power speakers and bells which are maintained and utilized solely to serve a public
6758 emergency purpose are exempt from the sound-level standards of this title.
6759 (Ord. 994 § 6.6, 1982).

6760
6761 **19.57.070 Vibration.**

6762 No activity shall emit vibrations which are discernible without instruments outside its premises.
6763 (Ord. 994 § 6.7, 1982).

6764
6765 **19.57.080 Odors.**

6766 No activity shall emit any odorous matter of such nature or quantity to be offensive, obnoxious
6767 or unhealthful outside their premises.
6768 (Ord. 994 § 6.8, 1982).

6769
6770 **19.57.090 Radioactivity and electrical disturbances.**

6771 No activity shall emit radioactivity or electrical disturbances outside its premises that are
6772 dangerous or adversely affect the use of neighboring premises.
6773 (Ord. 994 § 6.9, 1982).

6774
6775 **19.57.100 Uses and land suitability.**

6776 No land shall be used or structure erected where the land is held unsuitable for such use or
6777 structure by the city zoning administrator or plan commission by reason of flooding, concentrated
6778 runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, erosion
6779 susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and
6780 general welfare of this community. In applying this provision, the city may deny or condition the
6781 granting of a zoning permit. The city shall, in writing, recite the particular facts upon which it bases its
6782 conclusion that the land is not suitable for certain uses. The applicant shall have the opportunity to
6783 present evidence contesting such unsuitability to the board of zoning appeals in compliance with the
6784 requirements of Chapter 19.72.
6785 (Ord. 994 § 6.10, 1982).

6786
6787 **19.57.110 Topography preservation conditions.**

6788 In order to preserve the natural topography as much as possible and in order to protect against
6789 danger and damage caused by manmade changes in the existing topography, no lots nor portions of lots
6790 nor any parcels of land shall be excavated or filled unless the following conditions are met:

6791 A. If a difference in grade between two adjacent lots along a lot line is to be not greater at any point
6792 than two feet, this difference in levels may be sloped toward or away from the lot line at a gradient of
6793 one foot vertical to two feet horizontal, and as soon as practicable must be covered adequately with
6794 topsoil and sodded or seeded to prevent erosion so as to assure acceptable restoration; or, a
6795 satisfactory retaining wall of stone, concrete or other suitable masonry material shall be constructed to
6796 retain the higher ground. Within a single lot, any excavation or fill not exceeding two feet vertical shall
6797 also be treated in this same manner.

6798 B. If a difference in grade between two adjacent lots along a lot line, or wholly within a single lot, is to
6799 be greater than two feet at any point, the following procedure shall govern:

- 6800 1. No slope to be covered with sod, grass seed or other natural plant material may exceed a gradient of
 6801 one foot vertical to two feet horizontal;
 6802 2. A slope covered with a stone riprap construction may not exceed a gradient of one foot vertical to
 6803 one foot horizontal;
 6804 3. A difference in adjacent grades may be held by an approved type of retaining wall which is also
 6805 protected for safety.
 6806 C. Alterations to existing drainage ways or water flows that would cause material detriment to
 6807 adjoining property shall not be permitted.
 6808 (Ord. 994 § 6.11, 1982).

6809
 6810 **19.57.130 Minimum usable floor area.**
 6811 A. Within the city, no dwelling unit shall be constructed or remodeled to have less living area than the
 6812 following minimum standards:

6813 TABLE INSET:
 6814

<u>Dwelling Unit Type</u>	<u>Minimum Usable Floor Area</u>
One-family detached dwellings	800 square feet with no less than 500 square feet on first floor if more than one story;
Two-family dwellings	1,500 square feet with no less than 600 square feet per family;
Townhouse-style attached single-family	800 square feet;
Multifamily:	
Efficiency apartment	400 square feet;
One-bedroom apartment	500 square feet;
Two-bedroom apartment	800 square feet;
Three or more bedroom apartment	1,000 square feet;
Mobile homes	400 square feet;

6815 B. For the purpose of this section, "floor area" shall be the sum of the several floors of a building used
 6816 for human occupancy or use, as measured from the interior faces of the walls, but not including
 6817 basement, garages, porches, breezeways of common hallways and unfinished attics.
 6818 (Ord. 994 § 6.13, 1982).

6819
 6820 **19.57.140 Required screens and buffers.**

6821 Where screens or buffers are required by this title or by the plan and architectural review
6822 commission to reduce the impact of proposed uses on adjacent properties, the following standards shall
6823 be followed. Buffer yards and screens may be required jointly or separately.

6824 A. Landscaped Buffer Yards.

6825 1. Buffer yards are horizontal separations along lot lines that are intended to increase the physical
6826 separation between uses. The width of the required buffer yard shall be determined by the plan and
6827 architectural review commission or zoning administrator. The minimum width shall be the greater of ten
6828 feet or the width of the required yard abutting a less intensive zoning district, if a specific buffer yard
6829 requirement is established in a particular zoning district.

6830 2. All buffer yards shall be attractively landscaped with a minimum of two canopy/shade trees, five
6831 understory evergreen trees and twelve shrubs planted for every one hundred feet of buffer yard length.
6832 A substitute treatment incorporating plantings and/or a decorative fence or wall is acceptable if
6833 approved by the plan and architectural review commission. All buffer yards shall be kept free of debris
6834 and noxious weeds. No structure, activity, storage of materials, parking of vehicles or loading shall be
6835 permitted in a buffer yard, except emergency, cross, and pedestrian access. Maintenance of buffer yards
6836 shall be the continuing obligation of the owner of the property.

6837 B. Screens.

6838 1. Screens and barriers located in a limited space, ten feet or less, intended to perform a buffering
6839 effect, particularly for noise reduction or visual screening. Screens may consist of existing or planted
6840 vegetation, fences, walls, earth berms, or similar techniques. Plant screens shall be sufficient to provide
6841 a year-round screen within two years of installation. Walls or earth berms shall be required where noise
6842 reduction is necessary.

6843 2. Screen plantings shall be permanently maintained by the owner of the property, and any plant
6844 materials which do not live shall be replaced within six months.

6845 3. The height of walls and fences shall be regulated by the provisions of Section 19.06.120.

6846 (Ord. 1452 § 7, 2000; Ord. 994 § 6.14, 1982).

6847

6848 **19.57.150 Outdoor lighting standards.**

6849 A. Purpose. The purpose of this section is to provide for adequate and safe lighting of private property,
6850 while limiting light spillover and glare onto adjacent properties and public streets. Such limitations are
6851 intended to prevent the creation of nuisances, promote traffic safety, conserve energy, preserve the
6852 area's dark sky and support astronomy.

6853 B. Applicability. This section shall be applied to the installation of all new and replacement private
6854 outdoor lighting fixtures. Outdoor lighting fixtures legally installed prior to the effective date of the
6855 ordinance codified in this chapter shall not be required to comply with these outdoor lighting standards;
6856 however, any replacement of the lighting fixtures shall comply with all outdoor lighting standards as set
6857 forth in this section.

6858 C. Required Lighting Plan. Where a development requires site plan review under Chapter 19.63, all
6859 outdoor lighting fixtures shall be depicted and described on the required site plan or on a separate
6860 lighting plan. The zoning administrator may also require the following information:

6861 1. A catalog page, cut sheet or photograph of the outdoor lighting fixture(s) including the mounting
6862 method and light cutoff angles;

6863 2. A photometric plot plan, drawn to the same scale as the site plan, and indicating the location of all
6864 lighting fixtures proposed, mounting and/or installation height in feet, the average illumination level (in
6865 footcandles) within the parking lot, and illumination levels at regular intervals around the site and at
6866 property lines.

6867 D. Maximum Luminaire Height. The maximum permitted luminaire height shall be thirty-five feet in all
6868 commercial, industrial and institutional districts, and twenty-five feet in all residential districts. The
6869 height of both the pole and base shall be considered in the measurement of luminaire height.

6870 E. Maximum Illumination Levels. Average illumination levels within parking lots shall not exceed 1.0
6871 footcandle within residential districts, and 2.5 footcandles within all other districts. The illumination
6872 level at any property line shall not exceed 0.5 footcandles above the ambient lighting conditions on a
6873 cloudless night where the property adjoins land in a residential district, and 2.0 footcandles above the
6874 ambient lighting conditions on a cloudless night where the property adjoins land in any other zoning
6875 district. The plan and architectural review commission may agree to allow greater lighting levels based
6876 on specific and reasonable written justification provided by the applicant. In no instance shall a
6877 commercial outdoor lighting fixture be mounted or oriented such that the lighting element is visible
6878 from a property in a residential district.

6879 F. Use of Shielded Light Fixtures. All outdoor lighting fixtures shall be shielded as defined in Section
6880 19.09.623, except incandescent fixtures of one hundred fifty watts or less, other sources of seventy
6881 watts or less, lighting within public street rights-of-way and lighting required for a specialized security or
6882 safety purpose. No searchlights shall be permitted.

6883 G. Types of Light Source. ~~All outdoor lighting fixtures shall have high pressure sodium (HPS), low
6884 pressure sodium (LPS), incandescent or fluorescent light sources, except that in cases where true color
6885 rendition is required (including display lots and certain outdoor recreational uses), white lights such as
6886 metal halide shall be permitted. No new mercury vapor lighting fixtures shall be installed, and no
6887 replacement equipment or bulbs for preexisting mercury vapor lighting fixtures shall be installed after
6888 January 1, 2001.~~ No flickering or flashing lights shall be permitted, except low wattage seasonal lighting
6889 between November 1st and January 31st and lighting required for a specialized security or safety
6890 purpose.

6891 H. Location. No exterior light fixture shall be located within any required landscape bufferyard or within
6892 three feet of any property line.

6893 I. Hours of Illumination. Within one hour after closing of the store, completion of the final work shift, or
6894 completion of specific activities associated with an institutional use, only building mounted security
6895 lighting and up to twenty-five percent of all other outdoor lighting fixtures may remain illuminated.

6896 J. Exterior Lighting for Outdoor Recreational Uses. Ball diamonds, playing fields, golf driving ranges,
6897 tennis courts, parks and similar outdoor recreational uses may be exempted from one or more of the
6898 outdoor lighting standards of this section if approved by the plan and architectural review commission
6899 through site plan review.

6900 K. Street Lighting. Street lighting shall conform to the standards set forth by the state for state and
6901 federal highways, appropriate county for county highways and the city for city streets and highways.
6902 (Ord. 1452 § 8, 2000).

6903
6904 **19.57.160 Keeping of horses as a residential accessory use.**

6905 Horses may be kept as an accessory use only in certain residential zoning districts, upon the
6906 granting of a conditional use permit, and subject to the following standards:

6907 A. The lot on which the horses will be kept and exercised shall be not less than two acres in total area.

6908 B. For each horse kept on the lot, there shall be a minimum of one acre of open land usable for horse
6909 exercise and manure management. Such open land may not include lands in wetlands or woodlands,
6910 with over a twelve-percent slope, or within seventy-five feet of navigable waters or wetlands.

6911 C. Outdoor horse containment areas, including, but not limited to barns and exercise areas, shall be
6912 completely enclosed, shall be a minimum of twenty feet from any other lot, and shall meet the
6913 standards of Wisconsin Statutes Chapter 90. D. The keeping of horses shall not be for commercial
6914 purposes, such as the commercial stabling of horses.

6915 E. The use shall meet and maintain any other specific conditions of conditional use permit approval
6916 that relate to the protection of human, animal, or environmental health, or the character of the
6917 surrounding neighborhood or publicly owned lands.
6918 (Ord. 1589A § 3, 2005).

6919

6920 **Chapter 19.58 NOISE RESTRICTIONS**

6921 Sections:

6922 19.58.010 Policy, purpose, title, and scope.

6923 19.58.020 Definitions.

6924 19.58.030 Exemptions to this chapter.

6925 19.58.040 Residential noise.

6926 19.58.050 General noise disturbance prohibited.

6927 19.58.060 Maximum permissible sound levels by land use category.

6928 19.58.070 Emergency signaling devices.

6929 19.58.080 Specific activities prohibited.

6930 19.58.090 Sound equipment and sound-amplifying equipment.

6931 19.58.100 Motorized vehicles.

6932 19.58.110 Construction.

6933 19.58.120 Nonemergency signaling devices.

6934 19.58.130 Animals and birds.

6935 19.58.140 Enforcement.

6936 19.58.150 Noise variances.

6937 19.58.160 Penalty.

6938

6939 **19.58.010 Policy, purpose, title, and scope.**

6940 A. Statement of Public Policy. The city council finds and declares that:

6941 1. Excessive noise is a serious hazard to the public health and welfare and the quality of life in a close
6942 urban society.

6943 2. A substantial body of science and technology exists by which excessive noise can be substantially
6944 abated without serious inconvenience to the public.

6945 3. Certain of the noise-producing equipment in this community is essential to the quality of life herein
6946 and should be allowed to continue at reasonable levels with moderate regulation.

6947 4. Each person has a right to an environment reasonably free from noise which jeopardizes health or
6948 welfare or unnecessarily degrades the quality of life.

6949 5. It is the declared policy of this city to promote an environment free from excessive noise, otherwise
6950 properly called "noise pollution," which unnecessarily jeopardizes the health and welfare and degrades
6951 the quality of the lives of the residents of this community, without unduly prohibiting, limiting or
6952 otherwise regulating the function of certain noise-producing equipment which is not amenable to such
6953 controls and yet is essential to the economy and quality of life of the community.

6954 B. Purpose, Title and Scope.

6955 1. The purpose of this chapter is to establish standards for the control of noise pollution in the city by
6956 setting maximum permissible sound levels for various activities, to protect the public health, safety and
6957 general welfare.

6958 2. This chapter may be cited as the "Noise Control Ordinance of the City of Whitewater."

6959 3. This chapter shall apply to the control of all noise originating within the limits of the city, except
6960 where either (a) a state or federal agency has adopted a standard or rule and has so preempted the
6961 regulation of noise from a particular source as to render this chapter inapplicable thereto; or (b) the city

6962 council has determined that, by reason of public acceptance of the activity producing a particular noise
6963 or noises, such noise is deemed acceptable to the residents of this city.
6964 (Ord. 1310 § 2(part), 1995).

6965
6966 **19.58.020 Definitions.**

6967 Unless otherwise expressly stated or the context clearly indicates a different intention, the
6968 following terms shall have the meanings shown. Definitions of technical terms used in this chapter
6969 which are not herein defined shall be in conformance with the standard ANSI § 1.1-1994, Acoustical
6970 Terminology.

6971 "Ambient noise level" means the composite of noise from all sources near and far. In this
6972 context, the ambient noise level constitutes the normal or existing level of environmental noise at a
6973 given location and time.

6974 "A-weighted sound level" means the sound level in decibels as measured on a sound-level meter
6975 using the A-weighting network. The level so read is designated dB(A) or dBA.

6976 "Construction" means any site preparation, assembly, substantial repair, alteration, similar
6977 action, for or of public or private rights-of-way, structures, utilities or similar property or similar activity
6978 upon public or private structures or land.

6979 "Continuous sound" means sound which is of a steady and uninterrupted nature of a specified
6980 time period. For the purpose of this title, the minimum time period shall be one hour.

6981 "Daytime" means the hours between seven a.m. and ten p.m. on any given day.

6982 "Decibel" means a unit for measuring the amplitude of sound, equal to twenty times the
6983 logarithm to the base ten of the ratio of the pressure of the sound measured to the referenced pressure,
6984 which is twenty micropascals.

6985 "Emergency work" means any work performed for the purpose of preventing or alleviating the
6986 physical trauma or property damage threatened or caused by an emergency.

6987 "Enforcement office(r)" means the city employee and/or police officer having lead responsibility
6988 for enforcing this chapter; and, the city employee/police officer having responsibility for making noise
6989 surveys, noise analyses, noise investigations and for the administration of this chapter.

6990 "Equivalent sound level (Leq)" means the average sound level measured over a stated period of
6991 time. For the purpose of this chapter, the averaging time shall be one minute.

6992 "Fixed noise source" means a stationary device which creates sounds while fixed or motionless,
6993 including but not limited to residential, agricultural, industrial and commercial machinery and
6994 equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

6995 "Impulse sound" means sound of short duration, usually less than one second, with an abrupt
6996 onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts,
6997 and the discharge of firearms.

6998 "Intermittent sound" means sound which is not continuous or which is of a cyclic or repetitive
6999 nature.

7000 "Intrusive noise" means that noise which intrudes over and above the existing ambient noise at
7001 a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency
7002 and time of occurrence, and tonal or informational content as well as the prevailing ambient noise level.

7003 "Leq" means ~~see~~ equivalent continuous sound level.

7004 "Lmax" means the maximum instantaneous sound level reading.

7005 "Mobile noise source" means any noise source other than a fixed noise source.

7006 "Nighttime" means the hours between ten p.m. and seven a.m. on any given day.

7007 "Noise disturbance" means any noise exceeding the noise-level limits for a designated land-use
7008 category specified in Table 1 or 2.

7009 "Noise sensitive area" means any area designated by the planning commission for the purpose
7010 of ensuring exceptional quiet.

7011 "Public right-of-way" means any street, avenue, boulevard, highway, bikeway, sidewalk or alley
7012 or similar place which is owned or controlled by a government entity.

7013 "Public space" means any real property or structures thereon which are owned or controlled by
7014 a governmental entity.

7015 "Pure tone" means any sound which can be judged as audible as a single pitch or a set of single
7016 pitches by the enforcement officer or police officer.

7017 "Real property boundary" means an imaginary line along the ground surface, and its vertical
7018 extension, which separates the real property owned by one person from that owned by another person,
7019 but not including intra-building real property divisions.

7020 "Sound-amplifying equipment" means any machine or device for the amplification of the human
7021 voice, music, or any other sound. Sound-amplifying equipment, as used in this title, shall not be
7022 construed as including standard automobile radios when used and heard only by occupant(s) of the
7023 vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other
7024 warning devices on other vehicles used only for traffic safety purposes. This definition shall include
7025 remotely located loudspeakers attached to and/or operated from a vehicle.

7026 "Sound-level meter" means an instrument, including a microphone, an amplifier, and an output
7027 meter for the measurement of sound levels, which meets or exceeds the requirements for Type 2
7028 meters in American National Standards Institute specifications for sound-level meters, S1.4-1971.

7029 "Vibration perception threshold" means the minimum ground-borne or structure-borne
7030 vibrational motion necessary to cause a normal person to be aware of the vibration by such direct
7031 means as, but not limited to, sensation by touch or visual observation of moving objects. The perception
7032 threshold shall be presumed to be a motion velocity of .001 inches per second over the range of one to
7033 one hundred Hz.

7034 "Weekday" means any day, Monday through Friday, which is not a legal holiday.
7035 (Ord. 1310 § 2(part), 1995).

7036

7037 **19.58.030 Exemptions to this chapter.**

7038 The provisions of this chapter shall not apply to:

7039 A. The emission of sound for the purpose of alerting persons to the existence of an emergency;

7040 B. The emission of sound in the performance of emergency work;

7041 C. Noncommercial public speaking and public assembly activities conducted on any private property,
7042 public space, or public right-of-way, except those activities controlled by Sections 19.58.040, 19.58.090
7043 and 19.58.100;

7044 D. Agricultural activities, exclusive of those involving the ownership or possession of animals or birds;

7045 E. Rail and air transportation and public mass transportation vehicles;

7046 F. The emission of sound in connection with activities conducted at Perkins Stadium during events
7047 permitted by the city;

7048 G. The emission of sound in the discharge of weapons or in fireworks displays licensed by the city
7049 council;

7050 H. The emission of sound in the operation of snow removal equipment;

7051 I. Parades or processions for which a parade permit has been issued by the city;

7052 J. Residential garbage collection activities as contracted for by the city;

7053 K. The emission of sound in the operation of yard maintenance equipment.

7054 (Ord. 1310 § 2(part), 1995).

7055

7056 **19.58.040 Residential noise.**

- 7057 A. Residential noise disturbances (even if the residence is located in a commercial district) shall be
 7058 governed by this section and shall not be subject to the sound levels established in Section 19.58.060.
 7059 B. No person shall make, allow or assist in making any noise from a residence or residential yard which
 7060 is likely to unreasonably disturb the peace and quiet of any person outside of the residence.
 7061 C. For the purpose of this section:
 7062 1. It is not necessary to prove that any particular person was disturbed by the noise.
 7063 2. A resident of a premises is in violation of allowing a noise disturbance at the premises under this
 7064 section if noise in violation of this section is emitted from a residence and the authorities are unable to
 7065 gain entry to the premises or sufficient information to identify the actual parties at the premises at the
 7066 time of the disturbance.
 7067 3. All residents of a residential unit who are at the premises at the time of a noise disturbance are
 7068 deemed to have allowed the disturbance.
 7069 (Ord. 1310 § 2(part), 1995).

7070
 7071 **19.58.050 General noise disturbance prohibited.**

7072 No person shall make, continue, or cause to be made or continued, except as permitted, any
 7073 noise disturbance as defined in this chapter, or any noise in excess of the limits for such noise
 7074 established in this chapter.
 7075 (Ord. 1310 § 2(part), 1995).

7076
 7077 **19.58.060 Maximum permissible sound levels by land use category.**

7078 A. Maximum Permissible Sound Levels. With the exception of sound levels elsewhere specifically
 7079 authorized or allowed in this chapter, the following are the maximum permissible sound levels allowed
 7080 at the real property boundary of the source of offending noise. No person shall produce or allow the
 7081 production of noise in excess of that specified in Table 1 or 2.

7082 TABLE 1 SOUND LEVEL LIMITS FOR DAYTIME
 7083 (7 a.m. - 10 p.m.) in dBA

7084 TABLE INSET:

7085

<u>Zoning Category</u>	<u>Lmax</u>	<u>Leq (1 min.)</u>
B-1, B-2, AT and I (except where such operations are adjacent to residential districts)	85	75
B-3 and PD (except residential PD and where such operations are adjacent to residential districts)	85	75
M-1 (except where such operations are adjacent to residential districts)	85	75
B-1, B-2, B-3 PD (when adjacent to residential districts)	75	60
All other nonresidential categories	75	60

7086 TABLE 2 SOUND LEVEL LIMITS FOR NIGHTTIME HOURS in dBA

7087 TABLE INSET:

7088

<u>Zoning Category</u>	<u>Lmax</u>	<u>Leq (1</u>
------------------------	-------------	---------------

		min.)
B-1, B-2, AT and I (except where such operations are adjacent to residential districts)	75	60
B-3 and PD (except residential PD and where such operations are adjacent to residential districts)	75	65
M-1 (except where such operations are adjacent to residential districts)	85	70
B-1, B-2, B-3 PD (when adjacent to residential districts)	75	60
All other nonresidential categories	75	60

7089 For the purpose of this chapter, sound levels in excess of the dBA listed in Table 1 or 2 above
7090 shall be deemed a violation.
7091 (Ord. 1310 § 2(part), 1995).

7092
7093 **19.58.070 Emergency signaling devices.**

7094 A. No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil
7095 defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency
7096 purposes or for testing, as provided in subsection B of this section.

7097 B. Testing of a stationary emergency signaling device shall occur at the same time of day each time the
7098 test is performed, but not before nine a.m. or after four p.m. Any such testing shall use only the
7099 minimum cycle test time.
7100 (Ord. 1310 § 2(part), 1995).

7101
7102 **19.58.080 Specific activities prohibited.**

7103 A. Loading and Unloading. No person shall so load, unload, open, close or handle boxes, crates,
7104 containers, building materials, garbage cans or similar objects between the hours of seven p.m. and
7105 seven a.m. the following morning as to create a noise disturbance across a residential real property
7106 boundary or within a noise sensitive area. This section shall not apply to activities covered by Section
7107 19.58.110.

7108 B. Vehicle or Motorboat Repairs and Testing. No person shall repair, rebuild, modify or test any motor
7109 vehicle in a public or private place out of doors or within a noise sensitive area between the hours of ten
7110 p.m. and seven a.m. the following day.
7111 (Ord. 1310 § 2(part), 1995).

7112
7113 **19.58.090 Sound equipment and sound-amplifying equipment.**

7114 A. No person shall so operate, play or permit the operation or playing of any sound equipment so as:
7115 1. To create a noise disturbance across a residential real property boundary or outdoors within a noise
7116 sensitive area;

7117 2. To create a noise disturbance fifty feet from the device, when operated in or on a motor vehicle on a
7118 public right-of-way or public space, or in a boat on public waters.

7119 B. Sound Equipment.

7120 1. No person shall use, operate or cause to be used or operated any sound equipment, upon the public
7121 streets or in any building or upon any premises, public or private, if the sound therefrom is plainly
7122 audible from any public street or public place within the city.

7123 2. Sound equipment shall not include:

- 7124 a. Equipment used for public health and safety purposes;
- 7125 b. Church or clock carillons, bells or chimes;
- 7126 c. Automobile radios, tape decks or CD players, or other standard automobile equipment used and
- 7127 intended for the use and enjoyment of the occupants, provided the sound emitting therefrom is not
- 7128 audible for more than fifty feet from the vehicle;
- 7129 d. Recorded music used in a nonresidential district in conjunction with a civil or religious celebration;
- 7130 e. Live music provided, sponsored or funded, in whole or in part, by a governmental entity.
- 7131 (Ord. 1310 § 2(part), 1995).
- 7132 (Ord. No. 1682A, § 1, 5-20-2008)

7133
7134 **19.58.100 Motorized vehicles.**

7135 A. No person shall operate the engine providing motive power or an auxiliary engine, of a motor
7136 vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds or more for a
7137 consecutive period longer than twenty minutes while such vehicle is standing and located within one
7138 hundred fifty feet of property zoned and used for residential purposes except where such vehicle is
7139 standing within a completely enclosed structure and does not create a noise disturbance across a real
7140 property boundary as defined in Section 19.58.060 of this chapter unless approved by a conditional use
7141 permit. This section shall not apply to delivery or pickup vehicles that require the operation of the
7142 engine to unload or load their vending loads.

7143 B. No person shall operate within the speed limits specified in this section either a motor vehicle, or a
7144 combination of vehicles of a type subject to registration, at any time or under any condition of grade,
7145 load, acceleration or deceleration in such manner as to exceed the noise limit listed hereinbelow for the
7146 category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which
7147 operated, such noise to be measured at a distance of no more than fifty feet from the center line of
7148 travel under test procedures established by subsection C of this section. In the event the distance of the
7149 measuring instrument from center line of travel is less than fifty feet, such listed noise limits shall be
7150 corrected to reflect the equivalent noise limits for the actual distance.

7151 TABLE INSET:

7152

	Noise Limit in Relation to Legal Speed Limit	
	<u>35 MPH or Less</u>	<u>Over 35 MPH</u>
<u>Type of Vehicle</u>		
1. Any motor vehicle with a manufacturer's gross vehicle weight rating of 10,000 lbs. or more and any combination of vehicles towed by such motor vehicle	88 dB(A)	92 dB(A)
2. Any motorcycle.	82 dB(A)	86 dB(A)
3. Any motor vehicle and any combination of motor vehicle.	76 dB(A)	82 dB(A)

7153 This section applies to the total noise from a vehicle or combination of vehicles and shall not be
7154 construed as limiting or precluding the enforcement of any other provisions of this code relating to
7155 motor vehicle mufflers or noise control.

7156 C. The measurement of sound or noise shall be made with a Type 1 or 2 sound level meter meeting the
7157 standards prescribed by the American National Standards Institute or its successor body. The instrument
7158 shall be calibrated and maintained in good working order. Measurements recorded shall be taken so as
7159 to provide a proper representation of the noise source. The microphone during measurement shall be
7160 positioned so as not to create any unnatural enhancement or attenuation of the measured noise. A
7161 windscreen for the microphone shall be used when required.

7162 D. No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a
7163 muffler cut-out or bypass, and no person shall operate a motor vehicle or motorcycle which has been so
7164 modified. A motor vehicle so operated shall be deemed equipped with a muffler which emits excessive
7165 and unusual noise and which is not in good working order.

7166 E. 1. No person shall operate a recreational vehicle or permit the operation of one or more recreation
7167 vehicles, individually or in a group or in an organized racing event, on public or private property in such a
7168 manner that the sound level resulting from such operation exceeds:

7169 Seventy-three dBA for any total of three minutes in any continuous one-hour period, or exceeds
7170 ninety dBA for any period of time during such operation. Sound levels which exceed the limits herein
7171 described at the real property boundary of the source property shall be deemed a noise disturbance.

7172 2. Notwithstanding Section 19.58.030 of this chapter, no person shall permit the conducting of any part
7173 of an organized racing event which involves contest between or among recreational vehicles on public
7174 or private property between the hours of ten thirty p.m. and ten a.m. the following morning.
7175 (Ord. 1310 § 2(part), 1995).

7176

7177 **19.58.110 Construction.**

7178 A. This chapter shall not prohibit the operation of any tools or equipment in public or private
7179 construction, drilling, demolition work, or in maintenance work between the hours of seven a.m. and
7180 nine p.m. Additional hours of construction may be granted by the zoning administrator or his designee.

7181 B. The terms of this section shall not apply to emergency work or repair work performed by or for
7182 governmental entities or public service utilities.

7183 (Ord. 1310 § 2(part), 1995).

7184

7185 **19.58.120 Nonemergency signaling devices.**

7186 A. No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar
7187 device, intended primarily for nonemergency purposes, from any place, for more than one minute in
7188 any hourly period.

7189 B. Devices used in conjunction with the places of religious worship shall be exempt from compliance
7190 with this section.

7191 C. Exemptions for sound sources covered by this section, but not exempted under subsection B of this
7192 section, may be granted under the procedure set forth in Section 19.58.150.

7193 (Ord. 1310 § 2(part), 1995).

7194

7195 **19.58.130 Animals and birds.**

7196 No person shall own, possess or harbor any animal or bird which frequently or for continued
7197 duration emits sounds native to the species which are a noise disturbance across a residential real
7198 property boundary, or within a noise sensitive area.

7199 (Ord. 1310 § 2(part), 1995).

7200

7201 **19.58.140 Enforcement.**

7202 A. The noise control program established by this chapter shall be implemented, administered and
7203 enforced by the zoning department and police department.

7204 B. The provisions of this chapter which prohibit the making, continuing of a noise disturbance, or
7205 causing the making or continuing of a noise disturbance across a real property boundary or within a
7206 noise sensitive area, shall be enforced upon receipt of complaint made or filed with the city officials by a
7207 person disturbed by such noise disturbance or by direction of the chief of police or his or her designee.
7208 Certification by an official charged with enforcement of provisions of this chapter that such complaint
7209 was made shall be sufficient to establish the fact of such complaint.

7210 C. Noise and vibration measurements shall be made in compliance with generally accepted practices
7211 and procedures. The zoning administrator shall prepare, and make available upon request, a "Code of
7212 Recommended Practices" for the measurement of noise and vibration.

7213 D. To implement and enforce this chapter the zoning department and police department shall have the
7214 additional power to:

7215 1. Conduct research, monitoring, and other studies related to sound;

7216 2. Conduct programs of public education regarding the causes, effects and general methods of
7217 abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for
7218 reporting violations;

7219 3. Coordinate the noise control activities of all municipal departments;

7220 4. Review public and private projects, including those subject to mandatory review or approval by
7221 other departments, for compliance with this chapter, if these projects are likely to cause sound in
7222 violation of this chapter;

7223 5. Upon presentation of proper credentials, enter and inspect any private property or place, any time
7224 when granted permission by the owner resident or by some other person with apparent authority to act
7225 for the owner;

7226 6. Issue noise variances pursuant to the provisions of Section 19.58.150;

7227 7. Prepare recommendations for consideration by the city council, after publication of notice and
7228 public hearing, for establishing the boundaries of noise sensitive areas.

7229 E. All departments and agencies of the city shall carry out their programs in furtherance of the policy of
7230 this chapter.

7231 (Ord. 1310 § 2(part), 1995).

7232

7233 **19.58.150 Noise variances.**

7234 A. Any person who cannot comply with provisions of this noise ordinance due to technological
7235 limitations or in cases of significant hardship, may apply for a conditional use permit in accordance with
7236 Chapter 19.66 of this code. Through this process, the governing body may grant a conditional use permit
7237 to exceed the provisions of this chapter for a specific period of time.

7238 B. During this period of time, the operators of the nonconforming noise source must make every
7239 reasonable attempt to come into compliance with this chapter. Should total compliance not become
7240 feasible at the time the conditional use permit expires, the operator of the source must demonstrate to
7241 the satisfaction of the governing body that a good faith effort has been made to come into compliance.
7242 If a good faith effort is demonstrated to the satisfaction of the governing body, the governing body may,
7243 at its discretion, extend the conditional use permit for an additional period of time.

7244 (Ord. 1310 § 2(part), 1995).

7245

7246 **19.58.160 Penalty.**

7247 Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be
7248 subject to a penalty of not less than one hundred fifty dollars or more than three hundred dollars for the
7249 first offense; and for the second offense within one year shall be subject to a penalty of not less than
7250 two hundred dollars or more than four hundred dollars; and for the third and subsequent offenses

7251 within one year, not less than three hundred dollars or more than five hundred dollars, together with
7252 the costs of prosecution.
7253 (Ord. 1430 § 2, 1999; Ord. 1364 § 14, 1997).

7254

7255 **Chapter 19.60 NONCONFORMING USES, STRUCTURES AND LOTS**

7256 Sections:

7257 19.60.010 Existing nonconforming uses.

7258 19.60.020 Existing nonconforming structures.

7259 19.60.030 Discontinuance or replacement of nonconforming use or structure.

7260 19.60.040 Changes and substitutions.

7261 19.60.045 Floodland nonconforming uses and structures.

7262 19.60.046 Wetland nonconforming uses and structures.

7263 19.60.050 Nonconforming lots.

7264

7265 **19.60.010 Existing nonconforming uses.**

7266 The lawful nonconforming use of a structure, land or water existing prior to June 24, 1982, the
7267 effective date of this title, may be continued although the use does not conform with the provisions of
7268 this title; however:

7269 A. Only that portion of the land or water in actual use may be so continued, and any associated
7270 structures may not be extended, enlarged, reconstructed, substituted, moved or structurally altered
7271 except as otherwise permitted by the provisions of this title;

7272 B. Substitution of new uses or equipment may be permitted by the board of zoning appeals if such use
7273 or equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

7274 (Ord. 994 § 7.1, 1982).

7275

7276 **19.60.020 Existing nonconforming structures.**

7277 Any lawful nonconforming structure existing prior to June 24, 1982, the effective date of this
7278 title, may be continued although its size or location does not conform with the lot width, lot area, yard,
7279 height, parking and loading and access provisions of this title; however, it shall not be extended,
7280 enlarged, moved or structurally altered except when required to do so by law or order, or so as to
7281 comply with the provisions of this title. Normal maintenance is permitted. This provision shall not be
7282 interpreted to disallow the extension or enlargement of a structure in respect to those dimensions that
7283 are or may still be in conformance with this title so long as such extensions or enlargements do not
7284 thereby create additional nonconforming dimensions or increase the nonconformance with respect to
7285 parking and loading and access. Any extension or enlargement of a nonconforming structure is subject
7286 to review and approval of the plan and architectural review commission in accordance with Chapter
7287 19.63 of this title.

7288 (Ord. 994 § 7.2, 1982).

7289

7290 **19.60.030 Discontinuance or replacement of nonconforming use or structure.**

7291 A. If such nonconforming use or structure is discontinued or terminated for a period of twelve months,
7292 any future use of the structures, land or water shall conform to the provisions of this title.

7293 B. When a nonconforming use or structure is damaged or destroyed, it may be restored if completed
7294 within one year from damage occurring.

7295 C. Time extensions may be granted by the plan and architectural review commission in accordance with
7296 Chapter 19.63.

7297 (Ord. 994 § 7.3, 1982).

7298

7299 **19.60.040 Changes and substitutions.**

7300 Once a nonconforming use or structure has been changed to conform, it shall not revert back to
7301 a nonconforming use or structure. Once the board of zoning appeals has permitted the substitution of a
7302 more-restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose
7303 the original status as a legal nonconforming use and become subject to all the conditions required by
7304 the board of zoning appeals.
7305 (Ord. 994 § 7.4, 1982).

7306

7307 **19.60.045 Floodland nonconforming uses and structures.**

7308 Floodland nonconforming uses and structures shall be regulated under the provisions of Section
7309 19.46.060 of this title.
7310 (Ord. 1600 § 5, 2006; Ord. 1060 § 17, 1935).

7311

7312 **19.60.046 Wetland nonconforming uses and structures.**

7313 Notwithstanding Section 62.23(7)(h) of the Wisconsin Statutes, the repair, reconstruction,
7314 renovating, remodeling or expansion of a legal nonconforming structure, or any environmental control
7315 facility related to a legal nonconforming structure, located in the C-1 shoreland wetland district and in
7316 existence at the time of adoption or subsequent amendment of the ordinance codified in this title is
7317 permitted pursuant to Section 62.231(5) of the Wisconsin Statutes.
7318 (Ord. 1196 § 1(part), 1990).

7319

7320 **19.60.050 Nonconforming lots.**

7321 A lot which does not contain sufficient area to conform to the dimensional requirements of this
7322 title but which is at least thirty feet wide and four thousand square feet in area may be used as a
7323 building site provided that the use is permitted in the zoning district, providing the lot is of record in the
7324 county register of deeds' office prior to the effective date or amendment of the ordinance codified in
7325 this title, and providing that all other requirements for the district in which it is located can be met.
7326 Establishment of a use or structure on a nonconforming lot shall be reviewed and approved by the city
7327 plan and architectural review commission in accordance with Chapter 19.63.
7328 (Ord. 994 § 7.5, 1982).

7329

7330 **Chapter 19.63 PLAN REVIEW**

7331 Sections:

7332 19.63.010 Zoning permit--Purpose--Required when.

7333 19.63.012 Certificate of compliance--Purpose--Required when.

7334 19.63.014 Other permits.

7335 19.63.020 Plan review--Application requirements.

7336 19.63.030 Zoning permit application--Review by zoning administrator.

7337 19.63.040 Zoning permit application--Review by plan and architectural review commission, when.

7338 19.63.050 Developments automatically requiring approval by plan and architectural review commission.

7339 19.63.060 Review procedures.

7340 19.63.070 Notification of public hearing.

7341 19.63.080 Conditions attached to approvals when.

7342 19.63.090 Professional services--Consultation--Preparation of plans.

7343 19.63.100 Plan review guidelines.

7344 19.63.110 Zoning permit--Issuance conditions--Modification restrictions.

7345 19.63.120 Appeals procedure.

7346

7347 **19.63.010 Zoning permit--Purpose—Required, when.**

7348 For the purposes of assuring compliance with the standards and intent of this title and of
7349 promoting compatible development and preservation of the unique character of the city, no structure
7350 shall be erected, constructed, altered, demolished or moved and no land or building shall be changed in
7351 use without the issuance of an approved zoning permit. Zoning permits shall not be required for minor
7352 structures, incidental repairs, interior structural alterations and/or changes not resulting in an increase
7353 in intensity.

7354 Notwithstanding the aforesaid exemption, no floodland structure or improvement shall be
7355 exempt from obtaining a zoning permit.
7356 (Ord. 1060 § 18, 1985).

7357

7358 **19.63.012 Certificate of compliance--Purpose—Required, when.**

7359 For the purpose of assuring compliance with the standards and intent of this title and of
7360 assuring sound floodplain development, no undeveloped land within the floodland districts shall be
7361 developed, occupied or used, and no structure hereafter erected, altered, moved or substantially
7362 improved shall be occupied until the applicant submits to the zoning administrator a certification by a
7363 registered professional engineer or land surveyor that the floodplain regulations set forth in this title
7364 have been fully complied with. Such certification shall include the first-floor elevation of any structure
7365 erected on the site.

7366 (Ord. 1060 § 19, 1985).

7367

7368 **19.63.014 Other permits.**

7369 It is the responsibility of a permit applicant to secure all other necessary permits required by any
7370 state, federal or local agency. This includes, but is not limited to, a water use permit pursuant to
7371 Chapters 30 and 31 of the Wisconsin Statutes or a wetland fill permit pursuant to Section 404 of the
7372 Federal Clean Water ~~Pollution Control~~ Act.

7373 (Ord. 1060 § 20, 1985).

7374

7375 **19.63.020 Plan review--Application requirements.**

7376 Applications for plan review shall be made to zoning administrator at least ~~ten~~ thirty days prior
7377 to the plan and architectural review committee meeting at which the plan is to be considered, and shall
7378 include the following information to be considered complete. The zoning administrator or plan and
7379 architectural review commission may reduce the information requirements where deemed appropriate.
7380 Twenty complete sets of all required plan materials shall be required unless the applicant receives prior
7381 written approval from city staff that fewer copies, and/or an electronic/digital submission of materials
7382 will be considered adequate for the purposes of meeting the submission deadlines

7383 A. Names, phone numbers, and addresses of the applicant, owner of the site, architect, professional
7384 engineer, contractor and all other individuals responsible for preparation of plan materials;

7385 B. Identification of the subject site by lot, block and recorded subdivision, or by metes and bounds;

7386 C. Description of the existing and proposed use or operation of the structure or site, number of
7387 employees, building lot coverage, landscaped surface ratio, residential density and existing zoning;

7388 D. Building elevations and exterior architectural drawings, including enough detail to show the
7389 proposed building style, exterior materials, colors, mechanicals and lighting;

7390 E. Site plans drawn to a scale not less than fifty feet to the inch, showing:

7391 1. The natural features of the site, including water bodies, wetlands, floodplains, environmental
7392 corridors, trees with trunks greater than four inches in diameter, existing drainage patterns, and
7393 topography at two foot intervals,

- 7394 2. The location and dimensions of proposed and existing structures in relation to street and property
7395 lines, including buildings, dumpsters, signs, mechanicals, walls and fences,
7396 3. The location, dimensions and arrangement of all open spaces, yards, and landscape plantings and
7397 buffer yards, including the species and size at time of planting for all landscaping,
7398 4. The location, arrangement and capacity of all areas used for vehicle and pedestrian access, off-street
7399 parking, off-street loading and unloading, including methods for screening,
7400 5. The capacity and arrangement of all buildings used or intended to be used for dwelling purposes,
7401 6. The proposed location and other characteristics of all outdoor lighting fixtures, pursuant to Section
7402 19.57.150(C),
7403 7. The location and size of all existing and proposed utilities and all related easements,
7404 8. The location of any proposed stormwater management facilities, including proposed drainage
7405 patterns and detention/retention facilities where required;
7406 F. Other information deemed necessary by the zoning administrator or the plan and architectural
7407 review commission to fully assess the impacts of a proposed project.
7408 (Ord. 1452 § 18, 2000: Ord. 994 § 8.2, 1982).

7409

7410 **19.63.030 Zoning permit application--Review by zoning administrator.**

7411 The zoning administrator shall review zoning permit applications for the proposed structure,
7412 addition, alteration or use to assure that the plan meets the minimum standards of this title for the
7413 district in which it is located. The zoning administrator shall grant, deny or refer to the plan and
7414 architectural review commission within ten calendar days of receiving the completed zoning permit
7415 application.
7416 (Ord. 994 § 8.3, 1982).

7417

7418 **19.63.040 Zoning permit application--Review by plan and architectural review commission, when.**

7419 If the zoning administrator, at his or her discretion, finds that an application for a zoning permit
7420 has characteristics that should have broader public review or special conditions attached in order to
7421 preserve the intent of this title, the zoning administrator may require that such an application require
7422 review and approval of the plan and architectural review commission.
7423 (Ord. 994 § 8.4(A), 1982).

7424

7425 **19.63.050 Developments automatically requiring approval by plan and architectural review
7426 commission.**

7427 The following developments automatically require approval by the plan and architectural review
7428 commission:

7429 A. All applications for zoning permits proposing exterior modifications of structures in the B-2 central
7430 business district, except minor remodeling or use changes;

7431 B. All applications for zoning permits for major remodeling or conversion of existing buildings that will
7432 increase the number of dwelling units;

7433 C. All applications for zoning permits proposing any exterior modifications to structures that are listed
7434 on the National Register of Historic Places. This review requirement shall also extend to properties
7435 immediately adjoining national register landmarks;

7436 D. Establishment of a use or structure on a nonconforming lot (see Section 19.60.050);

7437 E. Developments proposing driveway access within one hundred feet of the centerline of intersecting
7438 streets in the B-1 and B-3 districts. This is to be applied only to arterial streets and local streets
7439 intersecting arterial streets.

7440 (Ord. 994 § 8.4(B), 1982).

7441

7442 **19.63.060 Review procedures.**

7443 A. The zoning administrator shall transmit all applications requiring commission review and approval to
7444 the plan and architectural review commission. The plan and architectural review commission shall
7445 review the applications at its next scheduled meeting. The application shall be reviewed for compliance
7446 with the plan review guidelines, and a permit shall be granted, denied, or conditionally granted within
7447 thirty days of the date of application unless postponed for good cause including mutual agreement with
7448 the applicant. A simple majority approval of the plan and architectural review commission constitutes
7449 final action.

7450 B. The applicant may request a conceptual review by the plan and architectural review commission
7451 prior to filing a formal application for plan review.
7452 (Ord. 994 § 8.4(C), 1982).

7453

7454 **19.63.070 Notification of public hearing.**

7455 The city plan and architectural review commissions shall notify the applicant of the scheduled
7456 hearing by mail at least five mailing days prior to the hearing date. The commission may require that
7457 Class 1 notice be given if deemed appropriate.
7458 (Ord. 994 § 8.4(D), 1982).

7459

7460 **19.63.080 Conditions attached to approvals, when.**

7461 A. Conditions on approval may include landscaping, modification to architectural design, type of
7462 construction, operational controls, sureties, or deed restrictions upon the plan and architectural review
7463 commission's findings that these are necessary to fulfill the purpose and intent of this title. Also, as a
7464 condition of the issuance of a temporary occupancy permit, the plan commission may require that the
7465 developer post a deposit for the completion of the site improvements which have been approved by the
7466 commission. The amount of the deposit shall be in accordance with the following schedule:

7467 TABLE INSET:

7468

Conversion	1 to 2 family	\$200.00
	2 to 3 family	500.00
	Multifamily \$500.00 + 50.00 per unit,	
	\$1000.00 maximum	
New	Multifamily \$500.00 + 100.00 per unit,	
	\$2000.00 maximum	
Addition/New	Commercial \$500.00 - \$1000.00	

7469 B. The required deposit shall be released at the time all required site improvements have been
7470 completed and approved by the building inspector/zoning administrator. Fifty dollars shall be retained
7471 by the city as an additional fee for the issuance of the temporary occupancy permit prior to completion
7472 of the site improvements. If the site improvements are not completed by the time of the expiration of
7473 the temporary occupancy permit, and the occupancy permit has not been renewed or extended, the
7474 entire deposit shall be forfeited to the city. These provisions are in addition to all of the other
7475 enforcement provisions and remedies in the Whitewater Municipal Code.
7476 (Ord. 1129 § 1, 1988).

7477

7478 **19.63.090 Professional services--Consultation--Preparation of plans.**

7479 The plan and architectural review commission may consult professional services when it is
7480 deemed necessary. The commission may also require that plans submitted for review be certified by an
7481 architect, historic preservationist, site planner, engineer, or other appropriate professional meeting the
7482 approval of the plan and architectural review commission.

7483 (Ord. 994 § 8.4(F), 1982).

7484

7485 **19.63.100 Plan review guidelines.**

7486 As the basis for determining the acceptability of an application for a zoning permit, the plan and
7487 architectural review commission shall apply the following criteria:

7488 A. The proposed structure, addition, alteration or use will meet the minimum standards of this title for
7489 the district in which it is located;

7490 B. The proposed development will be consistent with the adopted city comprehensive plan;

7491 C. The proposed development will be compatible with and preserve the important natural features of
7492 the site;

7493 D. The proposed use will not create a nuisance for neighboring uses, or unduly reduce the values of an
7494 adjoining property;

7495 E. The proposed development will not create traffic circulation or parking problems;

7496 F. The mass, volume, architectural features, materials and/or setback of proposed structures, additions
7497 or alternations will appear to be compatible with existing buildings in the immediate area;

7498 G. Landmark structures on the National Register of Historic Places will be recognized as products of
7499 their own time. Alterations which have no historical basis will not be permitted;

7500 H. The proposed structure, addition or alteration will not substantially reduce the availability of
7501 sunlight or solar access on adjoining properties.

7502 (Ord. 994 § 8.4(G), 1982).

7503

7504 **19.63.110 Zoning permit--Issuance conditions--Modification restrictions.**

7505 A. Issuance of Zoning Permit. A zoning permit shall be issued to applicant, stating the official action of
7506 the zoning administrator or the plan and architectural review commission, and shall be filed in the office
7507 of the zoning administrator and referred to for enforcement of this title. Approved zoning permits shall
7508 expire in six months unless substantial work has commenced and is continuing in a progressive,
7509 workmanlike manner. Extensions may be granted by the approving authority.

7510 1. If the project is conditionally approved, the zoning permit shall be issued subject to the conditions.

7511 2. If the project is disapproved, the applicant may modify the proposal and resubmit.

7512 B. Modification of Plans Approved by the Plan and Architectural Review Commission. Minor
7513 modifications to plans approved for issuance of a zoning permit may be approved by the zoning
7514 administrator. Any major modification in approved plans or alteration of conditions must be approved
7515 by the plan and architectural review commission in compliance with procedures listed above.

7516 (Ord. 994 § 8.5, 1982).

7517

7518 **19.63.120 Appeals procedure.**

7519 Appeals from decisions of the city plan and architectural review commission in its plan-review
7520 function may be appealed to the board of zoning appeals if filed with the city clerk within thirty days of
7521 the date of decision unless tables or postponed for good cause. The appeal shall be governed by the
7522 procedures in Chapter 19.72 of this title.

7523 (Ord. 1364 § 15, 1997; Ord. 1082 § 10, 1986; Ord. 994 § 8.6, 1982).

7524 Steps for Review of Zoning Permit

7525 | GRAPHIC ~~LINK: Click here~~ [LINK: Click](#)

7526

7527 **Chapter 19.66 CONDITIONAL USES**

7528 Sections:

7529 19.66.010 Issuance of conditional use permits authorized, when.

7530 19.66.020 Application for permit.

7531 19.66.030 Hearings.

7532 19.66.040 Notification to property owners.

7533 19.66.050 Standards for review and approval.

7534 19.66.060 Additional conditions authorized when.

7535 19.66.070 Time limits and periodic review.

7536 19.66.080 No exemption from all other requirements.

7537 19.66.090 Determination of approval or disapproval.

7538 19.66.100 Recordkeeping requirements.

7539 19.66.110 Appeals procedure.

7540

7541 **DISCUSSION POINT: TIMELINE ISSUES**

7542

7543 **19.66.010 Issuance of conditional use permits authorized, when.**

7544 The city plan and architectural review commission may authorize the zoning administrator to
7545 issue a zoning permit for conditional uses after review and a public hearing, provided that such
7546 conditional uses and structures are in accordance with the purpose and intent of this title, are consistent
7547 with sound planning and zoning principles, and are found to be not hazardous, harmful, offensive or
7548 otherwise adverse to the environment or the value of the neighborhood or the community.
7549 (Ord. 1364 § 16, 1997; Ord. 994 § 9.1, 1982).

7550

7551 **19.66.020 Application for permit.**

7552 Applications for zoning permits for conditional uses shall be made to the zoning administrator
7553 on forms furnished by the zoning administrator, and shall include the information required by Section
7554 19.63.020.
7555 (Ord. 994 § 9.2, 1982).

7556

7557 **19.66.030 Hearings.**

7558 The city plan and architectural review commission shall hold a public hearing upon each
7559 conditional use application, giving Class 1 notice.
7560 (Ord. 994 § 9.3, 1982).

7561

7562 **19.66.040 Notification to property owners.**

7563 Notice of the hearing shall be given to owners of record of properties abutting and within three
7564 hundred feet of the property that is involved in the application, and to other persons who are
7565 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
7566 these notifications shall not invalidate the procedures.
7567 (Ord. 994 § 9.4, 1982).

7568

7569 **19.66.050 Standards for review and approval.**

7570 The plan commission shall use the following standards when reviewing applications for
7571 conditional use:

- 7572 A. That the establishment, maintenance, or operation of the conditional use will not create a nuisance
 7573 for neighboring uses or substantially reduce the values of other property.
 7574 B. That adequate utilities, access roads, parking drainage, landscaping and other necessary site
 7575 improvements are being provided.
 7576 C. That the conditional use conforms to all applicable regulations of the district in which it is located,
 7577 unless otherwise specifically exempted in this ordinance. Where a variance is required, the plan
 7578 commission may condition its approval on the subsequent approval of the variance.
 7579 D. That the conditional use conforms to the purpose and intent of the city comprehensive plan.
 7580 E. The conditional use and structures are consistent with sound planning and zoning principles.
 7581 (Ord. 1364 § 17, 1997; Ord. 994 § 9.5(part), 1982).

7582
 7583 **19.66.060 Additional conditions authorized, when.**

7584 A. Conditions, such as landscaping, architectural design, type of construction, construction
 7585 commencement and completion dates, sureties, lighting, fencing, planting screens, operational control,
 7586 hours of operation, improved traffic circulation, added restrictions, highway access restrictions,
 7587 increased yards, or parking requirements, may be permitted by the plan and architectural review
 7588 commission upon its finding that these are necessary to fulfill the purpose and intent of this title. Also,
 7589 as a condition of the issuance of a temporary occupancy permit, the plan commission may require that
 7590 the developer post a deposit for a completion of the site improvements which have been approved by
 7591 the commission. The amount of the deposit shall be in accordance with the following schedule:

7592 TABLE INSET:

7593

Conversion	1 to family	\$200.00
"	2 to 3 family	500.00
"	Multifamily \$500.00 + 50.00 per unit,	
	\$1000 maximum	
New	Multifamily \$500.00 + 100.00 per unit,	
	\$2000.00 maximum	
Addition/New	Commercial \$500.00 - \$1000.00	

7594 B. The required deposit shall be released at the time all required site improvements have been
 7595 completed and approved by the building inspector/zoning administrator. Fifty dollars shall be retained
 7596 by the city as an additional fee for the issuance of the temporary occupancy permit prior to completion
 7597 of the site improvements. If the site improvements are not completed by the time of the expiration of
 7598 the temporary occupancy permit, and the occupancy permit has not been renewed or extended, the
 7599 entire deposit shall be forfeited to the city. These provisions are in addition to all of the other
 7600 enforcement provisions and remedies in the Whitewater Municipal Code.
 7601 (Ord. 1130 § 1, 1988).

7602
 7603 **19.66.070 Time limits and periodic review.**

7604 If an applicant does not commence construction within one year after city approval of a
 7605 conditional use permit, or complete construction according to all specified plans and conditions within
 7606 two years after city approval, the previously approved conditional use permit shall be considered null
 7607 and void. Conditional uses may be subject to time limits or requirements for periodic reviews where
 7608 such requirements relate to review standards.

7609 (Ord. 1452 § 21, 2000: Ord. 994 § 9.5(part), 1982).

7610

7611 **19.66.080 No exemption from all other requirements.**

7612 Compliance with all other provisions of this title, such as lot width and area, yards, height,
7613 parking, loading, traffic and highway access, shall be required, unless otherwise specifically exempted in
7614 this title, of all conditional uses. Variances shall only be granted as provided in Chapter 19.69.

7615 (Ord. 994 § 9.5(part), 1982).

7616

7617 **19.66.090 Determination of approval or disapproval.**

7618 Following the public hearing and review of the conditional use application, the plan and
7619 architectural review commission shall approve, disapprove or further conditionally approve the
7620 application. A simple majority approval by the plan commission constitutes final approval of the
7621 conditional use.

7622 (Ord. 994 § 9.5(part), 1982).

7623

7624 **19.66.100 Recordkeeping requirements.**

7625 Records of all plan and architectural review commission actions approving conditional uses shall
7626 be maintained by the zoning administrator, and shall be referred to in regard to enforcement and
7627 modification of conditional use approvals.

7628 (Ord. 994 § 9.5(part), 1982).

7629

7630 **19.66.110 Appeals procedure.**

7631 Decisions of the city plan and architectural review commission in its conditional use review
7632 function may be appealed to the board of zoning appeals if filed with the city clerk within thirty days of
7633 the date of decision. The appeal shall be governed by the procedures in Chapter 19.72 of this title.

7634 (Ord. 1364 § 18, 1997: Ord. 1082 § 11, 1986).

7635 Steps for Review of Conditional Uses

7636 **GRAPHIC** ~~LINK: Click here~~ [LINK: Click](#)

7637

7638 **Chapter 19.69 CHANGES AND AMENDMENTS**

7639 Sections:

7640 19.69.010 City council authority.

7641 19.69.020 Who may initiate.

7642 19.69.030 Petitions--Contents and filing.

7643 19.69.040 Review and recommendation--Plan commission authority.

7644 19.69.050 Hearing--Notice to property owners.

7645 19.69.060 City council vote on proposed change or amendment.

7646 19.69.065 Floodland district boundary changes limited.

7647 19.69.066 Amendments to the C-1 and FWW districts.

7648 19.69.070 Protests against change or amendment.

7649

7650 **19.69.010 City council authority.**

7651 Whenever the public necessity, convenience, general welfare or good zoning practice require,
7652 the city council may, by ordinance, change the district boundaries or amend, change or supplement the
7653 regulations established by this title or amendments thereto. Such change or amendment shall be subject
7654 to the review and recommendation of the city plan commission.

7655 (Ord. 994 § 10.1, 1982).

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19.69.020 Who may initiate.

Except as noted, in this section, a change or amendment may be initiated by the city council or any member thereof, the city plan commission, or by a petition of one or more of the owners, lessees, or authorized agents of the lessees of property within the area proposed to be changed. For the R-O non-family restriction overlay district, only the owners or authorized agents of the owners within the area proposed to be changed may initiate a petition for a change or amendment.

(Ord. 1159 § 1, 1989; Ord. 994 § 10.2, 1982).

(Ord. No. 1690A, § 1, 6-17-2008)

19.69.030 Petitions--Contents and filing.

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the city clerk, 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. Plot plan, drawn to a scale of one inch equals one hundred feet, showing the area proposed to be rezoned, its locations, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within three hundred feet of the area proposed to be rezoned;
- B. Additional information required by the city plan commission or city council.

(Ord. 994 § 10.3, 1982).

19.69.040 Review and recommendation--Plan commission authority.

The city plan commission shall review all proposed changes and amendments within the corporate limits, conduct a public hearing (with Class 2 notice), and shall recommend that the petition be granted as requested, modified, or denied.

(Ord. 994 § 10.4, 1982).

19.69.050 Hearing--Notice to property owners.

Notice of the hearing shall be given to all owners of record of properties abutting and within three hundred feet of the property that is involved in the application, and to other persons who are determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish these notifications shall not invalidate the procedures.

(Ord. 994 § 10.5, 1982).

19.69.060 City council vote on proposed change or amendment.

Following such hearing and after consideration of the city plan commission's recommendations, the city council shall vote on the passage of the proposed change or amendment. City council action on the zoning change must take place within thirty days of the plan commission's recommendations.

(Ord. 1159 § 2, 1989; Ord. 994 § 10.6, 1982).

19.69.065 Floodland district boundary changes limited.

The common council shall not permit changes to the floodland district boundaries that are inconsistent with the purpose and intent of this chapter, in conflict with the applicable rules and regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA), or inconsistent with the provisions of Chapter 19.46.

(Ord. 1600 § 7, 2006; Ord. 1196 § 1(part), 1990).

19.69.066 Amendments to the C-1 and FWW districts.

7703 Amendments to wetland zoning districts shall be reviewed by the Wisconsin Department of
7704 Natural Resources in accordance with the following procedures:

7705 A. The city shall transmit a notice of any change (text or map) in the C-1 or FWW districts to the
7706 Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:

7707 1. A copy of every petition for a text or map change mailed within five days of filing with the city
7708 manager;

7709 2. At least ten days prior notice of any public hearing on a C-1 or FWW zoning amendment;

7710 3. Notice of a city plan commission recommendation no later than ten days following the
7711 recommendation;

7712 4. Notice of a common council decision no later than ten days following the decision.

7713 B. No wetland in a C-1 or FWW district shall be rezoned if the rezoning may result in a significant
7714 adverse impact on storm or floodwater storage capacity; maintenance of dry season streamflow, the
7715 discharge of groundwater from the wetland to another area, or the flow of groundwater through a
7716 wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would
7717 otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning; breeding,
7718 nursery or feeding grounds; wildlife; habitat; or areas of special recreational, scenic or scientific interest,
7719 including scarce wetland types.

7720 C. If the DNR has notified the city plan commission that an amendment to the C-1 or FWW district may
7721 have a significant adverse impact upon any of the criteria listed in subsection B above, that amendment,
7722 if approved by the common council, shall contain the following provision:

7723 "This amendment shall not take effect until more than 30 days have elapsed since written notice of the
7724 Common Council's approval of this amendment was mailed to the Department of Natural Resources.
7725 During that 30-day period, the Department of Natural Resources may notify the Common Council that it
7726 will adopt a superseding shore land ordinance for the City pursuant to Section 62.231 of the Wisconsin
7727 Statutes. If the Department does so notify the Common Council, the effect of this amendment shall be
7728 stayed until the Section 61.231 adoption procedure is completed or otherwise terminated."

7729 (Ord. 1196 § 1(part), 1990).

7730

7731 **19.69.070 Protests against change or amendment.**

7732 A. In the event of a protest against such district change or amendment to the regulations of this title,
7733 duly signed and acknowledged by the owners of twenty percent or more either of the areas of land
7734 included in such proposed change, or by the owners of twenty percent or more of the land immediately
7735 adjacent extending one hundred feet therefrom, or by the owners of twenty percent or more of the land
7736 directly opposite thereto extending one hundred feet from the street frontage of such opposite land,
7737 such changes or amendments shall not become effective except by the favorable vote of three-fourths
7738 of the members of the council voting on the proposed change. (See Section 66.23(7)(d)(2), Wisconsin
7739 Statutes.)

7740 B. Protests against changes or amendments may also be filed by a petition duly signed by at least two
7741 hundred resident landowners in the city. In case of such a protest, such changes or amendments shall
7742 not become effective except by the favorable vote of three-fourths of the members of the council voting
7743 on the proposed change.

7744 (Ord. 994 § 10.7, 1982).

7745 Steps for Zoning Amendment

7746 | **GRAPHIC** ~~LINK-Click here~~ [LINK: Click](#)

7747

7748 **Chapter 19.72 BOARD OF ZONING APPEALS**

7749 Sections:

7750 19.72.010 Established--Purpose.

7751 19.72.020 Membership, appointment and officers.
7752 19.72.030 Organization--Meetings--Voting.
7753 19.72.040 Powers and duties.
7754 19.72.050 Application for appeal--Contents and filing time.
7755 19.72.060 Hearing--Time and conduct.
7756 19.72.070 Hearing--Notice to property owners.
7757 19.72.075 Hearings--Notice to DNR.
7758 19.72.080 Findings prerequisite to grant of variance.
7759 19.72.085 Wetland and floodland mapping disputes.
7760 19.72.090 Board decisions guided by title provisions.
7761 19.72.100 Decisions--Time limit--Additional conditions--Expiration and extensions.
7762 19.72.110 Notice to floodland variance applicants.

7763
7764 **19.72.010 Established--Purpose.**

7765 There is established a board of zoning appeals for the city for the purpose of hearing appeals
7766 and applications, and granting variances and exceptions to the provisions of this title in harmony with
7767 the purpose and intent of this title.
7768 (Ord. 994 § 11.1, 1982).

7769
7770 **19.72.020 Membership, appointment and officers.**

7771 Membership and appointment procedures for the zoning board of appeals shall be provided in
7772 Section 62.23(7)(e)2, Wisconsin Statutes, except that the city manager shall perform the duties
7773 designated as those of the mayor; the term of designations of chairman shall be one year, and the city
7774 clerk or designee shall serve as recording secretary. [Current members](#) of the Common Council and/or
7775 the Plan Commission may not serve as members of the zoning board of appeals.
7776 (Ord. 994 § 11.2, 1982).

7777
7778 **19.72.030 Organization--Meetings--Voting.**

7779 A. The board of zoning appeals shall organize and adopt rules of procedures for its own government in
7780 accordance with the provisions of this title.
7781 B. Meetings shall be called by the secretary on behalf of the chairman, and shall be open to the public,
7782 except as otherwise allowed under Section 19.85, Wisconsin Statutes.
7783 C. Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the
7784 vote of each member upon each question, the reasons for the board's determination and its finding of
7785 facts. These records shall be immediately filed in the office of the board and shall be a public record.
7786 D. The concurring vote of four members of the board shall be necessary to correct an error, grant a
7787 variance, make an interpretation, and permit a utility, temporary, unclassified or substituted use.
7788 E. A quorum shall be four members of the board.
7789 (Ord. 994 § 11.3, 1982).

7790
7791 **19.72.040 Powers and duties.**

7792 The board of zoning appeals shall have the following powers:
7793 A. Appeals. To hear or decide appeals where it is alleged there is error in any order, requirement,
7794 decision, or determination made by the zoning administrator, or by the city plan and architectural
7795 review commission in its plan review or conditional use review function;
7796 B. Variances. To hear and grant applications for variances as will not be contrary to the public interest,
7797 where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary

7798 hardship, so that the spirit and purposes of this title shall be observed and the public health, safety,
7799 welfare, and justice are secured. Use variances shall not be granted;
7800 C. Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses
7801 for existing nonconforming uses, provided no structural alterations are to be made. Whenever the board
7802 permits such a substitution, the use may not thereafter be changed without application;
7803 D. Unclassified Uses. To hear and grant applications for unclassified and unspecified uses, where a clear
7804 determination cannot be made by the zoning administrator, provided that such uses are similar in
7805 character to the principal uses permitted in the districts;
7806 E. Interpretations. To hear and decide applications for interpretations of the zoning regulations and the
7807 location of the boundaries of the zoning districts after review and recommendation by the city plan
7808 commission. Pursuant to the procedure set forth in Section 19.72.085 of this chapter, the board of
7809 appeals may determine the location of disrupted floodland boundaries;
7810 F. Assistance. The board of zoning appeals may request assistance from other municipal officers,
7811 departments, boards and commissions, or may seek outside professional opinion and pay for same,
7812 provided funds for such consultation services are made available by the city council;
7813 G. Oaths. The chair may administer oaths and compel the attendance of witnesses.
7814 H. Floodplain Regulations. The board of zoning appeals has responsibilities related to the city's
7815 floodplain regulations as specified in Section 19.46.070(C) of this title.
7816 (Ord. 1600 § 8(part), 2006: Ord. 1060 § 23, 1985).

7817
7818 **19.72.050 Application for appeal--Contents and filing time.**

7819 A. Appeals from the decision of the zoning administrator concerning the literal enforcement of this title
7820 may be made by any person aggrieved, or by an officer, department, commission, or bureau of the city.
7821 Such appeals shall be filed with the secretary within fifteen days after the date of written notice of
7822 decision or order of the zoning administrator. Such appeals and applications shall include the following:
7823 1. Site plan as required under Chapter 19.63 of this title;
7824 2. Additional information required by the board of zoning appeals or by other chapters in this title, such
7825 as Chapter 19.46 of this title.
7826 B. The right to an appeals hearing shall be contingent upon applicant's prepayment of costs of
7827 publication and mailing of notices required by the ordinance codified in this title, as computed and billed
7828 by the secretary, prior to the time set for hearing.
7829 (Ord. 1600 § 8(part), 2006: Ord. 994 § 11.5, 1982).

7830
7831 **19.72.060 Hearing--Time and conduct.**

7832 The board of zoning appeals shall fix a reasonable time and place for the hearing, give public
7833 notice thereof at least ten days prior to the hearing by publication as a Class 2 notice, and shall give due
7834 notice to the zoning administrator and the city plan commission, and the parties specified in Section
7835 19.72.070. At the hearing, the appellant or applicant may appear in person, by agent, or attorney.
7836 (Ord. 994 § 11.6, 1982).

7837
7838 **19.72.070 Hearing--Notice to property owners.**

7839 Notice of the hearing shall be given to all owners of record of properties abutting and within
7840 three hundred feet of the property that is involved in the application, and to other persons who are
7841 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
7842 these notifications shall not invalidate the procedures.
7843 (Ord. 994 § 11.7, 1982).

7844
7845 **19.72.075 Hearings--Notice to DNR.**

7846 The zoning board of appeals shall transmit a copy of each application for a variance to wetland
7847 regulations in the C-1 and FWW districts or to floodland regulations Chapter 19.46 and a copy of all
7848 appeals in these districts, to the Wisconsin Department of Natural Resources (DNR) for review and
7849 comment at least ten days prior to any public hearing. Final action on the application shall not be taken
7850 for thirty days or until the DNR has made its recommendation, whichever comes first. A copy of all
7851 decisions relating to shoreland wetland regulation or to floodland regulations, and a copy of all decisions
7852 relating to shoreland wetland and floodland appeals, shall be transmitted to the DNR within ten days of
7853 the date of such decision.
7854 (Ord. 1600 § 8(part), 2006: Ord. 1196 § 1(part), 1990).

7855
7856 **19.72.080 Findings prerequisite to grant of variance.**

7857 No variance to the provisions of this title shall be granted by the board unless it finds beyond a
7858 reasonable doubt that all of the following facts and conditions exist, and so indicates in the minutes of
7859 its proceedings:

7860 A. The particular physical surroundings, shape, or topographical conditions of the specific property
7861 involved would result in a particular hardship upon the owner as distinguished from a mere
7862 inconvenience, if the strict letter of the regulations were to be carried out;

7863 B. The conditions upon which the application for a variance is based would not be applicable generally
7864 to other property within the same zoning classification;

7865 C. The purpose of the variance is not based exclusively upon a desire for economic or other material
7866 gain by the applicant or owner;

7867 D. The hardship is not one that is self-created;

7868 E. The proposed variance will not impair an adequate supply of light and air to adjacent property or
7869 substantially increase the congestion in the public streets, or increase the danger of fire, or endanger
7870 the public safety, or substantially diminish or impair property values within the neighborhoods;

7871 F. The proposed variance will not have the effect of permitting a use which is not otherwise permitted
7872 in the district;

7873 G. No variance shall be granted in a floodland district where not in compliance with Section
7874 19.46.070(C)(4) of this title.

7875 (Ord. 1600 § 8(part), 2006: Ord. 1060 § 24, 1985).

7876
7877 **19.72.085 Wetland and floodland mapping disputes.**

7878 The following procedure shall be used in settling disputes of wetland and floodland boundaries:

7879 A. Wetland Disputes. Whenever the board of appeals is asked to interpret a C-1, C-2 or FWW district
7880 boundary where an apparent discrepancy exists between the city's Final Wetland Inventory Map and
7881 actual field conditions, the city shall contact the Wisconsin Department of Natural Resources (DNR) to
7882 determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was
7883 incorrectly mapped as a wetland, the board of appeals shall direct the city plan commission to initiate
7884 appropriate action to rezone the property within a reasonable amount of time.

7885 B. Floodland Disputes. Whenever the board of appeals is asked to interpret a floodland boundary
7886 where an apparent discrepancy exists between the federal Flood Insurance Study and actual field
7887 conditions, the procedure specified in Section 19.46.070(C)(3) of this title shall be used.

7888 (Ord. 1600 § 8(part), 2006: Ord. 1196 § 1(part), 1990).

7889
7890 **19.72.090 Board decisions guided by title provisions.**

7891 In deciding applications for appeals of administrative interpretations, for substitutions, and for
7892 approvals of unclassified uses, the board shall be guided by the intent of this title.

7893 (Ord. 994 § 11.9, 1982).

7894
7895 **19.72.100 Decisions--Time limit--Additional conditions--Expiration and extensions.**
7896 A. The board of zoning appeals shall decide all appeals and applications within thirty days after the final
7897 hearing, and shall transmit a signed copy of the board's decision to the appellant or applicant, zoning
7898 administrator, and city plan commission.
7899 B. Conditions may be placed upon any zoning permit ordered or authorized by this board.
7900 C. Variances, substitutions or zoning permits acted upon by the board shall expire within six months
7901 unless substantial work has commenced pursuant to such grant. Extension may be granted by decision
7902 of the board.

7903 (Ord. 994 § 11.10, 1982).

7904 Steps for Appeals to Board of Zoning Appeals

7905 **GRAPHIC** ~~LINK: Click here~~ [LINK: Click](#)

7906
7907 **19.72.110 Notice to floodland variance applicants.**
7908 Applicants receiving variances in floodland districts shall be notified, in writing, by the board of
7909 appeals that increased flood insurance premiums and threat to life and property may result from the
7910 granting of the variance. The board shall keep a copy of the notification in its files.
7911 (Ord. 1196 § 1(part), 1990).

7912
7913 **Chapter 19.75 ADMINISTRATION AND ENFORCEMENT**

7914 Sections:

7915 19.75.010 Introduction to Chapter 19.75.

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7924
7925 **19.75.010 Introduction to Chapter 19.75.**

7926 Chapter 19.75 deals with the administrative responsibilities of the zoning administrator,
7927 recordkeeping responsibilities of the city manager, and with compliance inspection and enforcement
7928 under this title. It should be recognized that the city plan commission and the board of zoning appeals
7929 have administrative responsibilities as well, and these are prescribed elsewhere in this title.
7930 (Ord. 994 § 12.1, 1982).

7931
7932 **19.75.020 Zoning administrator--Office created--Powers and duties generally.**

7933 A. The office of zoning administrator is hereby created. The zoning administrator is the administrative
7934 and enforcement officer for the provisions of this Title 19.

7935 B. The duties of the zoning administrator shall be to:

7936 1. Issue interpretations of the zoning ordinance codified in this title, and make and maintain records
7937 thereof;

7938 2. Issue all zoning permits and make and maintain records thereof;

7939 3. Issue all certificates of zoning compliance, and make and maintain records thereof;

7940 4. Conduct inspections to determine compliance with the terms of this title;

- 7941 5. Record the lowest floor elevations of all structures erected, moved, altered or improved in the
7942 floodland districts;
- 7943 6. Maintain permanent and current records of activities under this title, including, but not limited to all
7944 maps, amendments, conditional use records, variance records, appeal records, and applications
7945 therefore;
- 7946 7. Provide a public information program relative to all matters arising out of this title;
- 7947 8. Receive, file and forward to the city clerk all applications for amendments to this title;
- 7948 9. Receive, file and forward to the plan commission all applications for amendments to this title and
7949 applications for plan and architectural review;
- 7950 10. Receive, file and forward to the board of zoning appeals all applications for appeals, variances or
7951 other matters on which the board of zoning appeals is required to act under this title. See also Section
7952 19.72.050 allowing appeals to be filed with the board secretary;
- 7953 11. Initiate enforcement activities, and participate in such enforcement activities in relation to existing
7954 or potential violations of this title;
- 7955 12. Initiate studies of the provisions of this title, and make recommendations to the plan commission at
7956 appropriate intervals or upon request;
- 7957 13. Attend meetings of the plan commission and the board of zoning appeals;
- 7958 14. Perform such activities as are reasonably required to conduct the responsibilities enumerated
7959 herein, and respond to requests or directives from supervising officials of the city.
7960 (Ord. 1060 § 26, 1985).

7961

7962 **19.75.030 Zoning administrator--Ordinance interpretation duties.**

7963 A. A primary duty of the zoning administrator is interpretation of the ordinance codified in this title.
7964 The zoning administrator shall respond expeditiously to requests for clarification and interpretation. The
7965 administrator is encouraged to seek counsel of the city attorney in making such interpretations.

7966 B. Informal and unwritten interpretations by the zoning administrator are not binding upon the city
7967 government, nor are those written interpretations that are expressly stated not to be binding. The
7968 zoning administrator shall have sole authority to decide when an interpretation shall be put in writing,
7969 except that the administrator shall make response to duly filed permit applications.

7970 C. Written interpretations by the zoning administrator are binding upon the city unless they are
7971 expressly made nonbinding. The written interpretation placed on this title by the zoning administrator
7972 shall be the official city interpretation unless that interpretation is retracted or revised in writing by the
7973 zoning administrator, or until it is reversed or modified by order of the board of zoning appeals or by a
7974 court.

7975 D. Written interpretations by the zoning administrator may be appealed to the board of zoning appeals
7976 as provided in Section 62.23(7)(e), 7, Wisconsin Statutes, and in Chapter 19.72.
7977 (Ord. 994 § 12.3, 1982).

7978

7979 **19.75.035 Public information.**

7980 To the fullest extent possible, the zoning administrator shall make available to the public all
7981 reports and documents concerning the city comprehensive plan and any component thereof. In
7982 addition, available information in the form of reports, bulletins, maps, and engineering data shall be
7983 readily available and widely distributed. The plan commission may set fees necessary to recover the
7984 costs of providing information to the public. Where useful, the zoning administrator, or his agent, may
7985 set marks on bridges or buildings or other markers which show the depth of the 100-year recurrence
7986 interval flood; or may set markers delineating the boundaries of wetlands.

7987 (Ord. 1196 § 1(part), 1990).

7988

7989 **19.75.040 Zoning administrator--Permit issuance duties.**

7990 A. Most types of land use change that are regulated by this title require a permit to be issued before
7991 the change may be legally undertaken. (See Chapter 19.63, Plan Review.) The zoning administrator's
7992 decision whether to issue a zoning permit is an interpretation decision in which the terms of this title are
7993 applied to a projected land use as described in the permit application and accompanying documents.
7994 When a permit is issued, the city is communicating its official statement that the land use described in
7995 the permit application is deemed to be legal under this title as Title 19 stands at that time. A permit that
7996 is issued does not, by itself, vest a right to complete the land use change. Changes in law or ordinance
7997 may have the effect of cancelling city approval if these occur before the project is far enough toward
7998 consummation to have a vested right to proceed to completion. A permit that is issued applies only to
7999 the development project as it is specifically described in the application. Permits may be time-limited in
8000 their duration to allow a re-review of prevailing conditions.

8001 B. 1. Every application for a zoning permit shall contain the information required in Section 19.63.020,
8002 on plan review application requirements. The administrator may also require evidence of compliance
8003 with other applicable laws or ordinances as a condition precedent to the issuance of a zoning permit.

8004 2. Any permit obtained through material misrepresentation shall be null and void.

8005 C. 1. Coincident with the issuing of a permit, the zoning administrator shall prepare a card, certifying
8006 that a permit has been issued. This card shall bear the same number as the permit and shall identify the
8007 construction and premises covered by the permit. This card shall be posted in a conspicuous place on
8008 the premises during construction and no construction shall be commenced until this card has been
8009 posted.

8010 2. If the zoning administrator deems it appropriate, conditions may be placed on the permit. The
8011 permit card shall spell out the Title 19 requirements as applied by the zoning administrator to the
8012 development proposal. A full set of conditions shall be retained by the zoning administrator and a
8013 summary of pertinent parts shall be communicated in writing to the owner, agents and contractors.

8014 D. When a fully completed permit application is submitted and is then denied by the zoning
8015 administrator, the denial and the reasons for the denial shall be recorded in the records of the zoning
8016 office, and this decision shall be appealable under subsection D of Section 19.75.030. Permit denials that
8017 are done without presentation of a fully completed application and the issuance of a denial on that
8018 application are not appealable.

8019 E. Issuance of a permit is equivalent to a written interpretation decision and is appealable as provided
8020 in subsection D of Section 19.75.030.

8021 F. Where a development requires a uniform state building permit, the zoning permit may take the form
8022 of inscription of zoning approval on the building permit and description of pertinent conditions in the
8023 file and on the permit placard.

8024 (Ord. 994 § 12.4, 1982).

8025

8026 **19.75.050 Certificate of zoning compliance requirements.**

8027 No building or addition thereto constructed after June 24, 1982, the effective date of this Title
8028 19, and no addition to a previously existing building shall be occupied, and no land (except that used for
8029 garden purposes, or for public recreation purposes and without buildings or structures), which is vacant
8030 on June 24, 1982, shall be used for any purpose until a certificate of zoning compliance has been issued
8031 by the zoning administrator. No use shall be changed until the certificate of zoning compliance has been
8032 issued by the zoning administrator. The application for and processing of a request for such a certificate
8033 shall be the same as for a zoning permit. A certificate of zoning compliance shall state that the uses of
8034 the property are legal under the zoning ordinance, either by expressed terms of the ordinance, or as a
8035 matter of nonconforming usage. Conditions or qualifications may be appended.

8036 (Ord. 994 § 12.5, 1982).

8037

8038 | **19.75.060 Zoning administrator --Inspection of properties for zoning compliance--City attorney**
8039 **duties.**

8040 A. It shall be the duty of the zoning administrator to inspect or cause to be inspected all properties for
8041 which a zoning permit has been issued to determine whether the development of land use change that
8042 was the subject of the permit has occurred in full compliance with this title. The acceptance by an
8043 applicant of a zoning permit grants consent to the zoning administrator to make such inspections as are
8044 reasonably necessary to determine compliance.

8045 B. It shall also be the duty of the zoning administrator to inspect or cause to be inspected all properties
8046 within the jurisdiction of this title for compliance with the terms of this title. Inspections may be at
8047 random, under a routine pattern, as a follow-up to permit issuance, or upon complaint or inquiry. Based
8048 on the possible violation, the zoning administrator or designee may inspect the property.

8049 C. Where facts obtained from inspection or by other means lead the zoning administrator to conclude
8050 that a violation of this title probably exists, the zoning administrator shall create an evidentiary file
8051 documenting the basis for this conclusion. After completion and review of this file, the zoning
8052 administrator may take the following initial enforcement actions on his/her own motion:

8053 1. Communicate in person, by letter, or telephone, with the owner, the architect, contractors, or other
8054 relevant parties, expressing the conclusion that a violation probably exists, requesting information,
8055 requesting that the parties review the compliance question, and that they communicate with the zoning
8056 administrator on this matter within a specified time appropriate to the circumstances.

8057 2. Where the zoning administrator deems it appropriate to prevent further construction or alteration, a
8058 stop-work order may be issued by the administrator. This order shall be prominently posted on the
8059 property and mailed to relevant parties, and it shall demand that work violating this title be halted
8060 immediately and shall advise its readers and recipients to contact the zoning administrator's office.

8061 | 3. Where the zoning administrator deems it appropriate, ~~he~~ the zoning administrator may issue a
8062 citation for a zoning ordinance violation, under the city's citation ordinance.

8063 4. All written communications, including stop-work orders, shall have an expressed time limit for
8064 contact with the zoning office, and shall advise that the matter will be turned over to the city attorney
8065 for legal action on that date unless the matter has been resolved.

8066 D. Where enforcement actions described in subsection C above have not satisfied the zoning
8067 administrator that the property and its usage have been made to comply, the evidentiary file and all
8068 correspondence shall be turned over to the city attorney. The city attorney shall review the file. The
8069 attorney may require an evidentiary hearing before making a prosecutorial decision. If the file is deemed
8070 by the city attorney not to show a probable violation, the city attorney shall so indicate in an
8071 explanatory letter, and pertinent parties shall be so notified. If the city attorney does not so conclude,
8072 the attorney shall immediately issue a letter to the violating parties and other pertinent individuals
8073 establishing a specific timetable for compliance to be accomplished and specifying that legal action will
8074 be taken if compliance is not accomplished within the time period specified. If the deadline is not met,
8075 the attorney shall institute prosecution by lawsuit requesting injunctive relief or forfeiture or both. The
8076 attorney may also prosecute a nuisance action and/or may refer the matter to the district attorney for
8077 possible violation of state law or code, as the facts may indicate.

8078 E. Formal decisions by the zoning administrator or by the city attorney on probable violations are
8079 administrative determinations made in the course of enforcing this title, and are capable of appeal to
8080 the board of zoning appeals pursuant to Section 66.23(7), Wisconsin Statutes.

8081 F. The city police department shall have enforcement authority concerning all of the provisions of Title
8082 19. This shall include, but not be limited to, issuance of citations for zoning ordinance violations under
8083 the city's citation ordinance.

8084 (Ord. 1382 § 1, 1997; Ord. 994 § 12.6, 1982).

8085

8086 **19.75.061 Zoning administrator --Inspection of properties for occupancy compliance--City attorney**
8087 **duties.**

8088 A. It shall be the duty of the zoning administrator or designee to inspect properties for which a
8089 complaint has been filed to determine whether the permitted occupancy is in full compliance with this
8090 title for districts R-O, R-1, R-2, R-3, and all overlay districts of this title. The acceptance by an applicant of
8091 a zoning permit grants consent to the zoning administrator to make such inspections as are reasonably
8092 necessary to determine compliance.

8093 B. Inspections may include a site visit to request a lease from the tenants or with regard to specific
8094 inquiries regarding occupancy or similar issue. Inspections will be due to a complaint or inquiry.

8095 C. Where facts obtained from inspection, or by other means, lead the Zoning Administrator to conclude
8096 that a violation of occupancy probably exists, the zoning administrator shall create an evidentiary file
8097 documenting the basis for this conclusion. After completion and review of this file, Zoning Administrator
8098 may take the following initial enforcement actions on his/her own motion:

8099 1. Communicate in person, by letter, or telephone, with the property owner requesting information,
8100 requesting that the parties review the compliance question, and that they communicate with the zoning
8101 administrator on this matter within a specified time appropriate to the circumstances.

8102 2. Where the Zoning Administrator deems it appropriate, he or she may issue a citation for a zoning
8103 ordinance violation, under the city's citation ordinance.

8104 E. Formal decisions by the zoning administrator or by the city attorney on probable violations are
8105 administrative determinations made in the course of enforcing this title, and are capable of appeal to
8106 the board of zoning appeals pursuant to Section 66.23(7), Wisconsin Statutes.

8107 (Ord. 1382 § 1, 1997; Ord. 994 § 12.6, 1982).

8108

8109

8110 **19.75.070 City manager's administrative responsibilities.**

8111 A. It shall be the duty of the city manager, or of other city officials and staff as determined by the city
8112 manager, to provide the plan commission and the board of zoning appeals with staff services to assure
8113 that all meetings are fully noticed and conducted in accordance with procedural requirements of the
8114 Wisconsin planning and zoning statute (Section 62.23(7), Wisconsin Statutes), the open meeting law and
8115 the public record law. Similarly, the city manager or delegated public official shall maintain all minutes,
8116 proceedings and records of the plan commission and board of zoning appeals in full compliance with the
8117 public record requirements of state planning and zoning laws and the open meeting and public record
8118 laws of the State of Wisconsin.

8119 B. The city manager is the appointing officer for the zoning administrator. The city manager shall not,
8120 however, dictate the outcome of interpretation or permit decisions or enforcement decisions by the
8121 administrator. The city manager, if affected by any decision of the zoning administrator, shall have the
8122 right to appeal the administrator's decision to the board of zoning appeals, pursuant to Section
8123 62.23(7)(e)4, Wisconsin Statutes.

8124 C. It shall be the duty of the city manager and zoning administrator to establish and maintain a system
8125 of records on land usage, coordinating records of permits, decisions of the plan commission and board
8126 of zoning appeals, city council, land subdivision records, city-required covenants, development
8127 conditions and contracts, etc., so as to provide city officials and citizens with reasonably full access to all
8128 the regulatory matters pertaining to particular parcels.

8129 (Ord. 994 § 12.7, 1982).

8130

8131 **19.75.080 Unlawful activities designated--Penalties--Additional remedies.**

8132 A. The following shall constitute violations of this title, and shall subject those responsible to penalties
8133 as listed below.

8134 It is a violation of Title 19 to:

8135

8136 1. Own any property or structure that does not fully comply with the terms of this title: one hundred to
8137 three hundred dollars. 2. Establish or cause to be established, or allow or fail to remedy, any usage of
8138 land or premises or any structure which does not fully comply with the terms of this title, or to aid or
8139 abet in such activity: one hundred to three hundred fifty dollars;

8140 3. Fail to request and obtain a zoning permit for a land use or a land use change that requires such a
8141 permit under this title: one hundred to three hundred dollars; In cases where a permit is subsequently
8142 requested, the standard permit fee shall be doubled;

8143 4. Fail to comply with a stop-work order duly issued by the zoning administrator: Two hundred fifty to
8144 four hundred dollars.

8145 B. Each day of a violation shall constitute a separate offense.

8146 C. In addition to the remedies specified above, adjacent or neighboring property owners may institute
8147 appropriate actions or proceedings to prevent, enjoin, abate, remove or correct structural or land use
8148 activities that are or will be in violation of this title, or to prevent or abate activities or conditions that
8149 constitute nuisances.

8150 D. In addition to any other penalties or remedies available, the city or any landowner within three
8151 hundred feet of the property, may maintain an action for injunctive relief to restrain any violation of the
8152 density and use limitations set forth in Section 19.09.520 and/or to enforce compliance with Section
8153 19.09.520, upon a showing that a person has engaged in, or is about to engage in, an act or practice
8154 constituting a violation of that section.

8155 (Ord. 994 § 12.8, 1982).

8156 (Ord. No. 1695A, 8-5-2008)

8157

8158

8159

8160